

AGREEMENT TO DEPOSIT EXCESS EMBANKMENT MATERIAL

The City of Rapid City, South Dakota, hereby grants a NON-EXCLUSIVE option to the State of South Dakota, acting by and through its Department of Transportation, hereinafter referred to as "State," to deposit excess embankment materials upon the following described piece of land situated in Pennington County, South Dakota:

Southeast Quarter of the Northwest Quarter of Section Nineteen (SE $\frac{1}{4}$ NW $\frac{1}{4}$ 19), West Half of the Northeast Quarter of Section Nineteen (W $\frac{1}{2}$ NE $\frac{1}{4}$ 19), and Northeast Quarter of the Southwest Quarter of Section Nineteen (NE $\frac{1}{4}$ SW $\frac{1}{4}$ 19), all in Township One North (1N), Range Eight East (8E) of the Black Hills Meridian, Pennington County, South Dakota. (adjacent to and south of US 16B between approximate Station 135+00 to Station 160+00).

1. This Agreement shall allow State to deposit excess soil and rock on the subject real property.
2. The term of this Agreement shall be from **January 1, 2010**, to completion of project: **NH 2016(17)64, PCN 6875**.
3. The parties agree that in the event this Agreement shall expire during the course of removal of materials which are the subject of the Agreement, and a subsequent agreement has not been included in the contract provisions, this Agreement shall continue under the same terms and conditions until completion of the project for which materials are being deposited. Any extension of the Agreement under this section shall not exceed one (1) year.
4. The City of Rapid City, South Dakota, further agrees that the State and any and all servants, agents, contractors, or workers authorized by State shall have full and free right of ingress and egress and the right to operate all necessary equipment upon the property herein described and shall have the right of ingress and egress upon said property from the highway for the purpose of depositing all material required.
5. State will pay to the City of Rapid City, South Dakota, for depositing excess embankment materials on said property at a rate of **\$0.00 (N/A)**.
6. State will restore any fencing disturbed by the exercise of this Agreement in as good a condition as it was before work started. If a temporary fence is required around the excess materials site to protect livestock, such fencing shall be erected at the expense of the State or State's assigns.
7. State, during and on completion of operations at the excess materials site, will operate and restore the affected area in accordance with the General Provisions of SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS for ROADS and BRIDGES and the following:
 - A. State proposes to restore the affected area for use as **pasture**.

- B. Prior to the beginning of placement of excess materials, the City of Rapid City or its representative, State's engineer, and the contractor shall meet and discuss the limits of operations.
 - C. Topsoil, to be removed and stockpiled prior to the depositing of excess materials, shall be considered to consist of the upper **3" (three inches)** of natural soil.
 - D. State agrees to replace and spread the topsoil, incorporate 2 inches of compost (furnished by City of Rapid City) into the upper 6 to 8 inches of soil, seed to permanent seed mixtures as shown in the plans, mulch, and fertilize.
8. The City of Rapid City has designated its Mayor as the City of Rapid City's authorized representative and has empowered the Mayor with the authority to sign this Agreement on behalf of the City of Rapid City. A copy of the City of Rapid City's Commission minutes or resolution authorizing the execution of this Agreement by the Mayor as the City of Rapid City's authorized representative is attached hereto as Exhibit A.

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

City of Rapid City, South Dakota

By: _____

Its: Mayor

Date: _____

State of South Dakota
Department of Transportation

By: _____

Its: _____

Date: _____

Attest:

City Auditor/Clerk

Approved as to Form:

Special Assistant Attorney General

(CITY SEAL)

ACKNOWLEDGMENTS FOLLOW

ACKNOWLEDGMENT

STATE OF _____)
)SS
COUNTY OF _____)

On this the ___ day of _____, 20___, before me _____, a notary public, personally appeared Alan Hanks, who acknowledged himself to be the Mayor, of City of Rapid City, and that he, as such Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the City of Rapid City by himself as Mayor.

In witness whereof I hereunto set my hand and official seal.

Notary Public

My commission expires: _____

[Notary Seal]



ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF PENNINGTON)

On this the ___ day of _____, 20___, before me, _____, a notary public, personally appeared _____, of the State of South Dakota, Department of Transportation, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

My commission expires: _____

[Notary Seal]