

SOUTH DAKOTA BOARD OF REGENTS

Committee on Budget and Finance

AGENDA ITEM: III – P

DATE: April 1-2, 2015

SUBJECT: SDSM&T Surface Water Easement

The South Dakota School of Mines and Technology has asked that the Board adopt a resolution requesting the Commission of School and Public Lands and the Governor to grant permanent and construction easements to the City of Rapid City. The development located atop the bluffs situated to the south of campus has experienced problems with the storm water pooling in a roadway. The city proposes to install a storm water drainage system that will channel surface runoff into a gabion atop the bluff and thence descending some 110 feet down the natural drainage and across campus.

RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR

Adopt the proposed resolutions requesting Commissioner of School and Public Lands to draw up all necessary documents and to forward them to the Governor to request their execution in order to grant, respectively:

a temporary construction easement over portions of the campus of the South Dakota School of Mines and Technology described as those portions of Lots Sixteen (16) through Twenty-one (21) of Block Thirty-four (34), and a portion of Lots Six (6) through Eleven (11) of Block Forty-five (45), Brennan & Sweeney Addition, together with a portion of the 70' wide vacated right-of-way of East Saint Cloud Street all located in 'Government' Lot Six (6), Township One North (TIN), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached thereto and incorporated therein by reference; and

a permanent drainage easement over portions of the campus of the South Dakota School of Mines and Technology described as those portions of Lots Sixteen (16) through Eighteen (18) of Block Thirty-four (34), Brennan & Sweeney Addition, together with a portion of the 70' wide vacated right-of-way of East Saint Cloud Street all located in 'Government' Lot Six (6) of Section Six (6), Township One North (TIN), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached thereto and incorporated therein by reference.

The gabion (a cage-like structure filled with rocks) located at the end of the storm sewer will slow the flow of storm water and disperse it before allowing it to run over the bluff and down the natural drainage. At the request of SDSM&T, the city has agreed to construct a series of three rock dams at lower elevations to slow and to disperse further the flow down the hill. The construction easement would allow the city to construct all related structures. The permanent easement is confined to the hilltop and affords sufficient space surrounding the gabion to permit the City to enter upon the grounds and to maintain the structure.

The institution does not presently expect that the installation will alter existing drainage patterns. The present flow down the bluff skirts the practice field that lies south of the King Center it notes that heavy rain events often result in flows that empty into campus streets.

Two resolutions are appended. The first requests the grant of a construction easement, and the second the grant of a permanent easement.

RESOLUTION

Resolution requesting the grant the grant to the City of Rapid City of a temporary easement over portions of the campus of the South Dakota School of Mines and Technology.

The South Dakota Board of Regents (hereinafter referred to as “Grantor”), on behalf of The South Dakota School of Mines and Technology, pursuant to the authority vested in Grantor under SDCL § 5-2-11, hereby requests the Commissioner of School and Public Lands to draw up all necessary documents and to forward them to the Governor to grant to the City of Rapid City of a temporary construction easement to permit the construction of a gabion and three rock dams on portions of the campus of the South Dakota School of Mines and Technology to control storm water discharged from the City’s storm water control system onto that portion of campus situated within Lots Sixteen (16) through Twenty-one (21) of Block Thirty-four (34), and a portion of Lots Six (6) through Eleven (11) of Block Forty-five (45), Brennan & Sweeney Addition, together with a portion of the 70' wide vacated right-of-way of East Saint Cloud Street all located in 'Government' Lot Six (6), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

Grantor requests that any grant of easement provide that Grantor shall not be liable for any personal injury, property damage, or other liability to Grantee, its agents, employees, invitees, or to any other party caused by or related to Grantee’s use of the premises, irrespective of how such injury or damage may be caused, whether by action of the elements or acts of negligence of Grantee or any other party, and that Grantee further agree to reimburse Grantor for any judgment against it arising from Grantee’s use of the property.

Dated this second day of April 2015,

SOUTH DAKOTA BOARD OF REGENTS

By _____
 Dean M. Krogman
 President

Certification:

I have compared the foregoing with an action taken by the Board of Regents at a regular meeting of the Board in Spearfish, South Dakota, on the fourth day of April 2013, and I hereby certify that the same is a true, correct, and complete copy thereof and that the same has not been rescinded.

