BACKGROUND:

1. On December 3, 2020, the State of South Dakota, acting by and through its Department of Transportation, referred to in this Amendment as the “STATE,” and City of Rapid City, referred to in this Amendment as the CITY, entered into a 2020 Bridge Replacement Funding Agreement, which is referred to in this Amendment as “AGREEMENT,” and which was signed by representatives of each party and assigned agreement number 717419 by the STATE.

2. STATE and CITY wish to amend the funding obligations and billing process under the AGREEMENT.

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. BACKGROUND paragraph 3 of the AGREEMENT is amended and BACKGROUND paragraph 4 is added to the AGREEMENT to read as follows:

   3. The Federal Highway Local Bridge Replacement Program provides Federal Funds for 81.95% of the actual total eligible costs of an approved bridge replacement project. The remaining 18.05% match and any ineligible costs are the responsibility of the Federal Funds recipient. The recipient may receive funding from other sources to pay the 18.05% match.

   4. The STATE has state highway funds available to assist local governments with the 18.05% match required under the Federal Highway Local Bridge Replacement Program.

2. Paragraph 3 under the section of the AGREEMENT entitled “THE PARTIES MUTUALLY AGREE AS FOLLOWS:” is amended to read:

   3. The STATE will execute and administer the contracts and work orders for design engineering services for the PROJECT, which includes surveys, hydraulic analysis, and preparation of plans and specifications. The STATE will advertise, let to contract, award, and be the contracting party for the construction of the PROJECT. The CITY’S concurrence will not be required for the STATE’S award and execution of the construction contract. The STATE will provide construction engineering services for the PROJECT through STATE forces or a consultant selected by the STATE and approved by the CITY. If a consultant is retained, the STATE will execute and administer the contracts and work orders for construction administration services for the PROJECT.

3. Paragraph 4 under the section of the AGREEMENT entitled “THE PARTIES MUTUALLY AGREE AS FOLLOWS:” is amended to read:

   4. The parties estimate the costs of design, construction engineering, and construction of the PROJECT to be four hundred forty-five thousand dollars, ($445,000), but payment obligations under this Agreement will be based on actual costs. The CITY is awarded Federal Funds for 81.95% of the actual total eligible costs of the PROJECT. As to the required 18.05% match, the CITY is awarded state highway funds equal to 12.71% of the actual total eligible costs of the PROJECT. The CITY is responsible to pay 5.34% of the actual total eligible costs of the PROJECT and the CITY is 100% responsible for any expenses deemed by the Federal Highway Administration or the STATE to be non-participating or ineligible for Federal Funds or state highway funds, including but not limited to: right of way costs, utility relocations, finished roadway surfacing (asphalt, gravel, or concrete), fencing, aesthetics, and off-site environmental mitigation and monitoring costs. Once Federal Funds and any STATE contribution of state highway funds are exhausted, the CITY will be one hundred percent (100%) responsible for all PROJECT costs. The STATE will not bill the CITY for its required match or for any ineligible or non-participating PROJECT costs until after bid-letting and award of the contract for construction of the PROJECT.
4. Paragraph 17 of the AGREEMENT is amended to read as follows:

17. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the federal government, Legislature and South Dakota Transportation Commission for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, the South Dakota Transportation Commission fails to allocate sufficient state highway funds for this purpose or such funds are exhausted, or funds become unavailable by operation of law or federal funds reductions, the STATE may terminate this Agreement or reduce the Federal Funds or state highway funds paid under this Agreement. Termination or funding reductions for any of these reasons is not a default or breach by the STATE nor does it give rise to a claim against the STATE.

5. Except as specifically modified by this Amendment, all terms and conditions of the AGREEMENT will remain in full force and effect.

6. The CITY has designated its Mayor as the CITY’S authorized representative and has empowered the Mayor with the authority to sign this Amendment on behalf of the CITY. A copy of the CITY’S minutes or resolution authorizing the execution of this Amendment by the Mayor as the CITY’S authorized representative is attached to this Amendment as Exhibit 1.

This Amendment 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

By: _________________________________
Printed Name: _________________________________
Its: Mayor
Date: _________________________________

State of South Dakota
Department of Transportation

By: _________________________________
Printed Name: Joel M. Jundt
Its: Secretary
Date: _________________________________

Attest:

______________________________
CITY Auditor/Clerk

[CITY SEAL]