

AGREEMENT 1 of 2

This AGREEMENT, made this _____ day of _____, 2003, by and between the State of South Dakota, Department of Transportation, hereinafter referred to as the "State", and the City of Rapid City, South Dakota, hereinafter referred to as the "City".

WHEREAS, the City desires to upgrade their urban highway-rail crossing across railroad property in compliance with federal aid requirements and priority listing of Project PP 8052(43), Pennington County, PCEMS 4859; East St. Charles Street in Rapid City; AAR/DOT 190-259V; installation of standard mast flashing highway-rail grade crossing signals.

AND WHEREAS, the State is responsible to assure the Federal Highway Administration that federal aid requirements are met in order to receive federal participation in adjustment costs.

NOW THEREFORE, it is agreed as follows:

1. The State will notify the railroad and negotiate agreement for crossing adjustments for highway purposes as necessary for the City.
2. The City will provide the 10% share for the total project cost of the above referenced highway-rail project through their City funds. The State will bill the City for the 10% of the total project cost either progressively or upon completion of the project. The State will authorize the remaining 90% from highway-rail safety funds.
3. It is anticipated the City will not be required to provide services for this portion of the project. In the event the City should be required to provide services, the work is to be performed by the City using its own forces. However, in accordance with the FAPG if the City clearly shows that it is in the best interest of the State, or that the City is not adequately staffed or equipped to perform the work with its own forces, the State shall be so notified in advance, of the City's intention to contract for the work. No contract shall be let or entered into by the City without the prior approval of the State or without compliance with the FAPG. Any existing continuing contract, under which the City now has certain work regularly performed, will be considered to conform to the requirements of this Section, provided the contract is submitted for the State's prior approval.

Should the City be required to provide services for labor or material, the City's costs will be billed to the State when their portion of the work is complete and will be credited to the City's share of the project. The State will provide a check to the City when the City's billed costs are in excess of 10% of the total project cost or the State will bill the City when the City's billed costs are less than 10% of the total project cost.

4. The City will maintain the approaches, pavement markings and signing upon completion of the project.
5. That the City must notify the Area Engineer, Gary Engel, South Dakota Department of Transportation, PO Box 1970, Rapid City, South Dakota, 57709-1970; telephone #605/394-1635, when commencing, discontinuing, resuming and upon completion of the work. Other

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reports will be required only as found necessary by the State. Further, all bills are to be sent to his office.

- 6. The City agrees that all records necessary to support costs claimed under this agreement would be retained and made available for audit performed by the State and/or Federal Highway Administration.
- 7. The City and State by signing this agreement evidence authority to enter into this agreement for payment to be made hereunder.
- 8. The estimated cost of the various items of work to be performed by the City under this agreement is \$ -0-. The estimated cost of work to be performed by the railroad for the signals is \$97,478.00. The estimated cost for preliminary and construction engineering performed by the State is \$1,522.00. The total estimated cost of the work completed under this agreement is \$99,000.00. The City's estimated share for this portion of the project would be \$9,900.00.
- 9. The City will notify the State of any change orders which substantially increase the amount of this estimate, and that any work necessary and eligible, but not covered by exhibit shall be submitted in writing for approval by the State prior to completing the work. The estimate for such work shall not be exceeded unless one of the two following conditions are met:
 - a. An increase in the cost estimate will be allowed as a result of a change in construction plans when such change is authorized by an approved Change Order issued by the State before such work is done.
 - b. An increase in the estimated cost, eligible for reimbursement, will be allowed the City after completion of the work, when such increase is adequately supported by detailed billing and sufficient explanation. A final Change Order, when approved, will place the increase in line for audit and payment.

ATTEST:

CITY OF RAPID CITY:

By: _____
Finance Officer

By: _____
Mayor

Date: _____

APPROVED AS TO FORM:

SD DEPARTMENT OF TRANSPORTATION:

By: _____
Assistant Attorney General

By: _____
Bruce Lindholm, Program Manager

Date: _____

Approved as per Stewardship Provisions this

_____ day of _____, 2003 By: _____
Project Development Engineer