

AGREEMENT FOR THE SALE OF THE MRC LINE

BETWEEN

**THE STATE OF SOUTH DAKOTA ACTING BY AND THROUGH ITS
DEPARTMENT OF TRANSPORTATION**

AND

RINGNECK & WESTERN RAILROAD, L.L.C.

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**AGREEMENT FOR THE SALE OF THE MRC LINE
BETWEEN
THE STATE OF SOUTH DAKOTA ACTING BY AND THROUGH ITS DEPARTMENT OF
TRANSPORTATION
AND
RINGNECK & WESTERN RAILROAD, L.L.C.**

THIS SALE AGREEMENT (“Agreement”), is made and entered into on _____, 20__ (“Effective Date”) by and between the State of South Dakota, acting by and through its Department of Transportation (“Seller”), and Ringneck & Western Railroad, L.L.C., a Delaware limited liability company (“Buyer”).

WHEREAS, Seller is the owner of the land, tracks, improvements and other personal property comprising the line of railroad between Mitchell, South Dakota and Rapid City, South Dakota (the “MRC Line”), as more fully described herein; and

WHEREAS, Seller had previously acquired the MRC Line to preserve rail service over it; and

WHEREAS, Seller is currently leasing a portion of the MRC Line to the MRC Regional Railroad Authority (“MRCRRA”) pursuant to Contract No. 910866 (“Current Lease”) and MRCRRA is subleasing the same portion of the MRC Line to Dakota Southern Railway Company (“DSRC”) pursuant to Contract No. 910867 (“Current Sublease”); and

WHEREAS, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, pursuant to the terms and conditions set forth in this Agreement, the land, tracks, supporting structures and other personal property comprising the MRC Line.

NOW THEREFORE, intending to be legally bound, Buyer and Seller agree as follows:

1. PURCHASE AND SALE

1.1 Subject to the terms of this Agreement, Seller shall sell and Buyer shall purchase,; (i) the land generally known as the MRC Line extending from Milepost 374.57 at Mitchell, South Dakota to Milepost 660 in Rapid City, South Dakota, a distance of approximately 285.43 miles, as more specifically illustrated in Exhibit A, and described in Exhibit B, both attached hereto and made a part hereof, which

exhibits currently include real property listed and described in **Exhibit I** that the parties agree is not necessary for Buyer's current or future rail operations, (the "Non-Rail Land"), but including without limitation all bridges, embankments, culverts, drainage improvements, and all appurtenant rights thereto, if any, including without limitation, all right, title and interest of Seller to any easements or other real property rights benefitting or running therewith (collectively, the "Land"); (ii) all rail and other track materials, including without limitation fastenings, switches, frogs, ties, ballast, and signals located on the Land (the "Track"); and (iii) all appurtenances to the Track and Seller's personal property, if any, on the Land (the "Track Supporting Structures," and together with the Land and the Track, collectively the "Premises").

1.2 The Premises are being sold and transferred in their "AS IS, WHERE IS, WITH ALL FAULTS" condition, without any warranties by Seller, express or implied, as to title, environmental condition or to their fitness for any particular purpose or its quality, except for any breaches of the representations and warranties specifically set forth in Section 7.1. SELLER DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF THE PREMISES, OR THE MERCHANTABILITY OF THE PREMISES, OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, OR THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE PREMISES. THE BUYER IS RESPONSIBLE FOR ITS OWN DUE DILIGENCE IN REGARDS TO DESIGN, CONDITION (INCLUDING ENVIRONMENTAL CONDITION), MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, AND QUALITY AND WORKMANSHIP OF THE PREMISES.

2. PRICE AND PAYMENT

2.1 The purchase price for the Premises is THIRTEEN MILLION U.S. DOLLARS (U.S. \$13,000,000.00) (the "Purchase Price") to be paid as follows: Five Million Dollars (\$5,000,000.00) shall be paid on the Closing Date, with the balance of Eight Million Dollars (\$8,000,000.00) to be paid in five

equal installments of One Million Six Hundred Thousand Dollars (\$1,600,000.00) on the annual anniversary of the Closing Date in accordance with the terms of a Promissory Note attached to this Agreement as **Exhibit C**.

