

**STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
UTILITY EASEMENT AGREEMENT**

This Agreement for permanent utility facilities easement is entered into between the State of South Dakota, acting through its Department of Transportation, referred to in this Agreement as the STATE, post office address 700 East Broadway Avenue, Pierre, South Dakota 57501, and the City of Rapid City, South Dakota, referred to in this Agreement as RAPID CITY, post office address 300 6th Street, Rapid City, South Dakota 57701.

Background:

1. RAPID CITY contemplates the construction, operation, and maintenance of certain utility facilities; and,
2. A portion of the permanent easement necessary for the proper completion of these facilities is located over and across certain real property owned by the STATE.

THE STATE AND RAPID CITY AGREE AS FOLLOWS:

1. The STATE grants to RAPID CITY, on the occasion of full execution of this Agreement, a permanent easement for the construction and maintenance of utility facilities within the 279 square foot area of STATE property shown on Exhibit A to this Agreement, and legally described as follows:

Tract 2 of Boulevard Office Park, Pennington County, South Dakota.

2. This Agreement and grant of easement is subject to the condition that RAPID CITY will construct and maintain the utility facility in a good and workmanlike manner, and will restore all disturbed areas insofar as is practical.
3. RAPID CITY will indemnify the STATE from any and all claims, actions, suits, damages, liability, or other proceedings that may arise out of the grant of this easement, the construction, operation, repair, or maintenance of the utility facility, and RAPID CITY'S use of this easement.
4. RAPID CITY assumes all risk of loss or damage to RAPID CITY'S utility facility, however caused, resulting directly or indirectly, by reasons of the construction, repair, replacement, maintenance, removal, or use of the utility facility, and releases and holds harmless the STATE from any and all liability on account of such loss or damage, whether or not the negligence of the STATE contributed to such loss or damage in whole or in part.
5. This Agreement is binding upon the STATE only upon approval of this Agreement by the STATE'S authorized representative and if this approval is not obtained, this Agreement is null and void and of no force or effect.

6. RAPID CITY has designated its Mayor as RAPID CITY'S authorized representative and has empowered the MAYOR with the authority to sign this Agreement on behalf of RAPID CITY. A copy of RAPID CITY'S Commission minutes or resolution authorizing the execution of this Agreement by the Mayor as RAPID CITY'S authorized representative is attached to this Agreement as Exhibit B.

This Agreement, consisting of 3 pages, has been made, signed, and sealed in duplicate by the STATE on 14 June, 2011.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

By: [Signature]

Its: Secretary

Approved as to Form:

[Signature]
Special Assistant Attorney General

This Agreement, consisting of 3 pages, has been made, signed, and sealed in duplicate by RAPID CITY on _____, 2011.

CITY OF RAPID CITY

By: _____

Its: Mayor

Attest:

City Finance Officer/Clerk

(City Seal)

STATE ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

On this 14 day of June, 2011, before me, Myron Morlock, a Notary Public within and for said County and State, personally appeared Darin Bergquist, Secretary, South Dakota Department of Transportation, known to me to be the person who is described in and who executed the within and foregoing instrument in the capacity indicated and acknowledged to me that he executed the same freely.

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

Myron Morlock
NOTARY PUBLIC

My Commission Expires: 9-10-2012

(NOTARY SEAL)

CITY ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF PENNINGTON)

On this _____ day of _____, 2011, before me, _____, a Notary Public within and for said County and State, personally appeared _____, Mayor, City of Rapid City, South Dakota, known to me to be the person who is described in and who executed the within and foregoing instrument in the capacity indicated and acknowledged to me that he executed the same freely.

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

NOTARY PUBLIC

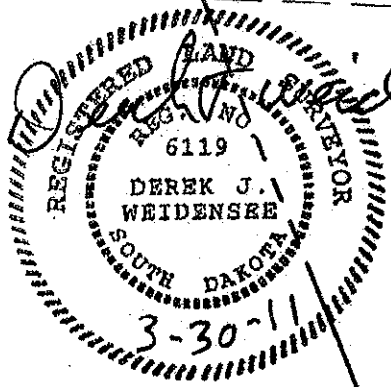
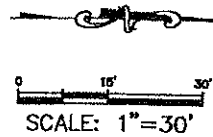
My Commission Expires: _____

(NOTARY SEAL)

"EXHIBIT A"

PARCEL RC4

NOTE: THE COORDINATES, BEARINGS, AND DISTANCES SHOWN ARE BASED UPON THE SOUTH DAKOTA STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83/96, COMBINED SCALE FACTOR = 0.999782457. CITY OF RAPID CITY SURVEY CONTROL MONUMENT #2082, LOCATED AT THE SW CORNER OF JACKSON BLVD. & SHERIDAN LAKE RD., IS THE BASIS OF COORDINATE SYSTEM. THE TIES SHOWN TO FOUND MONUMENTS WILL HAVE PRECEDENCE OVER STATE PLANE COORDINATES.



EXISTING 20' UTILITY EASEMENT

FOUND 5/8" REBAR WITH CAP LS#2652
N 646683.65
E 1198715.46

PERMANENT UTILITY EASEMENT FOR THE CITY OF RAPID CITY (CONTAINING 279 Sq. Ft. MORE OR LESS)

TRACT 2 OF BOULEVARD OFFICE PARK
ADDRESS: 2610 JACKSON BLVD.

TRACT 1 OF BOULEVARD OFFICE PARK

JACKSON BLVD

N87°56'35"W 163.10'

N04°51'10"E 16.00'

N 646617.78
E 1198895.22

FOUND 1/2" REBAR

S85°08'49"W 19.28'

N86°35'09"E 3.11'

N85°08'49"W 12.35'

N02°08'24"E 47.75'

N43°04'39.42"E 11.72"

LOT H1

FOUND 5/8" REBAR WITH CAP LS#2652

N02°08'24"E 6.80'

SHERIDAN LAKE ROAD

PROJECT # SSW09-1509

PERMANENT UTILITY EASEMENT
TRACT 2 OF BOULEVARD OFFICE
PARK IN THE CITY OF
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

Surveyed By: FMS, INC.
Date: 10/2010
Drawn By: JRK
Checked By: DW
Location: SW 1/4 OF SECTION 3
T1N, R7E, S24N



F M G, Inc.

3700 Sturgis Road
Rapid City, SD 57702-0317
(605) 342-4105 FAX (605) 342-4222
www.fmgengineering.com