

FIRST AMENDMENT TO LEASE AGREEMENT FOR MAIN STREET SQUARE

This First Amendment to the Lease Agreement for Main Street Square is entered into effective the ____ day of _____, 2011, by and between the **CITY OF RAPID CITY**, hereinafter referred to as the “City,” a municipal corporation, of 300 Sixth Street, Rapid City, SD 57701, and the **DOWNTOWN BUSINESS IMPROVEMENT DISTRICT BOARD**, hereinafter referred to as “Board,” an instrumentality of the City of Rapid City, of 300 Sixth Street, Rapid City, SD 57701.

WHEREAS, Board leases from City property commonly known as Main Street Square, located at 524 Main St, by virtue of that certain Lease Agreement dated October 19, 2010; and

WHEREAS, Board has entered into an Operations and Management Agreement with the Downtown Rapid City Economic Development Corporation d/b/a Destination Rapid City (“DRC”) to manage and operate Main Street Square; and

WHEREAS, Board now wishes to sublet the Main Street Square property to DRC to facilitate DRC’s application for a license to sell alcoholic beverages; and

WHEREAS, DRC and the property owners adjacent to Main Street Square also have submitted a request for the City to vacate the alley between 5th Street and 6th Street adjacent to Main Street Square; and

WHEREAS, the City desires to assist Board and its contract manager make Main Street Square as successful as possible; and

WHEREAS, the parties mutually desire to reduce their understandings and agreements to writing by executing this Agreement.

WITNESSETH:

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. Incorporation of Recitals. The aforementioned recitals are incorporated herein by reference as if more fully set forth hereinafter

2. Property. As recited above, it is contemplated that the alley between 5th and 6th Street adjacent to the Main Street Square property may be vacated as a public right of way. If such vacation is accomplished, the City will own the entire alley in fee. Should this occur, the alley shall be included in the Lease Agreement, and Paragraph 1 of the Lease Agreement captioned “Property” shall be amended to read in its entirety as follows:

Property. City hereby leases to Board the complex legally described as:

Lots 17-23, Block 75, vacated portion of 6th Street adjacent to Lot 17, vacated portion of Main Street adjacent to Lots 17-22, and all of vacated alley located in Block 75, Original Town of Rapid City, Pennington County, South Dakota,

commonly known as 524 Main Street, as shown on Exhibit "A" attached hereto and incorporated herein by this reference.

It is agreed by the parties that should the contemplated alley vacation not take place, Paragraph 1 shall read in its entirety as follows:

Lots 17-23, Block 75, vacated portion of 6th Street adjacent to Lot 17, and vacated portion of Main Street adjacent to Lots 17-22, Original Town of Rapid City, Pennington County, South Dakota,

3. Section 13 captioned "Assignment and Subletting" shall be amended to read in its entirety as follows:

Assignment and Subletting. This Lease shall not be assigned nor shall the premises be sublet by Board except upon written consent and approval of the City Council unless as otherwise provided herein. The prohibition against assignment and sublease shall not prevent Board from entering a contract with a third party for operations and management services. Additionally, the prohibition against subletting the premises shall not apply to a sublease agreement entered into between the Board and any third party who has entered a contract for operations and management services with the Board.

4. All other terms of the Lease Agreement shall remain unchanged. In the case of conflict of another portion of the Lease Agreement not changed hereby with the amended sections above, the amended sections shall control.

DATED this _____ day of _____, 2011.

CITY OF RAPID CITY

DOWNTOWN BUSINESS IMPROVEMENT BOARD

Mayor

Chairman

ATTEST

ATTEST

Finance Officer

Secretary

(seal)