

**AMENDMENT #1
TO
FINANCIAL AND ROAD TRANSFER AGREEMENT #612978
BETWEEN THE
SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
AND THE
CITY OF RAPID CITY**

The amendment extends the date for the utilization of the funds for East Mall Drive, adds a portion of SD437 to the agreement and clarifies the ownership of the right of way along I90 (Beale and Offutt Streets).

AGREEMENT NO. 612978 dated May 18, 2004 between the South Dakota Department of Transportation and the City of Rapid City for the funding of transportation improvements and transfer of roads between the two parties is amended as follows:

Under SECTION II – HIGHWAY SEGMENTS:

Add the following:

SD437 (Elk Vale Road) from its junction with SD238 (East St. Patrick Street) south and then northeast to just south of SD44, a distance of approximately 0.26 Miles.

Under SECTION III – RESPONSIBILITIES:

A. State will perform the following:

Section A3 will be amended to read:

A3. Provide CITY with \$4.9 million in funding for the construction of E. Mall Drive and E. Anamosa Street until end of calendar year 2012.

Section A13. will be amended to remove Beale Street from the list of highways identified.

Add the following:

A14. Close the tee intersection of SD437 (Elk Vale Road) and SD238 (East St. Patrick Street) and remove the existing surfacing on SD437 from said intersection to SD44. The existing roadway embankment will be available as option borrow material by STATE for the SD44 east project (PCN 6437). If the State's contractor for this project elects to use the material as borrow material, the State shall have the area topsoiled and reseeded.

A15. Retain ownership of all interstate right-of-way (ROW) which Beale Street and Offutt Street lie within except that which is deemed excess by the STATE.

A16. To maintain all aspects of maintenance for I90 ROW outside of that area designated as Beale Street and Offutt Street for which the STATE intends to retain ownership. STATE maintenance responsibilities within the Interstate ROW shall be from the cable guardrail towards Interstate 90. Should the STATE determine that Beale Street would need to be relocated due to improvements needed for I90, STATE would pay for said relocation costs.

A17. To prepare plats for any remaining parcels that cannot be transferred via H lots or by description for those roadway sections listed under Section II.

B. City will perform the following:

Section B1 will be amended to read:

B1. Submit periodic billings to the STATE for the construction of E. Mall Drive and E. Anamosa Street up to the maximum of \$4.9 million. Payment request will be submitted by end of calendar year 2012.

Section B.3. will be amended to remove Beale Street from the list of highways identified.

Add the following:

B9. To maintain all aspects of maintenance for Beale Street which lies within that portion of the I90 ROW where the ownership is to be retained by the STATE. CITY maintenance responsibilities within the Interstate ROW shall be from the cable guardrail towards the service road. Maintenance responsibilities include but are not limited to the following: preserving, protecting and repair of the roadway surface (chips seals, overlays, patching, etc.); pavement marking; signing, vegetation control, drainage cleanout and repair; snow removal, guardrail and any other activities that the City would perform maintenance on roads that they have ultimate/absolute ownership of.

CITY will obtain STATE concurrence for all permits; utilities, advertising, access, etc. and any and all other work that typically requires a STATE permit to occupy the ROW.

Under SECTION IV – SEGMENT TRANSFER TIMING:

Add the following:

Dyess Avenue – The STATE shall maintain the roadway surface until the proposed resurfacing work is complete.

Old SD437 (Elk Vale Road) between SD44 and SD238 (East St. Patrick Street) shall be retained as STATE right-of-way until completion of the SD44 east project (PCN 6437).

Except as amended hereby, all other provisions of Agreement No. 612978 shall remain in full force and effect.

Dated this ____ day of _____, 2007

CITY OF RAPID CITY

SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

BY: _____
Mayor

BY: _____
Department Secretary

DATE: _____

DATE: _____

ATTEST: _____

City Finance Officer

APPROVED AS TO FORM

BY: _____
Assistant Attorney General