

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

STATE OF SOUTH DAKOTA)
)SS. COVENANT AGREEMENT
COUNTY OF PENNINGTON)

COVENANT AGREEMENT BETWEEN THE CITY OF RAPID CITY AND
STONERIDGE L.L.C. REGARDING OWNERSHIP AND MAINTENANCE OF A
STORM WATER DETENTION POND ALONG 5TH STREET.

This declaration of covenant and agreement (“Agreement”) is entered into this
_____ day of _____, 2011, by and between STONERIDGE, L.L.C.
 (“Landowner”), 412 Tamarack Drive, Rapid City, SD 57701-7661, and the City of Rapid
City (“City”), a South Dakota municipal corporation, 300 Sixth Street, Rapid City, South
Dakota, 57701.

Landowner hereby acknowledges that they are the owners of record of the
property in Rapid City, South Dakota which is legally described as:

Lot 3, Block 4 of Black Hills Center, located in the NE1/4 of the NE1/4 and the
S1/2 of the NE1/4 , Section 24, T1N, R7E, BHM, Rapid City, Pennington County,
South Dakota.

WHEREAS, Landowner is seeking approval of a Final Plat; and

WHEREAS, there is an existing storm water detention pond located along 5th
Street that will be redeveloped to accommodate post construction water quality and to
provide storm water treatment for the Landowner’s proposed development; and

WHEREAS, the Landowner has requested and has been granted an exception to
the City’s design standards to allow a 3:1 slope in lieu of a 4:1 slope as part of the re-
design of the pond; and

WHEREAS, in consideration for the granting of the exception, the Landowner
has agreed to enter into a recorded Covenant Agreement identifying ownership of and
maintenance responsibility for the storm water detention pond; and

WHEREAS, as a condition of approval for the Final Plat, the Landowner agrees to enter into a recorded Covenant Agreement identifying the ownership of and the maintenance responsibility for the storm water detention pond.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, it is agreed by the parties as follows:

1. Landowner hereby covenants and agrees that it shall maintain ownership of the storm water detention pond identified above.
2. Landowner hereby covenants and agrees to maintain the storm water detention pond in accordance with plans approved by the City of Rapid City.
3. Landowner hereby covenants and agrees to defend, indemnify and hold the City harmless from all claims related to storm water detention pond.
4. It is understood by Landowner that the City's primary consideration for the approval of the Final Commercial Development Plan on the above described property is Landowner's covenant and promise to complete the Agreement conditions outlined in paragraphs 1, 2 and 3 above.
5. The parties agree that the terms of this agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling without regard to the principles of conflict of laws. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court for the State of South Dakota, Seventh Judicial Circuit located in Rapid City, Pennington County, South Dakota.
6. The City may undertake any legal or equitable action available to enforce the provisions of this agreement in addition to any remedy provided herein. In the event the City is required to undertake any action to enforce the terms of this agreement or its subdivision regulations in connection with this agreement, the undersigned, heirs, assigns, or successors in interest agree the City may recover from the owner of said property its reasonable expenses, including attorney's fees incurred with respect to such action.
7. All of the terms and conditions herein set forth shall extend to and be binding upon the heirs, assigns, or successors in interest of Landowner, and be considered as a covenant running with the above-described property. Furthermore, it is agreed that, in accepting title to the above-described property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this Agreement

recorded with the Pennington County Register of Deeds' Office pursuant to provisions of South Dakota statutes.

- 8. If any section(s), or provisions of this application is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision of this application if they can be given effect without the invalid section(s) or provisions.
- 9. If the landowner is a corporation, it has the power to enter into this agreement and its officers signing for it have full power and authority to do so.

Dated this _____ day of _____, 2011.

CITY OF RAPID CITY

Alan Hanks, Mayor

ATTEST:

Finance Officer
(SEAL)

State of South Dakota)
 ss.
County of Pennington)

On this the _____ day of _____, 2011, before me, the undersigned officer, personally appeared Alan Hanks and Pauline Sumption, 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 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.

Notary Public, South Dakota

My Commission Expires:

(SEAL)

Dated this _____ day of _____, 2011.

STONERIDGE, L.L.C.

By: _____
Patrick R. Hall
Manager

STATE OF SOUTH DAKOTA)
) SS.
_____ OF _____)

On this _____ day of _____, 2011, before me appeared Patrick R. Hall, to me personally known, who, being by me duly sworn, did say that he is the Manager of Stoneridge, L.L.C., a South Dakota limited liability company, and acknowledged that he executed this instrument on behalf of said limited liability company and acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on the day and year above written.

Notary Public

My Commission Expires: _____