

ASSIGNMENT AGREEMENT

Agreement entered into as of the dates set forth in the acknowledgements below by and between the City of Rapid City, State of South Dakota, hereinafter referred to as "City," **FIRST NATIONAL BANK** of Ft. Pierre, South Dakota, hereinafter referred to as "Lender" and **Stoney Creek Plaza, LLC**, hereinafter referred to as "Developer."

WHEREAS, City has passed a Resolution Creating Tax Increment District Fifty-Three on July 5, 2005 a copy of said Resolution being attached hereto as Exhibit "A", of which by reference hereto is incorporated herein; and

WHEREAS, Developer has agreed to advance the funds necessary to accomplish the goals to be achieved by the Tax Increment Financing District Fifty-Three; and

WHEREAS, Developer and City have entered into a Contract for Private Development Tax Increment District Number Fifty-Three dated July 19, 2005, a copy of said contract being attached hereto as Exhibit "B" which by reference hereto is incorporated herein; and

WHEREAS, Lender has agreed to loan the funds to Developer to accomplish said purpose on the condition that the future real estate taxes which are collected for the Tax Increment District Fifty- Three are paid directly by City to Lender, it is hereby agreed as follows:

1. City will pay directly to Lender those real estate taxes collected which are subject to the Tax Increment District Fifty-Three and the revised project plan until the loan obligation incurred between Lender and Developer for purposes relating solely to the Tax Increment Financing District Fifty-Three and the revised project plan are paid in full or the Tax Increment District is dissolved, whichever comes first. It is the specific intent of the parties that the City shall not be obligated to pay any sums to Lender other than the increment generated by Tax Increment District Fifty-Three and the revised project plan and any obligations the City has to Lender shall cease by the City's paying to Lender said increments until the loan is satisfied or Tax Increment Financing District Fifty-Three is terminated, whichever comes first. Payments will be made at 909 St. Joseph Street, Rapid City, South Dakota 57701, or at a different place if required by the Lender in writing.
2. Lender agrees that, provided City makes payment to Lender of all funds actually received or collected by City for Tax Increment District Fifty-Three, that would be owed to the Developer subject to the conditions and requirements contained in the revised project plan and contract for private development, there is no liability by City for the loan obligation of Developer. Rather, should City have paid all funds actually received or collected by the City for Tax Increment District Fifty-Three, Lender and the revised project plan, Lender shall look solely to its agreement with Developer and its guarantors, for any rights of recovery upon default, it

being the specific intent of the parties that In the event that Tax Increment Financing District Fifty-Three is terminated before payment in full of the obligation to Lender or in the event that the increments are insufficient to pay said obligation, Lender's sole recourse shall be against Developer and they City shall have no additional liability to Lender provided that City has made all payments required herein.

- 3. Upon reasonable request and notice, Lender agrees to provide financial reports to City and Developer to advise them of the on-going status of the loan obligation to Lender by Developer.
- 4. All parties to this agreement acknowledge that in the event Developer makes any payments on the loan obligation to Lender for this Tax Increment District 53, said payments will not reduce the obligation of City to make the Tax Increment Financing District Fifty-Three and the revised project plan payments to Lender, pursuant to this Agreement, until the entire tax increment district obligation is paid in full. Said assignment shall continue until Lender Authority has been paid in full or Tax Increment Financing District Fifty-Three is dissolved, whichever comes first.

Dated this ____ February 2006

CITY OF RAPID CITY

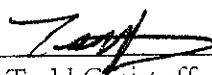
By: _____
Jim Shaw, Mayor

ATTEST:

Finance Officer

(SEAL)

FIRST NATIONAL BANK

By:  _____
Todd Christoffer, President

STONE CREEK PLAZA, LLC

By: _____

Its: _____

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF PENNINGTON)

On this ____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared Jim Shaw and James F. Preston, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Rapid City, a municipal corporation, and that they as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Rapid City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

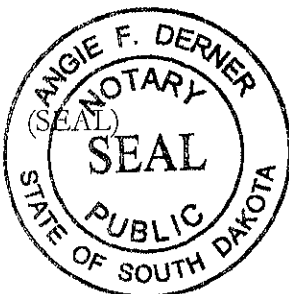
(SEAL)

