

AGREEMENT

This Agreement is entered into this _____ day of _____, 2009, by and between the State of South Dakota, acting by and through its Department of Transportation, hereinafter referred to as "DOT," and the City of Rapid City, South Dakota, hereinafter referred to as "CITY."

Recitals:

- A. CITY desires DOT to perform snowplowing activities on the following Highways: 231, 79, 16B, and 16 as follows:
- Highway 231 north of City of Rapid City from St. Martins Drive to the north city limits;
 Highway 79/Cambell Street from Minnesota Street to the south city limits;
 Highway 16B from Highway 16 to Interstate 90;
 Highway 16 south of Rapid City from Addison Avenue to the south city limits;
- B. DOT is willing to provide such snowplowing services.
- C. DOT desires CITY to perform snowplowing activities on Highway 44 from east of Valley Drive to the Rapid City Airport.
- D. CITY is willing to provide such snowplowing services.

NOW, THEREFORE, DOT and CITY agree as follows:

1. DOT and CITY shall perform the above described snowplowing services with such employees and equipment as may be necessary for performance of said services.
2. CITY agrees that, in exchange for the above described snowplowing services provided by DOT, CITY shall plow Highway 44 from east of Valley Drive to the Rapid City Airport Road to the same standards as the CITY uses on adjacent similar routes (slow speed urban multi-lane highways) within CITY limits.
3. As necessary, DOT and CITY officials will maintain communication during periods of snow removal to determine snow and sanding needs and methods, to advise counterparts as to when snow removal operations are in progress or are planned, and to advise counterparts on the effect of road closures and other events effecting the safety and efficiency of a highway, including safety patrols to ensure motorist safety.
4. The CITY agrees to provide services in compliance with the Americans with Disabilities Act of 1990, and any amendments thereto.
5. The CITY agrees that CITY shall be solely responsible and liable for the work performance, action, conduct, compensation, and benefits of CITY'S employees.
6. While performing services hereunder, CITY is an independent contractor and not an officer, agent, or employee of DOT.

Any employee of the CITY engaged in the performance of services required under the Agreement shall not be considered an employee of the DOT, and any and all claims that may or might arise under the South Dakota Workers' Compensation Act on behalf of said employees or other persons while so engaged and any and all claims made by any third party as a consequence of any act or omission of the part of the work or service provided or to be rendered herein by the CITY shall in no way be the obligation or responsibility of the DOT.

7. This Agreement shall commence on October 1, 2009, and shall terminate on June 1, 2012.
8. This Agreement may be terminated by either party upon thirty (30) days' written notice to the other party.

- 9. CITY agrees to indemnify and hold DOT, its officers, agents, and employees, harmless from and against any and all actions, suits, damages, liability, or other proceedings, that may arise as the result of performing services hereunder. This section does not require the CITY to be responsible for or defend against claims or damages arising from errors or omissions of DOT, its officers, agents, or employees.
- 10. CITY shall give written notice to DOT of any act or occurrence involving matters indemnified against in this Agreement as soon as practical after the occurrence of such act or occurrence has come to CITY'S knowledge.
- 11. Before the CITY begins providing service, the CITY will be required to furnish DOT the following certificates of insurance and assure that the insurance is in effect for the life of the Agreement:

A. Commercial General Liability Insurance:

CITY shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

B. Business Automobile Liability Insurance:

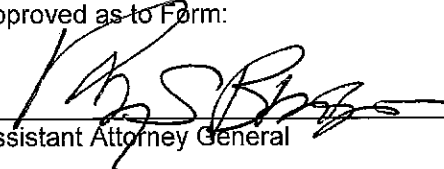
CITY shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.


C. Workers' Compensation Insurance:

CITY shall procure and maintain workers' compensation coverage as required by South Dakota law.

- 12. This Agreement may not be amended, except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
- 13. The CITY has designated its Mayor as the CITY'S authorized representative and has empowered the Mayor with the authority to sign this Agreement on behalf of the CITY. A copy of the CITY'S Commission minutes or resolution authorizing the execution of this Agreement by the Mayor as the CITY'S authorized representative is attached hereto as **Exhibit A**.

