

Department of Transportation 011006-14
Division of Planning/Engineering
Right of Way Program
700 East Broadway Avenue
Pierre, South Dakota 57501-2586 605/773-3746
FAX: 605/773-4249



December 5, 2005

Jason Green, Attorney
City of Rapid City
300 6th St.
Rapid City, South Dakota 57701-2724

**RE: P-BRF 1746(2), PCEMS 4338, Canyon Lake Driver over Rapid Creek –
Abandonment of Temporary Easements**

Dear Mr. Green:

The above referenced project was accepted and final payment was made on August 30, 2004 and it is now necessary to abandon all of the associated temporary easements.

I am enclosing copies of two (2) temporary easements that were acquired in the name of the City of Rapid City. Because the temporary easements were acquired in the name of the City of Rapid City, it will be necessary for the City to abandon them.

I would appreciate receiving a copy of this abandonment resolution once it has been filed with the Register of Deeds so I have a copy of it for my files. Then I can close this project out.

If you have any questions, please call me at (605)773-6848.

Sincerely,

Jan Krull,
Right of Way Technician
jan.krull@state.sd.us

enc.

TEMPORARY EASEMENT AGREEMENT (CITY/COUNTY)

Project No. P-BRF 1746 (2) PCEMS No. 4338 Parcel No. A1

County Pennington

This AGREEMENT for temporary easement facilities entered into by the undersigned, hereinafter referred to as Grantor, to the City of Rapid City of Pennington County, hereinafter referred to as Grantee, witnesseth:

WHEREAS, the Grantee contemplates the construction, operation and maintenance of highway facilities on the above described project, as described by plans; and;

WHEREAS, a portion of the temporary easement for such highway is located over and across the real property hereinafter described as:

Lot D-G (Part of Lot 1) less Lot H1 of D, E, & G, & less Lot H of Lot 1, NE ¼ NE ¼ of Section 3, Township 1 North, Range 7 East of the B.H.M., Pennington County, South Dakota.

WHEREAS, the Grantor has this date granted permission to enter upon the above described real property to the Grantee, for a total consideration for temporary easements, improvements and damages of \$ -0-; consisting of \$ -0-, for temporary easement, improvements and damages, less \$ -0-, for retained salvage.

NOW, THEREFORE, it is expressly covenanted, agreed and understood by the parties hereto, as follows:

- (1) This AGREEMENT shall be in full force and effect for a period of 1 year after completion of project; and ;
- (2) That the following special agreements mutually agreed upon by and between the parties hereto are made a binding part of this AGREEMENT:
 - A. This Temporary Easement Agreement is being granted to Grantee based on Grantee's representation that it will be completing a street improvement project consisting of the installation of a new bridge and reconstruction of Canyon Lake Drive from Mount View Road, West of Dakota Drive (the Project).
 - B. Grantee shall not commence work on the project until after June 1, 2002 and shall complete all work in the easement area on or before November 1, 2002. All work shall be performed in a workmanlike and expeditious manner with a minimum of interference to the operation of the Baken Park Shopping Center.
 - C. The Project shall include the widening of Canyon Lake Drive to three (3) lanes, with curb, gutter and sidewalks all to be located within the existing 66' of right of way. The improved width shall be a minimum of 41.5 feet from back of curb to back of curb. The street will be varying widths due to center turn lanes and right hand turn lanes. The distance of curb and gutter from the building will be approximately 8 feet at the west entrance to the shopping center and expand to approximately 18 feet at the corner of the east entrance where the planter is located. The curbing at the west entrance will provide an opening drive approach of 29.5 feet from back of curb to back of curb;
 - D. Grantor acknowledges that the Project will close the existing approach located at the merging lane on the southeast area of the parking lot.
 - E. Grantee shall not disrupt water service to the tenants at the shopping center during normal business hours.
 - F. As part of the Project, Grantee shall resurface all disturbed areas with new asphalt and otherwise restore the easement area to a condition reasonably satisfactory to Grantor.