Notary Public, State of South Dakota
My Commission Expires:

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF PENNINGTON

On this 16 day of February, 2006, before me, the undersigned Notary Public, personally appeared Todd Christoffer who acknowledged himself to be the President of FIRST NATIONAL BANK, and that he, as such, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing himself as the President of FIRST NATIONAL BANK.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Angie F. Derner

Notary Public, State of South Dakota
My Commission Expires: **My Commission Expires**
November 24, 2011

Exhibit A

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140
6-3-05

**RESOLUTION CREATING TAX INCREMENT DISTRICT NUMBER FIFTY-THREE AS
SUBMITTED BY THE RAPID CITY PLANNING COMMISSION**

WHEREAS the property within the following described District meets the qualifications and criteria set forth in SDCL 11-9; and,

WHEREAS the Council of the City of Rapid City finds that the aggregated assessed value of taxable property in this District, plus the assessed values of all other districts currently in effect, does not exceed ten percent (10%) of the total assessed value of taxable property in the City of Rapid City; and,

WHEREAS the Council finds that:

- (1) Not less than twenty-five percent (25%), by area, of the real property within the district is a blighted area as defined in SDCL 11-9-9 through 11-9-11; and,
- (2) The improvement of the area is likely to significantly enhance the value substantially on all of the other real property in the district; and,


NOW, THEREFORE, BE IT RESOLVED by the City of Rapid City that the real property legally described as:

Lots 1-4, Block 1, and Lots 3-7, Block 2, all of Stoney Creek South Subdivision, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota

is hereby designated as Tax Increment District Number 53, City of Rapid City.

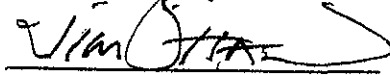
DATED this 5 day of July 2005.

ATTEST:



Finance Officer
(SEAL)

CITY OF RAPID CITY



Mayor

Exhibit B

CONTRACT FOR PRIVATE DEVELOPMENT
TAX INCREMENT DISTRICT NUMBER FIFTY-THREE
CITY OF RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

Between

STONE CREEK PLAZA, LLC.

and the

CITY OF RAPID CITY, SOUTH DAKOTA

Dated as of July 19, 2005

THIS AGREEMENT, is made and entered into on this 7 day of NOVEMBER, 2005, between Stoney Creek Plaza, LLC., a South Dakota Corporation, herein after referred to as the "Developer," and the City of Rapid City, a municipal corporation and political subdivision of the State of South Dakota, herein after referred to as the "City."

SECTION 1. The City created Tax Increment District Number Fifty-Three by a resolution dated July 5, 2005.

SECTION 2. The City approved the Project Plan for Tax Increment District Number Fifty-Three on July 5, 2005.

SECTION 3. The estimated project costs to be paid by the district, as set forth in the plan, are as follows:

Capital Costs:	
Storm Sewer Improvements	\$ 680,000.00
Grading	\$ 120,000.00
Professional Service Costs:	\$ 0
Financing Costs:	
Financing Interest	\$ 2,299,073.77
Contingency Costs:	\$ 100,000.00
Relocation Costs:	\$ 0
Organizational Costs:	\$ 0
Necessary and Convenient Costs:	\$ 0
TOTAL:	
Imputed Administrative Costs*	\$ 3,199,073.77
City of Rapid City	\$ 2,050.00

*The imputed administrative costs are interest-free, are not included in the total project costs, and are to be paid from the balance remaining in the TID #50 fund available to the City Finance Officer on July 1, 2010.

SECTION 5. The cost of constructing the improvements contained in Section 4 of this agreement are the responsibility of the Developer.

SECTION 6. The base value of the property located in Tax Increment District Number Fifty-Three has been certified by the South Dakota Department of Revenue as One Hundred Thirty-Two Thousand Five Hundred Seventy-Nine Dollars (\$132,579).

SECTION 7. Developer will secure private financing to fund improvements pursuant to the Tax Increment District Number Fifty-Three approved project plan, anticipated to be a bond or note, at an average interest rate over the life of the loan not to exceed Nine and Three Quarters Percent (9.75%) per annum. It is understood by the parties that should the Developer receive a loan for an amount less than Nine and Three Quarters Percent (9.75%) per annum that the City will only reimburse the actual amount of the loan.

