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October 4, 2024

To:	Taylor Zeinert
	City of Whitewater Economic Development Director
From:	Rick Manthe City Attorney
RE:	Whitewater Moraine View, LLC Development Agreement

The City Council approved a development agreement with Slate Real Estate, LLC at its May 21, 2024 meeting. The Developer has proposed minor modifications to the agreement related to assignment of the Developer's rights and the name of the legal entity in the agreement. This memo summarizes the changes in the proposed amendment.

The original agreement mandated that the Developer would be responsible for all liabilities and obligations even if the property is sold. The amendment agreement modifies that requirement so that if the property is sold, the new owner would be responsible for all liabilities and obligations and the current owner would be released. This is typical in development agreements.

The amendment also changes the legal entity of the Developer from "Slate Real Estate, Inc." to "Whitewater Moraine View, LLC." This change does not modify any responsibilities or obligations of the Developer. It is a minor change to reflect the actual legal entity constructing the project.

An additional minor change would delete a provision in the original agreement that referenced a "Guarantor." This provision was unclear and not defined. No "Guarantor" was established or what the role of the "Guarantor" was. Deleting this provision does not change any responsibilities of the Developer. The Developer's obligation to guarantee at least $24.6 million in assessed value is unchanged. The Developer must still make shortfall payments if that value is not reached. Therefore, this provision was unnecessary and could lead to confusion in the future about what the intent of the provision actually was.

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In summary, the proposed amendment makes minor changes to the development agreement that do not modify the substantive terms of the original agreement. These changes are consistent with standard development agreement terms.