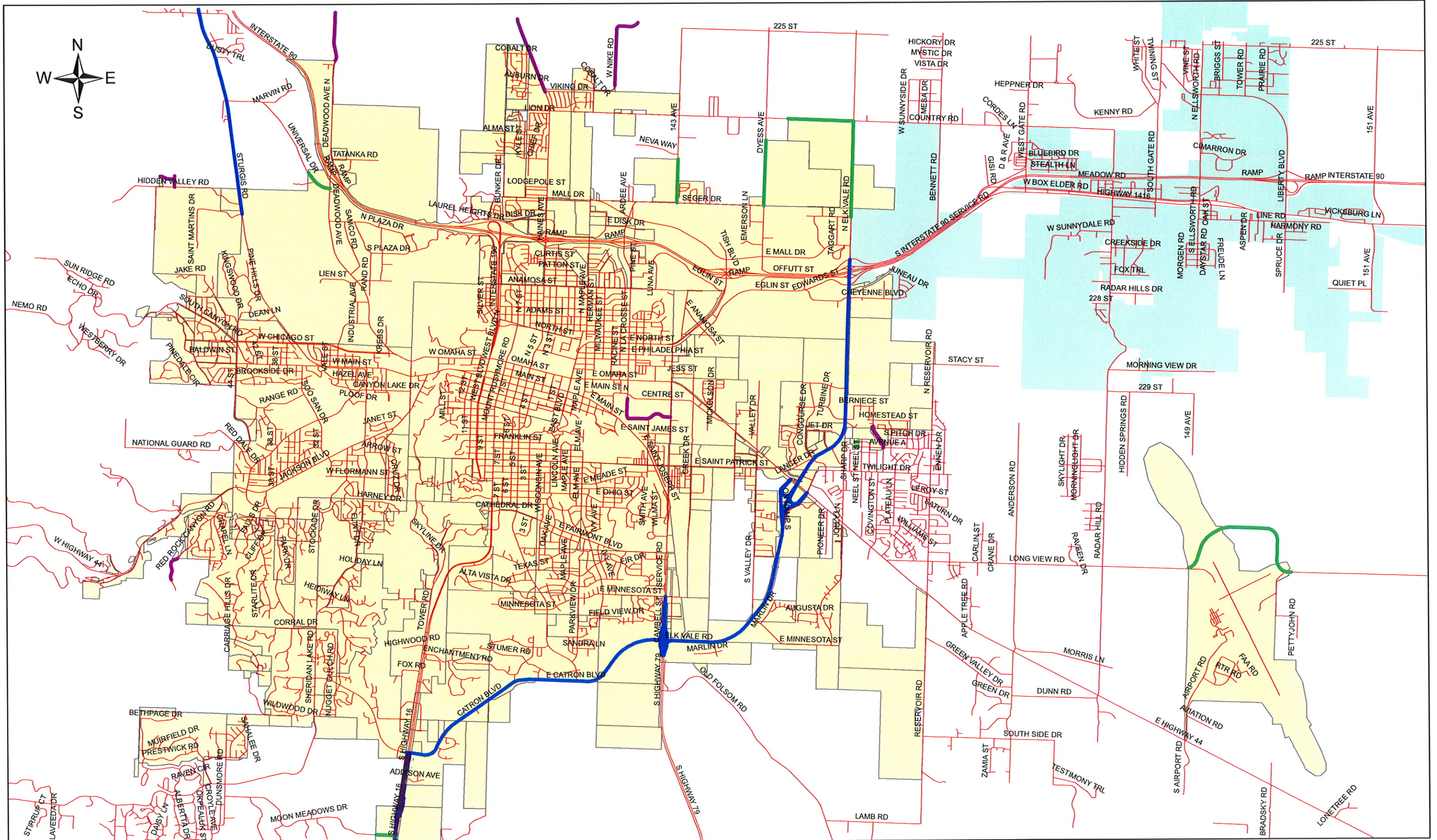
The CITY and DOT, by signing this Agreement, evidence authority to enter into this Agreement through formal action of their governing bodies.

City of Rapid City, South Dakota	State of South Dakota Department of Transportation
By: _____	By: _____
Its: Mayor	Its: Secretary
Date: _____	Date: _____
Attest:	Approved as to Form:
_____	
City Finance Officer/Clerk	Assistant Attorney General

(City Seal)
City Attorney 

2009-2010 SNOW PLOW EXCHANGE ROUTES

— Plowed By City — Plowed By County — Plowed By State



0 0.5 1 Miles