2.2 All payments called for under this Section 2, or other provisions in this Agreement, shall be made by electronic transfer (or such other format as agreed to by the parties) delivered to Seller in accordance with written instructions to be issued by Seller to Buyer prior to the Closing Date.

3. CONVEYANCE OF PREMISES

3.1 The conveyance of the Land shall be by quitclaim deed (the "**Deed**"), the final form of which, unless amended pursuant to Section 3.6 below, is attached hereto as **Exhibit D** and made a part hereof. The Deed shall convey all of Seller's right, title, and interest in the Land, subject to all exceptions and reservations as specified in the Deed, including, without limitation by enumeration, (i) Seller's reservation of all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substance, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal; (ii) Seller's reservation of a permanent easement for construction, repair, maintenance, and operation of all existing public highway crossings and occupancies, whether recorded or not; and (iii) Seller's reservation of all permanent and temporary easements necessary for construction, repair, maintenance, and operation of all new public highway crossings and occupancies of the MRC Line in connection with the projects identified in Seller's Statewide Transportation Improvement Program for the period from 2021 through 2024.

3.2 Seller shall convey the Track and Track Supporting Structures to Buyer by quitclaim bill of sale ("**Bill of Sale**"), the final form of which is attached hereto as **Exhibit E** and made a part hereof.

3.3 Seller's reservation of rights for existing and future public highway crossings and occupancies and of minerals and other like substances and the prospecting thereof pursuant to Section 3.1

of this Agreement will not unreasonably interfere with the provision of rail service on or over the Premises. Buyer shall be required to share in the cost and expense of providing the physical public highway crossing surface or any associated warning devices on any such easement reserved by Seller to the extent Buyer is required to do so under federal and state law. After installation, Buyer shall maintain such crossings and associated warning devices.

3.4 (a) Buyer's operations related to the conveyed Premises shall be subject to all applicable terms of the reserved rights of BNSF Railway Company ("BNSF") (if any and only to the extent applicable) with respect to the Premises under the Settlement Agreement Between BNSF Railway Company and the State of South Dakota, dated April 25, 2005 (as amended) ("Settlement Agreement") and the contracts implementing the Settlement Agreement ("Implementing Agreements"), which are the contracts entitled: (i) Overhead Haulage Agreement (convertible to Overhead Trackage Rights) Between Mitchell, South Dakota, Aberdeen, South Dakota and Sioux City, Iowa, dated Nov. 22, 2005 ("Haulage Rights Agreement"); (ii) Trackage Rights Agreement Mitchell, South Dakota, dated Nov. 22, 2005 ("Mitchell Trackage Rights Agreement"); and (iii) Second Amendment to Interchange and Lease Agreement Between BNSF Railway Company and Dakota Southern Railway Company, dated Nov. 22, 2005 ("Interchange Agreement").

(b) Buyer agrees to enter into an agreement with the MRCRRA and Seller in the forms set forth in Exhibit F, effective on the date of Closing, pursuant to which (i) MRCRRA and the State will assign their rights and obligations under the Haulage Rights Agreement to Buyer; (ii) Seller will assign its rights and obligations under the Mitchell Trackage Rights Agreement to Buyer; and (iii) Seller will assign its rights and obligations under the Interchange Agreement to Buyer.

(c) Buyer agrees to enter into an agreement, or agreements, with DSRC, effective on the date of Closing, pursuant to which DSRC will assign or otherwise transfer DSRC's rights and obligations under any other agreements ("Other Agreements"), if any, DSRC may have with BNSF or any

other carriers that facilitate its provision of service to and from the Premises. Buyer further agrees to provide Seller copies of these Other Agreements, subject to any applicable confidentiality requirements, at least ten (10) days prior to the Closing Date, and to provide proof of assignment or transfer of these Other Agreements to Buyer, on or before the Closing Date.

