AGREEMENT

THIS AGREEMENT is between the city of Rapid City, South Dakota, referred to in this Agreement as the "City," and the State of South Dakota, acting by and through its Department of Transportation, referred to in this Agreement as the "State."

BACKGROUND:

1. Rapid City, Pierre & Eastern Railroad, Inc. will upgrade the two (2) track highway-rail grade crossing, DOT 190263K, located on City right-of-way on East Boulevard, in the city of Rapid City, South Dakota, with the installation of one hundred eight feet (108') of precast concrete crossing surface and associated crossing materials for each track, new walkout cantilevered signals with side lights, and associated signal material.

2. The State is responsible to assure the Federal Highway Administration that federal aid requirements are met in order to receive federal participation in adjustment costs.

THE STATE AND THE CITY MUTUALLY AGREE AS FOLLOWS:

1. The State will notify Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E), the owner of the railroad, and will negotiate agreements as necessary for the City for the rehabilitation of the crossing surface and installation of the signals.

2. The City will share in ten percent (10%) of the total participating costs for the crossing surface upgrades provided by RCP&E. The State will authorize the remaining ninety percent (90%) of the federal participating project costs for the crossing surface upgrades from funds available under Section 130 of Title 23, United States Code. The State will share in ten percent (10%) of the total participating costs for the signal installation provided by RCP&E Railroad. The State will authorize the remaining ninety percent (90%) of the federal participating project costs for the signal upgrades from funds available under Section 130 of Title 23, United States Code.

3. The City will ensure the State that all associated roadway work required as part of the crossing surface and signal upgrades adheres to all federal and state requirements as defined within the provisions, specifications, and federal boilers plates. The City will be responsible to fund the associated work required with no state or federal participation.
4. The estimated participating cost of work to be performed by RCP&E for the installation of the crossing surfacing is $183,600.00. The estimated participating cost for State construction engineering is $1,500.00. The total estimated participating project cost is $185,100.00. The estimated ten percent (10%) City share is $18,510.00. The City will pay the State for the City’s ten percent (10%) share of the participating project costs within thirty (30) days of receipt of an invoice submitted by the State.

5. The City will maintain the roadway, sidewalks, and pavement markings at said highway-rail grade crossing.

6. The Area Engineer responsible for the project is Rapid City Area Engineer Mike Carlson, South Dakota Department of Transportation, PO Box 1970, Rapid City, South Dakota 57709-1970, telephone 605-394-2248.

7. 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 acts or omissions of the State, its officers, agents, or employees.

8. 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 the City’s behalf 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 must require 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 all subrecipients must 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 of not less than $10,000.00 and not more than $100,000.00 for each such failure.

9. 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 or Council 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 same:

City of Rapid City, South Dakota

State of South Dakota
Department of Transportation

By: ________________________________
Its: Mayor
Date: ______________________________

Attest:

______________________________
City Auditor/Clerk

(CITY SEAL)

By: ________________________________
Its: Director, Division of Planning and Engineering
Date: ______________________________

Approved as to Form:

______________________________
Special Assistant Attorney General