- G. Construction of this project and repair of the area included in the temporary construction easement shall constitute payment for such easement.
- (3) That said foregoing special agreements and consideration are binding upon said Grantee; and;
 - (4) The temporary easement shall be limited to the area shown on the attached sheets 22 and 24 of the State of South Dakota plans for Project P-BRF 1746 (2); and;
 - (5) In accordance with the plans and specifications now on file in the office of the Department of Transportation, the Grantee, may use all necessary temporary easements for detour, cutslope, or fillslope from said real property necessary for the proper construction of said highway; that said Grantee, its agents, representative, assigns or any Contractor employed by the Grantee, may enter upon the above described premises owned by the Grantor and make upon such premises such channel changes as are found necessary for the proper construction of said highway, such fillslope, cutslope, detour, or channel change areas are estimated to be 958 square feet for this project and payment is included in the amount stated above at the rate of \$ -0- per square foot. It is agreed and understood that all the areas used shall be sloped and graded down as smooth as is practicable in the construction of said highway and left in a neat and workmanlike manner. Said Grantee may enter upon said land and maintain said channel changes necessary for the proper operation of said highway facility during the life of this AGREEMENT; and;
 - (6) The Grantor, his heirs, successors or assigns, shall not interfere with or disturb any such above described highway facility or portion thereof, without express approval of the Grantee or its duly authorized representative empowered to grant such approval, , and then only under the conditions as designated by the Grantee or its duly authorized representative. The Grantee shall have the right of ingress and egress to enter upon abutting property when necessary to maintain fillslopes, cutslopes and drainage structures until the right of way is no longer used for highway purposes; and;
 - (7) The Grantor grants permission to the Grantee to enter upon the above described property to commence construction upon approval of this AGREEMENT as soon as all required documents and releases are properly signed and received by the Grantee, the above and foregoing AGREEMENT is entered into on this 8th day of October, 2001, and in the witness whereof the Grantor hereunto subscribes by signature.

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

Grantor: Bradley Operating Limited Partnership

Grantee: City of Rapid City

By: Heritage-Austen Acquisition, Inc.
Its General Partner

By: Public Works Director


Louis C. Zicht, Vice President


Dan Bjerke

Grantor's ACKNOWLEDGMENT

STATE OF MASSACHUSETTS

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) SS
)

COUNTY OF SUFFOLK

On this 8th day of October, in the year 2001, before me a Notary Public within and for said County and State, has personally appeared Louis C. Zicht, 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)

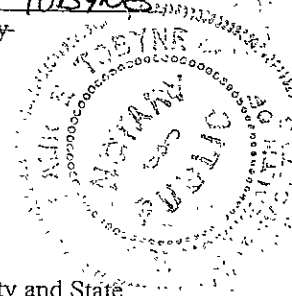
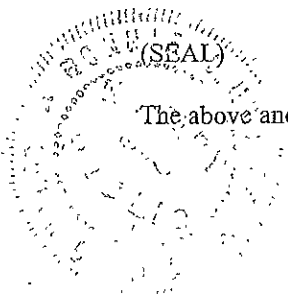
Laurie Tobyne LAURIE TOBYNE
 Notary Public Notary Public
 My Commission Expires: _____ My Commission Expires May 3, 2002
 The above and foregoing AGREEMENT approved this 8th day of October, 2001.
Dan Bjerke LAURIE TOBYNE
 Authorized Representative of City/County

Grantee's ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
) SS
 COUNTY OF PENNINGTON)

On this 2nd day of October, in the year 2001, before me a Notary Public within and for said County and State, has personally appeared Dan Bjerke, known to me to be the person was is described in, and who executed the within instrument and acknowledged to me that _____ he _____ executed the same.

