



Division of Secretariat

Office of Legal Counsel

700 East Broadway Avenue

Pierre, South Dakota 57501

O: 605.773.3262 | F: 605.773.4442

dot.sd.gov

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## MEMORANDUM

To: S.D. State Railroad Board  
From: Karla L. Engle  
Date: December 7, 2021  
RE: Trail Construction and Maintenance in and around Lake Andes

To enhance pedestrian safety along Highway 18 , in 1997 the South Dakota Department of Transportation (DOT) constructed a pedestrian walkway that extended from 3<sup>rd</sup> Avenue in Lake Andes to 383<sup>rd</sup> Avenue east of Lake Andes. The walkway was less than a mile in length and was built on railroad right of way owned by DOT. (An aerial photo of the walkway is enclosed). At about the same time the walkway was constructed, DOT entered into an agreement with the City of Lake Andes and the Yankton Sioux Tribe. Under the agreement, the City and the Tribe each agreed to maintain part of the walkway. (A copy of the agreement is included with this memo). DOT's records do not show any Board action authorizing the construction of the walkway or the maintenance agreement.

In 2008, the South Dakota Railroad Authority became the trail sponsor for the railbanked railroad right of way from Ravinia to Platte, including the right of way with the pedestrian walkway.

In 2019, the walkway and the surrounding area was flooded. (An aerial photo of the flooding is enclosed). The flood destroyed part of the walkway, including a pedestrian bridge. DOT proposes to reconstruct the destroyed walkway with federal and state highway funds. DOT also proposes to delegate maintenance responsibilities for the walkway to one or more third parties.

DOT asks the Board to:

1. Ratify the original construction of the pedestrian walkway and DOT's agreement providing for maintenance of the walkway by the City of Lake Andes and the Yankton Sioux Tribe;
2. Authorize the Secretary to execute an agreement between DOT and the South Dakota Railroad Authority that allows DOT to reconstruct and continue to maintain the walkway; and
3. Authorize the Secretary to execute new agreements delegating DOT's maintenance responsibilities for the walkway to one or more third parties whom DOT deems capable of meeting these responsibilities.

# Lake Andes Pedestrian Path Flooding

Attachment #3



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

# Lake Andes Pedestrian Path Before Flooding





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**MAINTENANCE AGREEMENT  
BETWEEN  
THE STATE OF SOUTH DAKOTA  
AND  
THE CITY OF LAKE ANDES  
AND  
THE YANKTON SIOUX TRIBE  
FOR  
ROADWAY LIGHTING AND PEDESTRIAN WALKWAY  
Project No. P-PH 0018(125)339-PCEMS 4540**

WHEREAS, the State of South Dakota acting through the Department of Transportation, hereinafter referred to as the STATE, concurs with the City of Lake Andes, hereinafter referred to as the CITY, and the Yankton Sioux Tribe, hereinafter referred to as the TRIBE, in the construction of the roadway lighting on US 18 and the Pedestrian Walkway as part of Federal Aid Construction Project No. P-PH 0018(125)339-PCEMS 4540, Charles Mix County, hereinafter designated as the Project, and further described as follows:

Roadway lighting on US 18 at the intersection with the Pedestrian Walkway and the Pedestrian Walkway beginning at 3rd Avenue then proceeding east on the north side of US 18 for approximately 4467 feet and ending in a junction with US 18.

WHEREAS, the Roadway Lighting and Pedestrian Walkway Project is to be constructed with STATE funds at no cost to the CITY or the TRIBE, and

WHEREAS, the construction of the Project is conditioned upon the maintenance of the roadway lighting system and the Pedestrian Walkway by the CITY and the TRIBE in a manner satisfactory to the STATE or its authorized representative.

NOW THEREFORE, be it agreed for and in consideration of the undertaking of the Project with the STATE's approval that the CITY and the TRIBE hereby agree: #3

1. The CITY and TRIBE will provide electric power necessary to operate the roadway lighting systems and all necessary maintenance and replacements, in kind, of all parts and apparatus of said system, including lamps so as to insure the continuing operation of said roadway lighting systems on that portion of the pedestrian walkway which they agree to maintain as described in the following paragraphs. The maintenance shall continue until such time as the parties to this agreement shall agree to discontinue the operation of the said system.
2. That the CITY will maintain the asphalt Pedestrian Walkway surface and adjacent slopes (including ground foliage) from 3rd Avenue easterly for approximately 3520 feet to Park Avenue in a manner satisfactory to STATE until such time as the parties to this agreement shall agree to discontinue the operation of the Pedestrian Walkway.
3. That the CITY will enact such ordinances as necessary to properly operate and maintain the roadway lighting system and the Pedestrian Walkway as described in Paragraphs 1 & 2.
4. That the TRIBE will maintain the asphalt Pedestrian Walkway surface and adjacent slopes (including ground foliage) from Park Avenue (approximately station 35+20), easterly about 947 feet to the junction with US 18 (approximately station 44+67) in a manner satisfactory to STATE until such time as the parties to this agreement shall agree to discontinue the operation of the Pedestrian Walkway.
5. That the TRIBE will enact such ordinances as necessary to properly operate and maintain the Pedestrian Walkway as described in Paragraphs 1 & 4.

6. That the Mayor and the Tribal President are authorized to enter into a mutual agreement with the STATE providing for the understanding of this Project under the considerations described above.

Dated this 5<sup>th</sup> day of November 1996

ATTEST:

Janice L. Van Ege  
City Auditor/Finance Officer/Asst

CITY OF LAKE ANDES

Meritt C. Stegmeier  
Mayor

ATTEST:

George Cournoyer, Sr.  
Secretary of Yankton Sioux Tribe  
GEORGE COURNOYER, SR.

YANKTON SIOUX TRIBE

Brian Drapeaux  
Chairman----- VICE  
BRIAN DRAPEAUX

SOUTH DAKOTA  
DEPARTMENT OF TRANSPORTATION

William  
State Highway Engineer

RECOMMENDED BY:

Monte  
Office of Project Development

APPROVED AS TO FORM:

Assistant Attorney General  
Assistant Attorney General