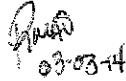
Dated this second day of April 2015,

SOUTH DAKOTA BOARD OF REGENTS

By _____
 Bob Sutton
 Secretary

PREPARED BY:

City Attorney's Office
 300 Sixth Street
 Rapid City, SD 57701
 (605) 394-4140



TEMPORARY CONSTRUCTION EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, STATE OF SOUTH DAKOTA, of 500 East Capitol, Pierre, South Dakota, 57501, Grantor, hereby grants to the CITY OF RAPID CITY, a South Dakota municipality, of 300 Sixth Street, Rapid City, South Dakota, 57701, its agents, employees, and contractors, a temporary construction easement over and across the following described real property:

A portion of Lots Sixteen (16) through Twenty-one (21) of Block Thirty-four (34), and a portion of Lots Six (6) through Eleven (11) of Block Forty-five (45), Brennan & Sweeney Addition, together with a portion of the 70' wide vacated right-of-way of East Saint Cloud Street all located in 'Government' Lot Six (6), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

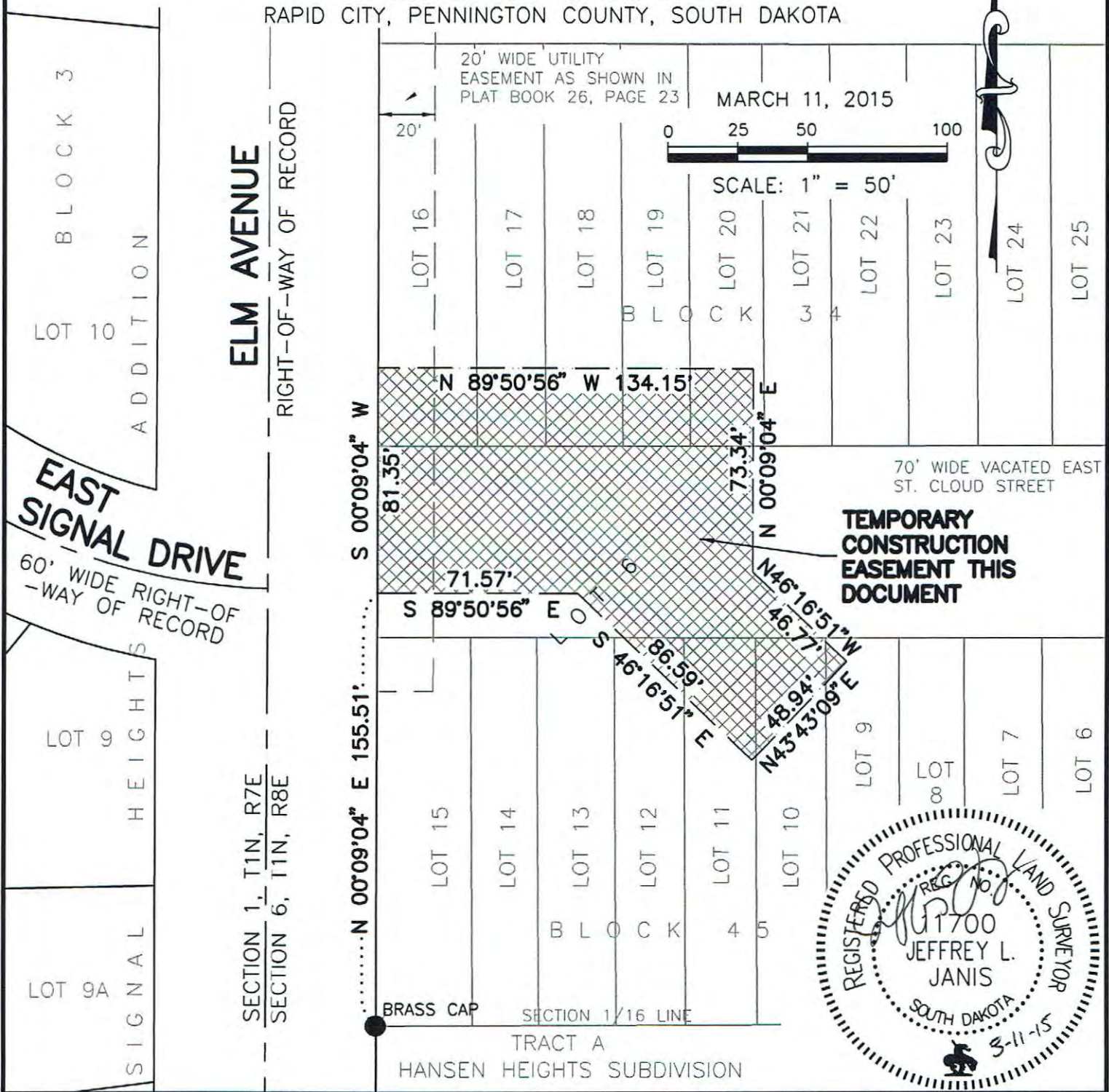
This easement shall include the right to enter upon the easement property for the purpose of constructing the project entitled, "East Signal Drive Reconstruction Project No. 12-2052/CIP No. 50949".