3.5 (a) Seller represents and warrants that, in addition to the Current Lease, Sublease, and Implementing Agreements, the Premises are subject to leases, permits, licenses, easements, occupancies, limitations and other property interests and agreements (which may or may not be of record) (“Use Agreements”). The known Use Agreements are identified in **Exhibit G**. The transfer of the Premises includes assignment and assumption of Seller’s interests, obligations and reversionary rights under the Use Agreements to the Buyer, including Seller’s assignment and Buyer’s assumption of the right to restore common carrier service pursuant to the terms of the two railbanking Use Agreements (“Railbanking Agreements”) that apply on the rail-banked segments of the MRC Line west of Kadoka, South Dakota; provided, however, (i) if any Use Agreement applies to areas that are outside of the Premises, the assignment and assumption of that Use Agreement to Buyer shall be partial and shall only include the rights, obligations and liabilities that apply to the areas within the Premises; and (ii) Seller will not assign, but will retain, its current rights and obligations as the trail sponsor under the Railbanking Agreements, pursuant to those under 16 U.S.C. Sec. 1247(d). The assignment and assumption agreement to be entered into between the parties with respect to the Use Agreements (“Assignment and Assumption Agreement – Use Agreements”) shall be in the form set forth in **Exhibit H**. The Assignment and Assumption Agreement – Use Agreements will contain a provision for re-assignment to Seller if Seller invokes its re-purchase rights under Sections 8.2 and 8.3.

(b) If, after execution of this Agreement, but prior to Closing, Seller discovers any Use Agreement not set forth in **Exhibit G**, then Seller shall promptly notify Buyer of any such Use Agreement, and Seller shall provide an updated version of **Exhibit G** no later than five (5) business days

prior to Closing. If after Closing, Seller or Buyer discovers any Use Agreement that applies to the Premises that would have been assigned to Buyer if discovered prior to Closing, Seller and Buyer shall amend the Assignment and Assumption Agreement—Use Agreements to include such Use Agreement.

3.6 The parties acknowledge and agree that the Non-Rail Land constitutes certain real property that both Buyer and Seller consider to be excess and nonessential to the rail operation on the Premises. A general description of the Non-Rail Land is attached hereto and incorporated herein as **Exhibit I**. The parties further acknowledge that the South Dakota State Railroad Board has authorized the Non-Rail Land to be sold to third parties prior to Closing. Buyer consents to the sale of the Non-Rail Land by Seller prior to the Closing and agrees that no terms and conditions of this Agreement shall be affected or modified in any way by such sales, except that Exhibits B, D, E, G, H and I shall be modified to account for any sales of the Non-Rail Land prior to Closing. If any sales are not completed on or before the Closing Date, the Non-Rail Land shall remain part of the Land and shall be conveyed to Buyer and any related Use Agreements shall also be conveyed to Buyer.

3.7 One Use Agreement included in Exhibit G is the Lease Agreement, effective July 27, 2016, between the Department of Transportation and American Colloid Company (the Colloid Lease). Seller will use its best efforts to terminate the Colloid Lease, and have American Colloid Company vacate and surrender possession of the property identified in the Colloid Lease, prior to the Closing Date. If the Colloid Lease is terminated prior to the Closing Date, the parties agree that the Colloid Lease will be removed from Exhibit G. If the Colloid Lease is not terminated by the Closing Date, it will remain in Exhibit G, but the Seller, at Buyer's request, will exercise good faith efforts to assist Buyer's efforts to terminate the Colloid Lease.

4. TITLE SEARCH, INSURANCE, INSPECTIONS

4.1 Buyer has the option of arranging and paying for an examination of title or title insurance on the Land as Buyer may desire, at Buyer's sole cost. Seller shall have no obligation to cure any title exceptions whether or not caused by Seller.

4.2 Buyer has knowledge of the physical condition of the Premises, and as such waives any additional inspection or testing of the Premises.

4.3 Irrespective of whether Buyer obtains a title examination or insurance, or performs any inspections, Buyer shall, if Buyer closes on the Premises, accept the Land in the condition set forth in Section 1.2.

