

ASSIGNMENT

Agreement entered into among the City of Rapid City, State of South Dakota, hereinafter referred to as "City", BankWest, Inc., P.O. Box 220, 2100 Highland Way, Mitchell, South Dakota 57301, hereinafter referred to as "Lender", and Doeck, LLC, a South Dakota Limited Liability Company, 400 North Rowley, Mitchell, South Dakota 57301-2617, herein after referred to as "Developer".

WHEREAS, City passed a Resolution Creating Tax Increment District Sixty-seven (67), hereinafter referred to as "TID67", on April 7, 2008; and

WHEREAS, the City prepared a Project Plan for TID67 dated April 22, 2008; and

WHEREAS, Developer and City entered into a Contract for Private Development Tax Increment District Number Sixty-seven, hereinafter referred to as "Contract", a copy of which is attached hereto as Exhibit "A" and by reference incorporated herein; and

WHEREAS, Developer has agreed to advance the funds necessary to finance the costs for which Developer is obligated under the Contract; and

WHEREAS, Lender has agreed to loan the funds to Developer to finance the obligations of Developer under the Contract on the condition that the future positive tax increment payments for TID67 are paid directly by City to Lender in accordance with the Contract, it is agreed as follows:

1. Developer, in consideration of the loan by Lender, assigns to Lender its rights to payment under the Contract and Project Plan.
2. All positive tax increment payments for TID67 shall, upon receipt by the City, be deposited in a special fund to be known as the "Tax Increment District Number Sixty-seven Fund", hereinafter referred to as the "Fund." The City shall make the disbursements from the Fund in accordance with the Contract and the TID67 Project Plan. City shall pay all of such revenues received to which Developer is entitled directly to Lender in accordance with the TID67 Project Plan and the Contract until notified by the Lender that payment to the Lender is no longer required. The City shall not be obligated to pay any sums to Lender other than the positive tax increment generated by TID67. Payment shall be sent to BankWest, Inc., P.O. Box 220, 2100 Highland Way, Mitchell, South Dakota 57301, attention: Laura Hansen. Lender shall give City written notice of any change to the place of payment.
3. Upon disbursement by the City pursuant to this Agreement, the City shall, to the extent of such disbursement, be relieved of any obligation to make such disbursement to Developer. In the event that TID67 is terminated and the tax

increments are insufficient to satisfy any obligation to Lender, the City shall have no additional liability to Lender.

- 4. Lender shall be bound by the terms of the Contract. The obligations of the City for payment are limited to the amounts set forth in the Contract.
- 5. This Assignment shall be in effect until notification by Lender to the City.

Dated this ____ day of January, 2010.

CITY OF RAPID CITY

By: _____
ALAN HANKS, MAYOR

By: _____
JAMES PRESTON, FINANCE OFFICER

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF PENNINGTON)

On this ____ day of January, 2010, 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 by themselves as Mayor and Finance Officer.

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

NOTARY PUBLIC, State of South Dakota
My Commission Expires: _____

(SEAL)

Dated this 27th day of January, 2010.


BANKWEST, INC.

By: 
RYAN HUBER, PRESIDENT , Mitchell Branch

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF DAVISON)

On this 27 day of January, 2010, before me, the undersigned Notary Public, personally appeared Ryan Huber, who acknowledged himself to be the President of BankWest, Inc., Mitchell Branch, 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 BankWest, Inc.

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


NOTARY PUBLIC, State of South Dakota
My Commission Expires: 2-1-2014

(SEAL)

Dated this 27th day of January, 2010.

DOECK, LLC

By: Ronald Muth

Print Name Ronald Muth, its member

STATE OF SOUTH DAKOTA)

) ss.

COUNTY OF DAVISON)

On this 27th day of January, 2010, before me, the undersigned Notary Public, personally appeared Ronald Muth, who acknowledged himself to be a member of Doeck, LLC, and that he, as such, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing himself as a Member of Doeck, LLC.

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

Stacy Schuman
NOTARY PUBLIC, State of South Dakota
My Commission Expires: 2-1-2014

(SEAL)

**CONTRACT FOR PRIVATE DEVELOPMENT
TAX INCREMENT DISTRICT NUMBER SIXTY-SEVEN**

Between

DOECK, LLC

and the

CITY OF RAPID CITY, SOUTH DAKOTA



THIS AGREEMENT, is made and entered into on this _____ day of _____, 2009, between Doeck, LLC, 400 N. Rowley, Mitchell, SD 57301, hereinafter referred to as "Developer A," and the City of Rapid City, 300 Sixth Street, Rapid City, SD 57701, 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 Sixty-Seven by resolution on April 7, 2008. The City corrected the legal description contained in the Resolution Creating Tax Increment Financing District Number Sixty-Seven by resolution on January 5, 2009.