SECTION 8. Developer shall complete the improvements described in the approved project plan. Upon completion, Developer shall certify to the City Finance Officer that such improvements have been completed and shall certify the amount of money disbursed therefore. The City shall have the right to require reasonable documentation to establish that the amounts set forth in the Tax Increment District Number Fifty-Three Project Plan have, in fact, been disbursed for the project.

SECTION 9. All positive tax increments received in Tax Increment District Number Fifty-Three shall, upon receipt by the City, be deposited in a special fund to be known as the "Tax Increment District Number Fifty-Three Fund," hereinafter referred to as the "Fund." The City shall, within thirty (30) days after the receipt of each tax increment payment from the Treasurer of Pennington County, disburse all amounts in the fund to the Developer or their designee, subject to the limitation that at no time shall the cumulative total of payments made from the fund exceed the lesser of the total amount of disbursements certified pursuant to Section 8 of this agreement or the total of the estimated project costs set forth in the Tax Increment District Number Fifty-Three Project Plan.

SECTION 10. It is contemplated by the parties that Developer may assign its interest under this Agreement as security for the note or loan agreement, or other financing described in Section 7 hereof. It is understood and agreed, by and between the parties, that any such assignment shall be in writing and that if the City shall make disbursement pursuant to such assignment that it shall, to the extent of such disbursement, relieve the City of the obligations to make such disbursement to Developer.

SECTION 11. It is specifically a condition of this Agreement and a condition of the City's obligation to pay that all sums payable shall be limited to the proceeds of the positive tax increment from Tax Increment District Number Fifty-Three receipted into the Fund specified in Section 9 hereof. The obligation of the City to pay pursuant to this Agreement does not constitute a general indebtedness of the City or a charge against the City's general taxing power. The provisions of SDCL 11-9-36 are specifically incorporated herein by reference. It is also specifically agreed that the City has made no representation that the proceeds from such fund shall be sufficient to retire the indebtedness incurred by Developer under Section 7 hereof. The parties further acknowledge that SDCL 11-9-25 limits the duration of allocability of the positive tax increment payments to the fund created by Section 9 hereof. The provisions of SDCL 11-9-25 are specifically incorporated herein by this reference.

SECTION 12. It is a condition and of this agreement that all provisions of South Dakota law regarding the expenditure of public funds are incorporated herein. Specifically, the requirements of Chapter 5-18 of the South Dakota Codified Laws are an integral part of this agreement. The Developer shall provide documentation of compliance with Chapter 5-18 upon the request of the City.

SECTION 13. Developer agrees to defend, indemnify and hold harmless the City of Rapid City from obligations or liability, including reasonable attorney's fees, arising out of this agreement or the construction of the improvements contemplated by the Tax Increment District Fifty-Three Project Plan. Developer shall maintain a policy of liability insurance, acceptable to the City, with liability limits of at least one million dollars (\$1,000,000.00) that names the City of Rapid City as an additional insured. Such a policy shall remain in effect until the City accepts the improvements.

SECTION 14. Developer agrees to immediately satisfy any and all mechanic's liens or material man's liens that arise as a result of this project. This provision shall not prevent Developer from subsequently seeking compensation from subcontractors or others who may be responsible for such liens or for such payment.

SECTION 15. This document along with the Project Plan for Tax Increment District Fifty-Three constitute the entire Agreement of the parties. No other promises or consideration form a part of this Agreement. All prior discussions and negotiations are merged into these documents or intentionally omitted. In the event of a conflict between the Project Plan and this Agreement, this Agreement shall be controlling.

SECTION 16. This Agreement shall be construed and the parties' actions governed by the laws of the State of South Dakota. Any dispute arising out of or related to this Agreement shall be litigated in the Seventh Judicial Circuit Court for the State of South Dakota, located in Rapid City, Pennington County, South Dakota.

Dated this 24th day of October, 2005.

STONE CREEK PLAZA, LLC.

By: [Signature]
Its: Jack E. Lyness
Member

CITY OF RAPID CITY
[Signature]
Mayor

ATTEST:

[Signature]
Finance Officer