5. CONTINGENCIES

5.1 The obligations of the parties to complete the Closing on the Closing Date are subject to the satisfaction of the following conditions on or prior to the Closing Date:

(a) The contemplated acquisition and operation by Buyer will require Buyer to obtain the prior approvals, authorizations or exemptions from the Surface Transportation Board (the "STB"), all to be effective at least five (5) days prior to the Closing Date. Buyer, at its own cost and expense, shall promptly initiate and diligently pursue any appropriate applications, petitions or notice of exemptions ("Regulatory Filings") to obtain STB regulatory approval or authorization or exemption therefrom; provided, however, (i) if such approval, authorization or exemption is conditioned upon the imposition or acceptance of any unreasonable costs, restrictions or requirements upon Buyer, Buyer may elect to terminate this Agreement by providing written notice by next day delivery to the Seller within five (5) days of the date of such approvals, authorizations or exemptions, but if Buyer does not do so, this Agreement will remain in full force and effect and (ii) Buyer agrees that labor protection imposed by the STB will not be considered an unreasonable cost, restriction or requirement under this Agreement (but nothing herein shall be construed as limiting Buyer's rights to challenge the legality of the STB's labor

protection). Seller will support efforts by Buyer to secure any necessary regulatory approval, authorization or exemption. Buyer will provide Seller with, and an opportunity to comment on, a draft of the STB or other Regulatory Filings.

(b) The contemplated acquisition and operation by Buyer will also require that DSRC terminate its modified certificate operating rights to provide service over a portion of the MRC Line, with the authorization to terminate service effective at least five (5) days prior to the Closing Date. Buyer, at its own cost and expense, agrees to work with DSRC to promptly initiate and diligently pursue DSRC's filing and service of an appropriate termination notice of intent in accordance with governing STB rules set forth at 49 C.F.R. § 1150.24. Buyer will provide Seller with an opportunity to comment on DSRC's draft notice of intent.

(c) The representations and warranties of each of the Buyer and Seller set forth in Section 7 and of Seller set forth in Section 3.5(a) shall be true and correct at and as of the Effective Date and at and as of the Closing Date as if made at and as of the Closing Date.

(d) The Buyer and Seller shall each have performed or complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it, on or prior to the Closing Date, including without limitation by enumeration, those obligations set forth in Section 3.4 and 3.5.

(e) There are no injunctions, orders or other rulings issued by any court or regulatory agency with jurisdiction that would interfere with or prohibit the transaction from closing on the Closing Date.

(f) Seller and MRCRRA have executed Agreement Number 4 to the Current Lease in the form shown in **Exhibit J**, which amendment terminates the Current Lease, and eliminates DSRC's MRC Line purchase rights, effective as of the Closing Date ("Current Lease Termination Agreement").

(g) MRCRRA and DSRC have executed Amendment Number 3 to the Current Sublease in the form shown in **Exhibit K**, which amendment terminates the Current Sublease and eliminates DSRC's MRC Line purchase rights, effective as of the Closing Date ("Current Sublease Termination Agreement").

(h) Buyer acknowledges that Seller has executed a loan agreement with MRCRRA for flood repairs to the MRC line. This loan agreement has been designated as Agreement Number 716819. Agreement Number 716819 will be assigned to Buyer effective as of the date of Closing, in the form shown in **Exhibit L**, which will be executed by or on the Closing Date.

(i) To receive federal and state funds for rehabilitation of a portion of the MRC Line, Buyer will execute a subrecipient agreement with Seller, effective as of the date of Closing, in the form shown in **Exhibit M**, which will be executed by or on the Closing Date.

(j) A duly authorized manager or member of Buyer will execute a certificate, in the form shown in **Exhibit N**, certifying that Watco Transportation Services, L.L.C., effective as of the date of closing, possesses a controlling majority interest in Buyer, which will be executed on or before the Closing Date.

(k) Seller agrees that it will no later than five business days after the Effective Date file with the STB to formally terminate any authorization that Nobles Rock Railroad, Inc. may possess by way of a modified certificate of public convenience and necessity to operate as a common carrier over any portion of the subject MRC Line.