The City shall perform all work in a workmanlike manner and shall leave the property in as good condition as existed prior to entry thereon. However, the City will not be responsible for repairing or replacing any structures or improvements that are placed in the temporary easement after the effective date of the easement.

This Temporary Easement shall be effective from the date of signing to December 31, 2016.

TEMPORARY CONSTRUCTION EASEMENT PORTION OF LOTS 16 THROUGH 21 OF BLOCK 34, AND A PORTION OF LOTS 6 THROUGH 11 OF BLOCK 45, BRENNAN & SWEENEY ADDITION, TOGETHER WITH A PORTION OF THE 70' WIDE VACATED RIGHT-OF-WAY OF EAST SAINT CLOUD STREET

LOCATED IN 'GOVERNMENT' LOT 6,
SECTION 6, T1N, R8E, B.H.M.,
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA



RESOLUTION

Resolution requesting the grant to the City of Rapid City of a permanent drainage easement over portions of the campus of the South Dakota School of Mines and Technology.

The South Dakota Board of Regents (hereinafter referred to as “Grantor”), on behalf of The South Dakota School of Mines and Technology, pursuant to the authority vested in Grantor under SDCL § 5-2-11, hereby requests the Commissioner of School and Public Lands to draw up all necessary documents and to forward them to the Governor to grant to the City of Rapid City of a permanent drainage easement over portions of the campus of the South Dakota School of Mines and Technology situated within Lots Sixteen (16) through Eighteen (18) of Block Thirty-four (34), Brennan & Sweeney Addition, together with a portion of the 70' wide vacated right-of-way of East Saint Cloud Street all located in 'Government' Lot Six (6) of Section Six (6), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

Grantor requests that any grant of easement provide that Grantor shall not be liable for any personal injury, property damage, or other liability to Grantee, its agents, employees, invitees, or to any other party caused by or related to Grantee's use of the premises, irrespective of how such injury or damage may be caused, whether by action of the elements or acts of negligence of Grantee or any other party, and that Grantee further agree to reimburse Grantor for any judgment against it arising from Grantee's use of the property.

Dated this second day of April 2015,

SOUTH DAKOTA BOARD OF REGENTS

By _____
Dean M. Krogman
President

Certification:

I have compared the foregoing with an action taken by the Board of Regents at a regular meeting of the Board in Spearfish, South Dakota, on the fourth day of April 2013, and I hereby certify that the same is a true, correct, and complete copy thereof and that the same has not been rescinded.

Dated this second day of April 2015,

SOUTH DAKOTA BOARD OF REGENTS

By _____
Bob Sutton
Secretary

PREPARED BY: City Attorney's Office
300 Sixth Street
Rapid City, SD 57701
(605) 394-4140

Handwritten initials and date: RWB 03/20/14

PERMANENT DRAINAGE EASEMENT

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, STATE OF SOUTH DAKOTA, of 500 East Capitol, Pierre, South Dakota, 57501, Grantor, hereby grants to the CITY OF RAPID CITY, a municipal corporation, Grantee, of 300 Sixth Street, Rapid City, South Dakota, 57701, a permanent drainage easement, subject to the conditions hereinafter set forth. The property which is the subject of this permanent drainage easement is legally described as:

A portion of Lots Sixteen (16) through Eighteen (18) of Block Thirty-four (34), Brennan & Sweeney Addition, together with a portion of the 70' wide vacated right-of-way of East Saint Cloud Street all located in 'Government' Lot Six (6) of Section Six (6), Township One North (T1N), Range Eight East (R8E) of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference.

This easement shall run with the land, shall be perpetual, and shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Such easement shall include the right to enter upon the easement property to construct, operate, maintain, inspect, and repair drainage structures upon said property. This easement grants to all public authorities the right to enter upon the aforescribed real property and otherwise to do those things reasonably necessary to effectuate its purpose. Grantor shall keep the subject property free of all obstructions including but not limited to buildings, walls, fences, hedges, trees, and shrubs.

DATED this _____ day of _____, 2014.

STATE OF SOUTH DAKOTA

By: _____
Its: _____

MAJOR DRAINAGE EASEMENT PORTION OF LOTS 16 THROUGH 18 OF BLOCK 34, BRENNAN & SWEENEY ADDITION, TOGETHER WITH A PORTION OF THE 70' WIDE VACATED RIGHT-OF-WAY OF EAST SAINT CLOUD STREET

LOCATED IN 'GOVERNMENT' LOT 6,
SECTION 6, T1N, R8E, B.H.M.,
RAPID CITY, PENNINGTON COUNTY, SOUTH DAKOTA

