

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

This Agreement is made by and between the State of South Dakota, acting by and through its Department of Transportation, referred to in this Agreement as the "STATE," and the City of Rapid City, South Dakota, referred to in this Agreement as the "CITY." The parties acknowledge and agree the CITY'S population is deemed to be 69,854 for purposes of this Agreement.

1. JOINT POWERS

This Agreement does not establish a separate legal entity, as contemplated by SDCL 1-24-5. The cooperative undertaking described in this Agreement will be financed and conducted under the provisions of this Agreement by the CITY and the STATE. Each party has responsibilities under the terms of this Agreement and no joint board or administrator will be used. No real property will be purchased for use for this Agreement.

2. STATE PROJECT

The STATE and the CITY concur in the proposal for the new construction or improvement of streets identified by South Dakota Federal Aid Construction Project Number NH 0044(186)44 PCN 04T6, referred to in this Agreement as the "STATE PROJECT." The STATE PROJECT is located at the intersection of South Dakota Highway 44 (SD44) and 12th Street. The STATE PROJECT consists of traffic signals and ADA upgrades.

3. CONTRACT PROCUREMENT

The STATE will design, advertise, let to contract, award, and be the contracting party for the STATE PROJECT.

4. RESPONSIBILITY FOR MAINTENANCE, POLICING ENCROACHMENTS, AND OTHER ACTIVITIES

Any responsibilities the CITY may have for policing encroachments, performing maintenance and repair activities, limiting access, enforcing parking prohibitions, and servicing lighting systems along the STATE PROJECT will be governed by the "Maintenance and Encroachment Agreement," executed on June 1, 2010, and assigned Agreement Number 714097 by the STATE, and any amendments to that agreement entered into by the parties now or in the future.

5. SIGNALS

If a signal system is installed on any portion of the STATE PROJECT located within the CITY'S municipal boundaries, that signal system will be subject to the terms of the agreement entered into between the parties effective May 10, 2010, entitled "Maintenance Agreement Between a Local Government Authority and the State of South Dakota for Traffic Signals on State Highway System" and assigned agreement number 613594 by the STATE.

6. INDEMNIFICATION

The CITY will indemnify the STATE, its officers, agents, and employees against any and all actions, suits, damages, liability, or other proceedings that arise as a result of the CITY'S performance under this Agreement. This section does not require the CITY to be responsible for or defend against claims or damages arising from errors or omissions of the STATE, its officers, agents, or employees.

7. AMENDMENT

This Agreement may not be amended, except in writing, which writing will be expressly identified as a part of this Agreement, and must be signed by an authorized representative of each of the parties.

8. CERTIFICATION REGARDING LOBBYING

The CITY certifies, to the best of the CITY'S knowledge and belief, that: No Federal appropriated funds have been paid or will be paid, by or on behalf of the CITY, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any of the above mentioned parties, the CITY will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The CITY will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients will certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification will be subject to a civil penalty or not less than \$10,000 and not more than \$100,000 for each such failure.

9. EMPLOYEE STATUS

Any officer, employee, or agent engaged in joint action under this Agreement will remain an employee with his or her agency during participation in joint action under this Agreement. Each agency will retain exclusive responsibility for its officers, agents, and employees while these officers, agents, and employees are engaged in joint action under this Agreement, including but not limited to responsibility for regular and overtime wages and salaries, unemployment benefits, workers' compensation coverage, health insurance, or other benefits, and liability coverage and indemnity, except as otherwise specifically provided in this Agreement.

10. 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 to this Agreement as Exhibit A.

By signature of their representatives below, each party certifies that approval of this Agreement by ordinance, resolution, or other appropriate means has been obtained by that party's governing body or officer pursuant to SDCL § 1-24-3 and § 1-24-6.

City of Rapid City, South Dakota

State of South Dakota
Department of Transportation

By: _____

By: _____

Its: Mayor

Its: Project Development Engineer

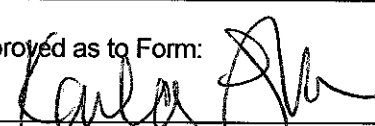
Date: _____

Date: _____

Attest:

Approved as to Form:

City Auditor/Clerk



Special Assistant Attorney General

(CITY SEAL)