Bonnie J. Hughes
 Notary Public
 My Commission Expires: 6-18-2005
 The above and foregoing AGREEMENT approved this 2nd day of October, 2001.
DAN BJERKE
 Authorized Representative of City/County



DOTRW-91 (7-99)

TEMPORARY EASEMENT AGREEMENT (CITY/COUNTY)

Project No. P-BRF 1746(2) PCEMS No. 4338 Parcel No. A2
County Pennington

This AGREEMENT for temporary easement facilities entered into by the undersigned, hereinafter referred to as Grantor, to the City of Rapid City of Pennington County, hereinafter referred to as Grantee, witnesseth:

WHEREAS, the Grantee contemplates the construction, operation and maintenance of highway facilities on the above described project, as described by plans; and;

WHEREAS, a portion of the temporary easement for such highway is located over and across the real property hereinafter described as:

Lot 1, SE1/4 NE1/4 of Section 3, Township 1 North, Range 7 East of the B.H.M., Pennington Coutny, South Dakota.

WHEREAS, the Grantor has this date granted permission to enter upon the above described real property to the Grantee, for a total consideration for temporary easements, improvements and damages of: \$ A - 0 -; consisting of \$ — 0 —, for temporary easement, improvements and damages, less \$ — 0 —, for retained salvage.

NOW, THEREFORE, it is expressly covenanted, agreed and understood by the parties hereto, as follows:

(1) This AGREEMENT shall be in full force and effect for a period of 1 year after completion of project; and;

(2) That the following special agreements mutually agreed upon by and between the parties hereto are made a binding part of this AGREEMENT:

** donation from signed.*

(3) That said foregoing special agreements and consideration are binding upon said Grantee only when approved by the Grantee's authorized representative, and in the event that said consideration of special agreements are not approved, this AGREEMENT is null and void of no force or effect; and;

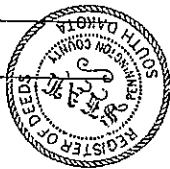
(4) In accordance with the plans and specifications now on file in the office of the Department of Transportation, the Grantee, may use all necessary temporary easements for detour, cutslope, or fillslope from said real property necessary for the proper construction of said highway; that said Grantee, its agents, representative, assigns or any Contractor employed by the Grantee, may enter upon the above described premises owned by the Grantor and make upon such premises such channel changes as are found necessary for the proper construction of said highway, such fillslope, cutslope, detour, or channel change areas are estimated to be _____ acres 4.015 square feet for this project and payment is included in the amount stated above at the rate of \$ 0 per acre square foot. 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 the areas used shall be sloped and graded down as smooth as is practicable in the construction of said highway and left in a neat and workmanlike manner. Said Grantee may enter upon said land and maintain said channel changes necessary for the proper operation of said highway facility during the life of this AGREEMENT; and;

(5) The Grantor, his heirs, successors or assigns, shall not interfere with or disturb any such above described highway facility or portion thereof, without express approval of the Grantee or its duly authorized representative empowered to grant such approval, and then only under the conditions as designated by the Grantee or its duly authorized representative. The Grantee shall have the right of ingress and egress to enter upon abutting property when necessary to maintain fillslopes, cutslopes and drainage structures until the right of way is no longer used for highway purposes; and;

(6) The Grantor grants permission to the Grantee to enter upon the above described property to commence construction upon approval of this AGREEMENT with the understanding payment will be made as soon as all required documents and releases are properly signed and received by the Grantee and a voucher processed for payment, the above and foregoing AGREEMENT is entered into on this 17th day of Sept, 2001, and in the witness whereof the Grantor hereunto subscribes by signature.

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

X Jerry Munson, MAYOR

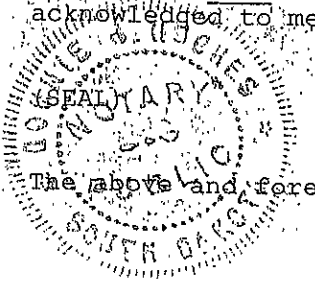


ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) SS

On this 17th day of September, in the year 2001, before me a Notary Public within and for said County and State, has personally appeared JERRY MUNSON

the person who _____ described in, and who executed the within instrument and acknowledged to me that _____ he _____ executed the same.



Donna M. Mayer
Notary Public
My Commission Expires: 6-18-2005

The above and foregoing AGREEMENT approved this 17th day of September, 2005.

X [Signature]
Authorized Representative of City/County