

REVISED CONTRACT FOR PRIVATE DEVELOPMENT
TAX INCREMENT DISTRICT NUMBER FORTY-ONE
CITY OF RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

Between

STONERIDGE, LLC.

and the

CITY OF RAPID CITY, SOUTH DAKOTA

THIS AGREEMENT, is made and entered into on this ____ day of _____, 2008, between Stoneridge, LLC, hereinafter referred to as the “Developer,” and the City of Rapid City, a municipal corporation and political subdivision of the State of South Dakota, hereinafter referred to as the “City.”

SECTION 1. The City created Tax Increment District Number Forty-One by resolution on July 21, 2003.

SECTION 2. The City approved a Revised Project Plan (Fourth Revision) for Tax Increment District Number Forty-One on July 21, 2008.

SECTION 3. The fourth revised project plan includes the construction of improvements which will allow the Developer to move forward with its proposed Black Hills Center project.

SECTION 4. The purpose of this agreement is to allow the Developer to be reimbursed from the proceeds of the tax increment district for the cost of the improvements that are included in the fourth revised project plan. It further establishes the procedures by which the Developer may assign its right to any proceeds from the district in order to secure private financing for the project improvements.

SECTION 5. All project costs for the improvements contemplated by this agreement shall be paid by the Developer. The City is not responsible for paying any of the proposed project costs. The estimated project costs to be paid by Tax Increment District #41 for the Black Hills Center improvements, as set forth in the approved project plan, are as follows:

Phase I Project Costs

Capital Costs:

Stumer Road	\$	1,474,415.69
Black Hills Boulevard	\$	336,392.32
Turn Lanes	\$	198,610.50
Sewer and water oversizing	\$	130,000.00

Financing Costs:

Financing interest	\$	1,561,013.36
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Total Costs for Phase I \$ 3,700,431.87

Phase II Project Costs

Capital Costs:

Traffic Lights	\$	288,000.00
Turn Lane	\$	106,139.50

Financing Costs:

Financing Interest	\$	297,335.88
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Total Costs for Phase II \$ 691,475.38

TOTAL PROJECT COSTS FOR PHASE I AND PHASE II	\$	4,391,907.25
Imputed Administrative Costs*		
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 #41 fund available to the City Finance Officer on December 15, 2010.

SECTION 6. The base value of the property located in Tax Increment District Number Forty-One has been certified by the South Dakota Department of Revenue as Twenty-One Million Five Thousand Twenty-Six dollars (\$21,005,026.00). The revised project plan has not resulted in an increase in project costs. Pursuant to SDCL 11-9-23 the base value of the property in the district does not have to be re-determined.

SECTION 7. It is anticipated that the Developer will secure private financing to fund the improvements contemplated in the approved Tax Increment District Number Forty-One fourth revised project plan. This private financing is anticipated to be a bond or note, at an average interest rate during the life of the Tax Increment District No. 41 not to exceed Nine Percent (9%) per annum. It is understood by the parties that the financing amount included in the fourth revised project plan is based on an interest rate of Nine Percent (9%) per annum and that the developer will not receive any reimbursement for interest that it pays in excess of Nine Percent (9%) per annum. It is further understood that should the Developer receive a loan with an interest rate of less than Nine Percent (9%) per annum, that the City will only reimburse the Developer for the actual amount of interest paid.

SECTION 8. The Developer shall complete the improvements described in the approved Fourth Revised Project Plan. Upon completion, the Developer shall certify to the Finance Officer that such improvements have been completed and shall certify the amount of money disbursed therefore. The Developer will be allowed to certify each phase separately. The City shall have the right to require reasonable documentation to establish that the amounts set forth in the Tax Increment District Number Forty-One have, in fact, been disbursed in payment for the improvements.

SECTION 9. It is understood by the parties that the boundaries of Tax Increment District Forty-One may overlap the boundaries of other tax increment districts. Any increments generated from areas within overlapping districts will be used to pay for the improvements in the districts based on the chronological order in which the districts were created. Only after the disbursements required of the City in the project plans or developer's agreements for any previously created districts have been satisfied, will the City have a duty to disburse funds under this agreement.

SECTION 10. All positive tax increments received in Tax Increment District Number Forty-One shall, upon receipt by the City, be deposited in a special fund to be known as the "Tax Increment District Number Forty-One Fund," hereinafter referred to as the "Fund." Subject to Section 9 of this agreement and any other limitations contained

herein, the City shall, within thirty (30) days after the receipt of each tax increment payment from the Treasurer of Pennington County, disburse Sixty Percent (60%) of 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 Forty-One Fourth Revised Project Plan. The City shall retain forty percent (40%) of the Fund until the City's share of the approved Fourth Revised Project Plan costs have been recovered from the Tax Increment District Number 41 Fund. After the City has recovered this amount, one hundred percent (100%) of the funds deposited into Tax Increment District Number 41 shall be disbursed to the Developer or their designee, subject to the limitations established by this section.

SECTION 11. 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. Any assignee shall agree to be bound by the terms and conditions contained in this agreement.

SECTION 12. 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 Forty-One receipted into the "Fund" specified in Section 10 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 Sections 7 and 11 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 10 hereof. The provisions of SDCL 11-9-25 are specifically incorporated herein by this reference.

SECTION 13. It is a condition 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 14. 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 Forty-One Fourth Revised Project Plan. The 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 15. 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 16. This document along with the Fourth Revised Project Plan for Tax Increment District Forty-One shall 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 Fourth Revised Project Plan and this agreement, this agreement shall be controlling.

SECTION 17. 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 ___ day of _____, 2008.

STONERIDGE, LLC.

BY: _____
ITS: _____

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

FIRST WESTERN BANK

BY: _____
ITS: _____

satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged himself to be the _____ of First Western Bank and as such, being duly authorized to do so, executed the foregoing instrument for the purposes herein contained.

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

Notary Public, South Dakota

My Commission Expires:

(SEAL)