SECTION 2. The City approved by resolution a Project Plan for Tax Increment District Number Sixty-Seven on April 21, 2008.

SECTION 3. The purpose of this agreement is to allow Developer A to be reimbursed from the proceeds of the Tax Increment District for the cost of the improvements that are included in the Project Plan. It further establishes the procedures by which Developer A may assign its right to any proceeds from the district in order to secure private financing for the project improvements.

SECTION 4. The estimated project costs for which Developer A can be reimbursed from the Tax Increment District Number Sixty-Seven, as set forth in the approved Project Plan, are as follows:

A. TOTAL ESTIMATED PROJECT COSTS TO BE PAID BY THE TAX INCREMENT DISTRICT

Capital Costs:	
Culvert and Grading at Cobalt Street	\$ 431,529.32
Culvert and Grading at Three Rivers Drive	\$ 245,561.76
Oversizing water/sewer for annexed land west of Haines	\$ 281,484.78
Oversizing water/sewer for Brookfield	\$ 123,675.43
Professional Service Costs	\$ 175,000.00
Financing Costs:	
Financing interest	\$ 2,043,869.95
Contingency Costs:	\$ 69,000.00
Relocation Costs:	\$ 0
Organizational Costs:	\$ 0
Necessary and Convenient Costs:	\$ 600,000.00
TOTAL	\$ 3,970,121.24
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 Brookfield TID fund available to the City Finance Officer on March 1, 2013.

B. DEVELOPER A ESTIMATED PROJECT COSTS TO BE PAID BY THE TAX INCREMENT DISTRICT

Capital Costs:	
Culvert and Grading at Cobalt Street	\$ 431,529.32
Culvert and Grading at Three Rivers Dr	\$ 245,561.76
Oversizing water/sewer for annexed land west of Haines	\$ 281,484.78
Oversizing water/sewer for Brookfield	\$ 123,675.43
Professional Service Costs	\$ 175,000.00
Financing Costs:	
Financing interest	\$ 1,665,499.01
Contingency Costs:	\$ 69,000.00
Relocation Costs:	\$ 0
Organizational Costs:	\$ 0
Necessary and Convenient Costs:	\$ 300,000.00
TOTAL	\$ 3,291,750.30

C. DEVELOPER B ESTIMATED PROJECT COSTS TO BE PAID BY THE TAX INCREMENT DISTRICT

Capital Costs:	\$ 0
Professional Service Costs	\$ 0
Financing Costs:	
Financing interest	\$ 378,370.94
Contingency Costs:	\$ 0
Relocation Costs:	\$ 0
Organizational Costs:	\$ 0
Necessary and Convenient Costs:	\$ 300,000.00
TOTAL	\$ 678,370.94

SECTION 5. Developer A agrees to construct the improvements contained in Section 4(B) of this agreement. Developer A further agrees to complete the construction of the improvements by April 7, 2013. If Developer A does not complete the improvements by April 7, 2013, the City has the option to terminate this agreement as to any improvements that have not been constructed or on which construction has not been started. Prior to the City terminating this

agreement, the City shall provide at least seven days notice to Developer A and/or any entity that has an assignment interest in the proceeds of the tax increment funds on the date of the meeting at which the City Council will consider terminating the agreement.

SECTION 6. The base value of the property located in Tax Increment District Number Sixty-Seven has been certified by the South Dakota Department of Revenue as Twenty-One Million Three Hundred Fifty-One Thousand Four Hundred dollars (\$21,351,400.00).

SECTION 7. It is anticipated that Developer A will secure private financing to fund the improvements contemplated in the approved Tax Increment District Number Sixty-Seven Project Plan. This private financing is anticipated to be a bond or note, at not more than prime plus one-half percent with a maximum not to exceed 9%. Developer A will not receive any reimbursement for interest that it pays in excess of Nine Percent (9%) per annum.

SECTION 8. Developer A shall complete the improvements set forth in Section 4(B). Upon completion of the improvements, Developer A shall certify to the City Finance Officer that such improvements have been completed and shall certify the amount of money disbursed therefore. Furthermore, Developer A shall provide sufficient documentation to certify that the terms of Section 13 of this agreement are complied with. The City shall have the right to require reasonable documentation to establish that the amounts set forth in the Tax Increment District Number Sixty-Seven Project Plan have, in fact, been disbursed for the costs contemplated in the Project Plan and that state bid law has been followed.

