STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
FUNDING TRANSFER 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. Safe, Accountable, Flexible, Efficient Transportation Equity Act – Legacy for Users (SAFETEA-LU) provided the CITY with High Priority Project (HPP) funds comprised of HPP obligation limitation and HPP contract authority for the following project(s):
   
   A. SD150 East Anamosa St. extension to east/north and Lacrosse St. Road and Bridge, referred to in this Agreement as “SD150”;

2. SD150 was completed but has not been finaled with Federal Highway Administration (FHWA) as of the time this agreement was executed. SD150 has an estimated remaining HPP obligation limitation in the amount of One Hundred Seventy Thousand Six Hundred Eighty-Five Dollars and Twenty-five cents ($170,685.25) and estimated remaining HPP contract authority in the amount of Six Hundred Seventy-Eight Thousand Two Hundred Eighty-Seven Dollars and Sixty-one cents ($678,287.61).

3. The ability to repurpose the remaining HPP obligation limitation and contract authority will expire on September 12, 2017, if the HPP obligation limitation and contract authority is not repurposed before that date.

4. Section 422 of the Department of Transportation Consolidated Appropriations Act of 2017 allows for repurposing of unobligated HPP obligation limitation and contract authority in federal fiscal year 2017 with the approval of the FHWA.

THE STATE AND THE CITY MUTUALLY AGREE AS FOLLOWS:

1. The CITY authorizes the STATE to exercise all rights and authority over the actual remaining HPP obligation limitation for the following project:

   A. SD150 with an estimated remaining HPP obligation limitation of One Hundred Seventy Thousand Six Hundred Eighty-Five Dollars and Twenty-five cents ($170,685.25).

2. The CITY authorizes the STATE to exercise all rights and authority over the actual remaining HPP contract authority for the following project:

   A. SD150 with an estimated remaining HPP contract authority of Six Hundred Seventy-Eight Thousand Two Hundred Eighty-Seven Dollars and Sixty-one cents ($678,287.61).

3. The STATE will pay to the CITY the actual total sum, currently estimated at One Hundred Seventy Thousand Six Hundred Eighty-Five Dollars and Twenty-five cents ($170,685.25), in State Highway Funds. This payment may only be used by the CITY for the purpose of maintenance, construction, and supervision of highways and bridges under the CITY’S jurisdiction and control in accordance with South Dakota Constitution Art. XI, Section 8. No part of the payment may be used for any other purpose, nor will the payment revert to the CITY’S general funds.

4. The STATE will repurpose the HPP obligation limitation and the HPP contract authority within the guidelines of Section 125 of the Department of Transportation Consolidated Appropriations Act of
2017 clarified by FHWA. The STATE will repurpose the HPP obligation limitation and the HPP contract authority on new or existing projects in the State of South Dakota within 100 miles of the original project(s).

5. If SD150 project(s) have not been finaled with FHWA prior to September 5, 2017, this agreement shall be considered null and void.

6. The CITY will keep detailed records, accounts, invoices, and supporting documents pertaining to all costs paid for with exchanged funds. 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 exchanged funds.

7. 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.

8. 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.

9. 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, the 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.

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.

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

By: ________________________________

Its: Mayor

Date: ________________________________

Attest: ________________________________

City Auditor/Clerk

(State Seal)

State of South Dakota

Department of Transportation

By: ________________________________

Its: Secretary

Date: ________________________________

By: ________________________________

Its: Director,

Division of Finance and Management

Date: ________________________________