

STATE OF SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION  
FUNDING AGREEMENT

This Agreement is made and entered into 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."

**BACKGROUND:**

1. The STATE received an apportionment of Highway Infrastructure Program funds pursuant to the Department of Transportation Appropriations Act, 2019, title I of division G, Pub. L. 116-6, for bridge replacement and rehabilitation. The STATE will convert these funds into State Highway Funds and distribute these funds on a pro-rata basis based on the percentage of deck area the local governmental agencies have classified as in poor condition as reported in the National Bridge Inspection Program as of December 31, 2017.
2. The CITY wants to accept the CITY'S share of the funds to be used strictly for the replacement or rehabilitation of bridge(s) identified in poor condition and listed on the attached **Exhibit A**.

**THE STATE AND THE CITY MUTUALLY AGREE AS FOLLOWS:**

1. The STATE will transfer one hundred sixty-four thousand one hundred twenty-four dollars and ninety-six cents (\$164,124.96) to the CITY for the CITY'S use to replace or rehabilitate bridges classified as in poor condition and listed on **Exhibit A**, attached to and incorporated in this Agreement.
2. The CITY may request amendments to bridges classified in poor condition as noted in **Exhibit A** by submitting a bridge inspection report classifying the bridge to be in poor condition if the inspection is completed by a licensed professional engineer who is prequalified for bridge inspection work by the STATE.
3. The CITY will accept the funding identified in Paragraph 1 of this Agreement and will only spend the funds on the following eligible expenditures:
  - A. Bridge structure replacement, rehabilitation, or preservation on those bridges identified in **Exhibit A**.
  - B. Funding match to Federal Emergency Management Agency (FEMA) funds on those bridges identified in **Exhibit A**.
  - C. Funding match for a Bridge Improvement Grant (BIG) on those bridges identified in **Exhibit A**.
  - D. Funding match for Emergency Relief (ER) program funds on those bridges identified in **Exhibit A**.
4. The CITY must submit an estimate of the bridges they plan to work on and file an annual report with the STATE on the progress of the bridges and expenditures. The CITY will send annual reports by January 31<sup>st</sup> of each year to Cody Axlund, South Dakota Department of Transportation, Local Government Assistance, 700 East Broadway Avenue, Pierre, South Dakota 57501, 605-773-3390, Cody.Axlund@state.sd.us.
5. If the funding transferred to the CITY under this Agreement is not expended by the CITY in three (3) years from the date of transfer of the funds, the CITY will return the funding to the STATE.
6. The funds shall be administered as if apportioned under chapter 1 of title 23, U.S.C.
7. The CITY will keep detailed records, accounts, invoices, and supporting documents pertaining to all costs paid for with the funds under this Agreement. Upon reasonable notice, the CITY will allow the STATE, through any authorized representative, to have access to and the right to examine and copy all records, accounts, invoices, and supporting documents pertaining to all costs paid for with these funds.

8. This Agreement may not be amended, except in writing, which writing will be expressly identified as a part of this Agreement and be signed by an authorized representative of each of the parties.
9. If the CITY breaches any of the terms or conditions of this Agreement, the STATE may terminate this Agreement at any time with or without notice.
10. The CITY will indemnify the STATE, its officers, agents, and employees against any and all actions, suits, damages, liability, or other proceedings that may arise as the result of performing services under this Agreement. This section does not require the CITY to be responsible for or defend against claims or damages arising solely from errors or omissions of the STATE, its officers, agents, or employees.
11. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement may be terminated by the STATE. Termination for any of these reasons is not a default by the STATE nor does it give rise to a claim against the STATE.
12. The CITY has designated its Mayor or Board President as the CITY'S authorized representative and has empowered the Mayor or Board President with the authority to sign this Agreement on behalf of the CITY. A copy of the CITY'S Commission, Council or Board minutes or resolution authorizing the execution of this Agreement by the CITY'S authorized representative is attached to this Agreement as **Exhibit B**.

This Agreement is binding upon the signatories not as individuals, but solely in their capacities as officials of their respective organizations and acknowledges proper action of the STATE and the CITY to enter into the same.

City of Rapid City, South Dakota

State of South Dakota  
Department of Transportation

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: Mayor/Board President

Its: Secretary

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Approved as to Form:

\_\_\_\_\_  
CITY Finance Officer/Clerk

\_\_\_\_\_  
Special Assistant Attorney General

(CITY SEAL)