

## ASSIGNMENT AGREEMENT

This Agreement is entered into as of the dates set forth in the acknowledgments below by and between the **CITY OF RAPID CITY**, a municipal corporation of the State of South Dakota, located at 300 Sixth St, Rapid City, South Dakota 57701, hereinafter referred to as “City,” **FIRST NATIONAL BANK SOUTH DAKOTA**, located at 332 Broadway, P.O. Box 670 Yankton, South Dakota 57078, hereinafter referred to as “Lender,” and **CAPITAL DEVELOPMENT, INC.**, located at 1301 W. Omaha St., Suite 207, Rapid City, South Dakota 57702, hereinafter referred to as “Developer.”

WHEREAS, City has passed a Resolution Creating Tax Increment District Number Fifty on December 20, 2004, and approved a Revised Project Plan for Tax Increment District Number Fifty on November 7, 2005; and

WHEREAS, Developer has agreed to advance the funds necessary to accomplish certain improvements included in Tax Increment Financing District Number Fifty; and

WHEREAS, Developer and City have entered into a Contract for Private Development for Tax Increment District Number Fifty ( the “Developer’s Agreement”), a copy of said contract being attached hereto as Exhibit “A” which has been attached hereto and incorporated herein by this reference; and

WHEREAS, the Lender has agreed to loan the funds to the Developer to construct said improvements on the condition that the future tax increments which the Developer is entitled to under the Developer’s Agreement are paid directly by the City to Lender, it is hereby agreed, as follows:

1. City will pay directly to the Lender those tax increment funds referenced in Section 10 of the Developer’s Agreement between the City and Capital Development, Inc., until the loan obligation incurred between the Lender and the Developer for purposes relating solely to Tax Increment Financing District Number Fifty and the Revised Project Plan therefore 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 portion of the increment generated by Tax Increment District Number Fifty that is obligated to the Developer per the Developer’s Agreement and the Revised Project Plan. 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 District Number Fifty is terminated, whichever comes first. Payments will be made at P.O. Box 670, Yankton, South Dakota 57078, or at a different place if requested in writing by the Lender.
2. Lender agrees that, provided City makes payment to Lender of all funds actually received or collected by City for Tax Increment District Number Fifty which the City has agreed to pay to the Developer in the Developer’s Agreement and subject to any

conditions and requirements contained in the Developer's Agreement and/or Revised Project Plan, there is no liability by the City for the loan obligation of Developer. 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 District Number Fifty 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 the 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 the City and the 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 Number Fifty, said payments will not reduce the obligation of City to make the Tax Increment District Number Fifty 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 the Lender has been paid in full or Tax Increment District Number Fifty is dissolved, whichever comes first. Notwithstanding the foregoing, Lender, Developer and City all acknowledge the Lender shall be bound by the terms of the Developer's Agreement and the City's obligation for payment is limited to the amounts set forth in the Developer's Agreement.
5. This Agreement, along with the Revised Project Plan and Contract for Private Development between the City and Capital Development, Inc., are the entire agreement of the parties. No other writings or documents are part of this agreement. No other promises or consideration form a part of this agreement. All prior discussions and negotiations are merged into these documents or intentionally omitted. Any amendment to this agreement must be signed in writing by all parties hereto.
6. This agreement shall be 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.

CITY OF RAPID CITY

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Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

FIRST NATIONAL BANK SOUTH  
DAKOTA

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

CAPITAL DEVELOPMENT, INC.

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF SOUTH DAKOTA    )  
  ):SS  
COUNTY OF PENNINGTON    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned Notary Public, personally appeared Alan Hanks 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 YANKTON         )

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned Notary Public, personally appeared Maurice Reiner who acknowledged himself to be the President of First National Bank South Dakota, Yankton Market, and that he, as such, being duly authorized to do so, executed the foregoing instrument for the purpose therein contained.

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 \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_, of Capital Development, Inc. and that, as such, being duly authorized to do so, executed the foregoing instrument for the purpose therein contained.

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

(SEAL)

\_\_\_\_\_  
Notary Public, State of South Dakota  
My Commission Expires: