

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (“Agreement”) is entered into by **Yasmeen Dream, LLC**, a South Dakota limited liability company, at 528 Kansas City Street, Suite #4, Rapid City SD 57701 (“Developer”), the **City of Rapid City**, a municipal corporation and political subdivision of the State of South Dakota, at 300 Sixth Street, Rapid City, South Dakota 57701 (“City”), and **Bank West**, at 311 Omaha Street, Rapid City, South Dakota, 57701 (“Lender”). The above-referenced parties may be collectively referred to herein as the “Parties.”

WHEREAS, on October 3, 2016, the City approved a resolution creating Tax Increment District Number Seventy-Eight pursuant to Chapter 11-9 of the South Dakota Codified Laws, a copy of which is attached hereto as Exhibit A and is incorporated herein by reference; and

WHEREAS, on October 3, 2016, the City also adopted by resolution a Project Plan for Tax Increment District Number Seventy-Eight which identifies expenditures for public improvements that qualify as project costs pursuant to SDCL 11-9-14 and SDCL 11-9-15; and

WHEREAS, pursuant to SDCL 11-9-2(5), the City is empowered to enter into contracts or agreements necessary and convenient to implement the provisions and effectuate the purposes of the Project Plan; and

WHEREAS, in December 2016, Developer and City entered into a “Contract for Construction of Public Improvements Through Private Developer Tax Increment District Number Seventh-Eight” (“Original Contract”); and

WHEREAS, Developer has agreed to advance the funds necessary to construct the public improvements in the Tax Increment District Number Seventy-Eight Project Plan as further explained in the Original Contract; and

WHEREAS, Lender has agreed to loan the funds to Developer to accomplish the purposes set forth in the Original Contract on the condition that the City directly pays Lender all future positive tax increments owed to Developer pursuant to the Original Contract.

NOW, THEREFORE, in consideration of the mutual covenants, agreements, representations, and warranties set forth herein, the Parties agree as follows:

1. City’s Payment to Lender. City will pay directly to Lender those positive tax increments which are collected by the City and deposited in the Fund described in Section 6 of the Original Contract and which are due to Developer pursuant to the Original Contract until Developer’s loan obligation to Lender is paid in full or the Tax Increment District is dissolved, whichever comes first. “Developer’s loan obligation” as used in this Agreement is Developer’s debt to Lender for public improvements approved

as Project Costs in any Project Plan for Tax Increment Financing District Seventy-Eight; Developer's loan obligation does not include debt of Developer to Lender for improvements which are not Project Costs within any Project Plan approved for Tax Increment Financing District Seventy-Eight. It is the specific intent of the Parties that the City is not obligated to pay any sums to Lender other than the amounts due to Developer under the Original Contract. Any obligation the City has to Lender shall cease by the City's paying to Lender the tax increments collected until Developer's loan obligation is satisfied or Tax Increment Financing District Seventy-Eight is terminated, whichever comes first. Payments will be made at 300 Sixth Street, Rapid City, South Dakota 57701, or at a different location if required by Lender.

2. Insufficient Increments to Pay Developer's Loan Obligation. Lender agrees that, if City makes payment to Lender of all funds due to Developer under the Original Contract, there is no liability by City for Developer's loan obligation and that Lender shall look solely to its loan agreement(s) with Developer and Developer's guarantors, if any, for any rights of recovery upon default. If Tax Increment District Seventy-Eight is terminated before Lender is paid in full for Developer's loan obligation or if the increments are insufficient to pay Developer's loan obligation, Lender's sole recourse shall be against Developer and its guarantors, and the City shall have no liability to Lender.

3. Exchange of Information. Upon reasonable request and notice, Lender agrees to provide financial reports to City and Developer to advise them of the ongoing status of the loan obligation to Lender by Developer. Upon reasonable request and notice, City agrees to provide information to Lender to advise about the completion of public improvements and the certification of costs of improvements made in Tax Increment District Seventy-Eight.

4. Developer's Payments to Lender. All Parties to this Agreement acknowledge that City's obligation to pay pursuant to this Agreement remains even if Developer makes payments to Lender for the Developer's loan obligation. The Parties agree that City's obligation to pay Lender continues regardless of payments Developer makes to Lender until Lender has been paid in full for Developer's loan obligation or until Tax Increment District Seventy-Eight is dissolved, whichever comes first.

5. Lender Bound by Original Contract. Lender agrees to be bound by the terms of the Original Contract between City and Developer. The Parties agree that City's obligation for payment in this Agreement is limited to those amounts set forth in the Original Contract.

6. Counterparts. This Agreement may be executed in counterparts and by different parties on different counterparts with the same effect as if the signatures thereto were on the same instrument. This Agreement shall be effective and binding upon the Parties as of the date in which all parties have executed a counterpart of this Agreement.

7. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, personal representatives, successors and assigns.

8. Entire Agreement. This Agreement, together with the related written agreements specifically referred to herein, represents the only agreement among the parties concerning the subject matter of this contract and supersedes all prior agreements, whether written or oral, relating to the subject matter of this agreement.

9. Modification and Waiver. No purported amendment, modification, or waiver of any provision hereof shall be binding unless set forth in a written document signed by all Parties (in the case of amendments or modifications) or by the party to be charged thereby (in the case of waivers). Any waiver shall be limited to the circumstance or event specifically referenced in the written waiver document and shall not be deemed a waiver of any other term hereof or of the same circumstance or event upon any recurrence thereof.

10. Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of South Dakota, and venue for any dispute arising hereunder shall be exclusively in a court of competent jurisdiction in Pennington County, South Dakota.

11. Invalid Provisions and Waiver. If any term, restriction, or covenant of this Agreement is deemed illegal or unenforceable, all other terms, restrictions and covenants hereof shall remain unaffected to the extent permitted by law. No waiver by any party of any default, misrepresentation or breach of any representation, warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of any representation, warranty or covenant hereunder or affect in any way any rights arising by virtue of any default, misrepresentation or breach of any representation, warranty or covenant prior to or subsequent to such occurrence.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed in the manner appropriate to each as of the Effective Date.

[SIGNATURE PAGES ON NEXT PAGE]

Dated this ____ day of _____, 20__.

BANK WEST

By: _____

Its: _____

State of South Dakota)
 ss.
County of Pennington)

On this the ____ day of _____, 20__, before me, the undersigned officer personally appeared _____, who acknowledged himself/herself to be the _____ of Bank West, and that 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)

Dated this _____ day of _____, 20__.

YASMEEN DREAM, LLC

By: _____

Its: _____

State of _____)

ss.

County of _____)

On this the _____ day of _____, 20__, before me, the undersigned officer personally appeared _____, who acknowledged himself to be the _____ of Yasmeen Dream, LLC, and that 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, _____

My Commission Expires:
(SEAL)