

DOTRW-69 (4-02)

## TEMPORARY EASEMENT AGREEMENT

Project No. IM-NH 90-2(39)61 PCEMS No. 1939 Parcel No. A3  
County Pennington

This AGREEMENT for temporary easement rights entered into by the undersigned, hereinafter referred to as the GRANTOR, and the STATE OF SOUTH DAKOTA acting by and through its Department of Transportation, hereinafter referred to as the STATE, Witnesseth;

WHEREAS, the STATE contemplates the construction, operation and maintenance of highway facilities on the above described project as provided for by the Law; and;

WHEREAS, a portion of the temporary easement necessary for the proper completion of such highway facilities, as designated by plans on file at the Department of Transportation, is located over and across the real property hereinafter described as:

The NE1/4 SE1/4 of Section 28, Township 2 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

NOW, THEREFORE, it is expressly agreed and understood by the parties hereto that:

(1) The GRANTOR grants permission to the STATE, its agents, representatives and assigns or any Contractor employed by the STATE to enter upon the above described property and to use all designated temporary easement areas for detour, cutslope, fillslope or drainage channel purposes upon approval of this AGREEMENT with the understanding that such permission for entry shall terminate one year after the construction of the project has been completed. The temporary easement area is estimated to be:

0.4 acres/~~sq. ft.~~ at \$ 6,500<sup>00</sup> per acre/sq. ft.  
8,391 acres/sq. ft. at \$ 0.15 per acre/sq. ft.  
 \_\_\_\_\_ acres/sq. ft. at \$ \_\_\_\_\_ per acre/sq. ft.  
 \_\_\_\_\_ acres/sq. ft. at \$ \_\_\_\_\_ per acre/sq. ft.

It is further agreed and understood by the GRANTOR that any additional temporary easement area necessary for the proper completion of the facility may also be so used and the additional area will be measured and paid for separately at the same rate herein stated. It is agreed and understood that all areas used will be sloped and graded as smooth as practicable and left in a neat and workmanlike manner; and;

(2) All fences existing within the temporary easement area shall become the property of and shall be disposed of by the STATE if not salvaged by the GRANTOR prior to being cleared by the STATE. The STATE will not be responsible for retention of livestock when the GRANTOR salvages the fence. A temporary fence will be provided where necessary to retain livestock when the Contractor clears the existing fence. This fence is the property of the Contractor and he will remove it after the permanent fence has been placed. Permanent fence constructed within interstate highway right of way will remain the property of and will be maintained by the STATE whereas all other permanent fence constructed becomes the property of and is to be maintained by the Grantor; and;

(3) Any existing fence so removed will  will not      N/A      be replaced by the STATE with one of its standard fences that conforms as nearly as possible to the existing fence. Any fence provided will be no less than a four strand barb wire fence. Type 4 fence will be provided; and;

(4) The STATE will pay for crop damage within the temporary easement area caused by the STATE, its agents, representatives and assigns or any Contractor employed by the STATE only when such crop has been planted prior to the date the GRANTOR signs this AGREEMENT except that crop damage will not be paid for alfalfa or other perennial grass being used for pasture. The amount of crop damage to be paid will be based on the area damaged, the percent of damage, the average yield on adjoining fields and the market price at the time of harvest less a predetermined harvesting cost. Type and location of crops planted prior to the signing date are:

N/A

; and;

DOTRW-69.2 (4-02)

(5) The GRANTOR is allowed to retain for their salvage value, the following buildings or improvements which are considered to be part of the real property, including fixtures, removable building equipment and any trade fixtures, provided they are removed from the above described real property by the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ unless a removal date extension is granted in writing by the STATE. Items being retained and their salvage value are:

*N/A*

(6) The following mutually agreed upon special conditions are made a binding part of this AGREEMENT:

*\* Compensation For Temporary Easement IS  
Included in Right of Way Agreement For Parcel 2*

; and;

(7) The GRANTOR, his heirs or assigns shall not interfere with nor disturb the facilities constructed upon the temporary easement area without the written approval of the STATE; and;

(8) All foregoing conditions are binding upon the STATE only upon approval of this AGREEMENT by the STATE'S authorized representative and in the event said approval is not obtained, this AGREEMENT is null and void and of no force or effect; and;

(9) The GRANTOR understands and agrees that if there are liens, mortgages or other encumbrances against the above-described real property, the holder of such lien, mortgage or encumbrance may be named as co-payee on any payment to be made pursuant to this Agreement.

NOW, THEREFORE, BE IT AGREED, that for a total consideration of \$ \* for temporary easement, improvements and damages, which it is understood and agreed will be paid as soon as all required documents and releases are properly signed and received by the STATE and a voucher processed for payment, the above and foregoing AGREEMENT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and in the witness whereof the GRANTOR hereunto subscribes by signature.

Receipt of an identical copy of the AGREEMENT is hereby acknowledged.

Mayor \_\_\_\_\_ Finance Officer \_\_\_\_\_  
\* \_\_\_\_\_ \*

**ACKNOWLEDGMENT**

STATE OF )  
 )SS  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, a Notary Public within and for said County and State, has personally appeared \_\_\_\_\_, known to me to be the person \_\_\_\_\_ who \_\_\_\_\_ described in, and who executed the within instrument and acknowledged to me that \_\_\_\_\_ he \_\_\_\_\_ executed the same.

(SEAL) \_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

The above and foregoing AGREEMENT approved this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

\_\_\_\_\_  
Right of Way Authorized Representative