SECTION 9. It is understood by the parties that the boundaries of Tax Increment District Sixty-Seven 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 increment payments for Tax Increment District Number Sixty-Seven shall, upon receipt by the City, be deposited in a special fund to be known as the "Tax Increment District Number Sixty-Seven Fund," hereinafter referred to as the "Fund." Subject to Sections 8, 9, 12 and 13 of this agreement and 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 Sixty-Seven Project Plan as well as any other limitations contained herein, the City of Rapid City Finance Officer shall, within thirty (30) days after the receipt of each tax increment payment from the Treasurer of Pennington County, make the disbursements from the fund in accordance with the Project Plan. One hundred percent (100%) of the revenues received will be disbursed to Developer A for project costs incurred by Developer A until those costs are paid. Then one hundred percent (100%) of the revenues will be disbursed to Developer B if Developer B has incurred any costs.

agreement, the City shall provide at least seven days notice to Developer A and/or any entity that has an assignment interest in the proceeds of the tax increment funds on the date of the meeting at which the City Council will consider terminating the agreement.

SECTION 6. The base value of the property located in Tax Increment District Number Sixty-Seven has been certified by the South Dakota Department of Revenue as Twenty-One Million Three Hundred Fifty-One Thousand Four Hundred dollars (\$21,351,400.00).

SECTION 7. It is anticipated that Developer A will secure private financing to fund the improvements contemplated in the approved Tax Increment District Number Sixty-Seven Project Plan. This private financing is anticipated to be a bond or note, at not more than prime plus one-half percent with a maximum not to exceed 9%. Developer A will not receive any reimbursement for interest that it pays in excess of Nine Percent (9%) per annum.

SECTION 8. Developer A shall complete the improvements set forth in Section 4(B). Upon completion of the improvements, Developer A shall certify to the City Finance Officer that such improvements have been completed and shall certify the amount of money disbursed therefore. Furthermore, Developer A shall provide sufficient documentation to certify that the terms of Section 13 of this agreement are complied with. The City shall have the right to require reasonable documentation to establish that the amounts set forth in the Tax Increment District Number Sixty-Seven Project Plan have, in fact, been disbursed for the costs contemplated in the Project Plan and that state bid law has been followed.

SECTION 9. It is understood by the parties that the boundaries of Tax Increment District Sixty-Seven 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 increment payments for Tax Increment District Number Sixty-Seven shall, upon receipt by the City, be deposited in a special fund to be known as the "Tax Increment District Number Sixty-Seven Fund," hereinafter referred to as the "Fund." Subject to Sections 8, 9, 12 and 13 of this agreement and 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 Sixty-Seven Project Plan as well as any other limitations contained herein, the City of Rapid City Finance Officer shall, within thirty (30) days after the receipt of each tax increment payment from the Treasurer of Pennington County, make the disbursements from the fund in accordance with the Project Plan. One hundred percent (100%) of the revenues received will be disbursed to Developer A for project costs incurred by Developer A until those costs are paid. Then one hundred percent (100%) of the revenues will be disbursed to Developer B if Developer B has incurred any costs.

SECTION 11. It is contemplated by the parties that Developer A 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 A. 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 Sixty-Seven received 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 A 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. Developer II shall provide documentation of compliance with Chapter 5-18 upon the request of the City.

SECTION 14. Developer A 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 Sixty-Seven Project Plan. Developer A 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 A 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 A 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 Project Plan for Tax Increment District Sixty-Seven 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 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 19 day of October, 2009.

CITY OF RAPID CITY



Mayor

ATTEST:



Finance Officer

(SEAL)

DOECK, LLC

BY: 

ITS: member

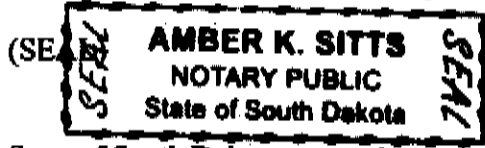
State of South Dakota)
 ss.
County of Pennington)

On this 19 day of October, 2009, before me, the undersigned officer, 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 and that he, as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing as such Mayor and Finance Officer of the City of Rapid City.

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

Amber K. Sitts
Notary Public, South Dakota

My Commission Expires: 9-13-15



State of South Dakota)
 ss.
County of Pennington)

On this the 5th day of October, 2009, before me, the undersigned officer, personally appeared Joe Muth, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged themselves to be the Member of Doeck, LLC, 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.

Araa M. Bates
Notary Public, South Dakota

My Commission Expires: 1-23-2015

(SEAL)