

**AGREEMENT BETWEEN
STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
AND
RAPID CITY, SOUTH DAKOTA**

This Agreement is made by and between the State of South Dakota, acting by and through its Department of Transportation, hereinafter referred to as "STATE," and the City of Rapid City, South Dakota, hereinafter referred to as "CITY."

- A. CITY requests to use four (4) strands of the STATE'S single mode fiber optic so that the CITY can interconnect City Hall with CITY'S Parks Office and Transit Office. The use of the fiber optic strands requires the CITY to access the STATE'S fiber optic line via the existing junction boxes located at 6th Street and Omaha (SD44) to LaCrosse Street and Omaha (SD44) and to extend conduit to City Hall, the Parks Office, and the Transit Shop. In order to interconnect City Hall with the Parks Office and the Transit Office, the CITY must do a fusion splice into the fiber cable at several connection points.
- B. STATE will allow the CITY use of the single mode fiber optic strands as indicated in Paragraph A above.
- C. CITY shall be responsible to repair any damage done to the STATE'S traffic signal interconnect system caused by CITY'S connections to the fiber optic or as a result of CITY'S performance under this Agreement. Any repair shall meet STATE standards upon inspection.
- D. CITY agrees to indemnify and hold the STATE, its officers, agents, and employees harmless from and against any and all actions, suits, damages, liability, or other proceedings that arise as a result of CITY'S performance under this Agreement. This section does not require CITY to be responsible for or defend against claims or damages arising from errors or omissions of STATE, its officers, agents, or employees.
- E. The CITY has designated its Mayor as the authorized representative of the CITY and has empowered the Mayor with the authority to sign this Agreement on behalf of the CITY. A copy of the minutes of the CITY'S Commission authorizing the execution of this Agreement by the Mayor as the authorized representative for the CITY is attached hereto as Exhibit A.

IN WITNESS WHEREOF the parties hereto have caused this Agreement, to be executed by their respective and duly authorized officers on the date of last signature.

City of Rapid City, South Dakota

State of South Dakota
Department of Transportation

By: _____

By: Tim Bjornberg

Its: Mayor

Its: Project Development Engineer

Date: _____

Date: 4-23-09

Attest:

Approved as to Form:

City Auditor/Clerk

[Signature]
Assistant Attorney General

(CITY SEAL)