5.2 Unless otherwise specified herein, the conditions listed in Section 5.1 above must be satisfied or complied with before July 1, 2021, (the "**Contingency Date**"). If the conditions listed in Section 5.1 are not satisfied or complied with by the Contingency Date, either party may, at its sole option, elect to terminate this Agreement by providing written notice to the other party.

6. CLOSING

6.1 Subject to the satisfaction of the contingencies set forth in Section 5, the Closing hereunder shall be held on or before the later of _____, 2021, or at such time and place as Seller and Buyer shall mutually agree (the “Closing Date”), which shall be prior to the Contingency Date, unless the parties otherwise agree. If Buyer and Seller do not agree upon a time and place for Closing, subject to the satisfaction of the contingencies set forth in Section 5 and prior to the Contingency Date, Seller shall designate the time and place for Closing on fifteen (15) business days’ advance written notice. The time and date for the Closing may be extended only by a written instrument signed by both parties.

6.2 At the Closing,

(a) Seller shall deliver to Buyer executed copies of: (i) the Quitclaim Deed in sufficient original counterparts to be recorded in each county in which the Land is located, (ii) the Bill of Sale; (iii) the Assignment and Assumption – Implementing Agreements; (iv) the Assignment and Assumption Agreement - Use Agreements, (v) Current Lease Termination Agreement, (vi) Current Sublease Termination Agreement, (vii) the Assignment and Assumption of Loan Agreement, (viii) the Subrecipient Agreement, (ix) a certificate pursuant to Treasury Regulations Section 1.1445-2(b) that Seller is not a foreign person within the meaning of Section 1445 of the Code; and (x) any other documents reasonably required to complete the transactions hereunder.

(b) Buyer shall deliver to Seller (i) the Purchase Price, (ii) Promissory Note, (iii) Bill of Sale, (iv) the Assignment and Assumption – Implementing Agreements, (v) the Assignment and Assumption Agreement - Use Agreements, (vi) the Current Sublease Termination Agreement, (vii) the Assignment and Assumption of Loan Agreement, (viii) the Subrecipient Agreement, (ix) the Certificate of Majority Controlling Interest, and (x) any other documents reasonably required to complete the transactions hereunder.

(c) Buyer and Seller will work cooperatively to deliver at Closing the following documents executed by MRCRRA: (i) the Assignment and Assumption – Implementing Agreements, (ii) the Current Lease Termination Agreement, (iii) the Current Sublease Termination Agreement, (iv) the Assignment and Assumption of Loan Agreement, and (v) any other documents reasonably required to complete the transactions hereunder.

(d) Buyer and Seller will work cooperatively with DSRC to deliver at Closing the following documents: (i) the Current Sublease Termination Agreement executed by DSRC; (ii) proof of assignment of Other Agreements to Buyer; and (iii) any other documents reasonably required to complete the transactions hereunder.

7. REPRESENTATIONS AND WARRANTIES

7.1. Seller represents to Buyer:

(a) Seller has full statutory power and authority to enter into this Agreement and to carry out the obligations of Seller hereunder.

(b) The execution of this Agreement, and the consummation of the transactions covered by this Agreement, has been duly authorized and approved as required by South Dakota law.

(c) Seller's execution of and performance under this Agreement does not knowingly violate any statute, rule, regulations, order, writ, injunction or decree of any court, administrative agency or government body.

(d) To the knowledge of Seller, as of the date hereof, there is no pending or threatened litigation or arbitration proceedings, or administrative proceeding or investigation, against or affecting the properties or assets comprising the Premises.

(e) To the extent authorized by South Dakota law, all obligations of Seller set forth in this Agreement constitute legal, valid and binding obligations of Seller, which are enforceable against Seller in accordance with their terms, except as such validity, binding effect or enforceability may be

limited to bankruptcy, insolvency or similar laws affecting creditor's rights generally or legal or equitable principles relating to the availability of remedies.

7.2. Buyer represents and warrants to Seller:

(a) Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware and on or before the Closing Date will be lawfully authorized to do business in the State of South Dakota.

(b) Buyer has the organizational power and authority to enter into this Agreement, and to carry out its obligations under this Agreement.

(c) The execution and performance of this Agreement has been duly authorized and approved by all necessary organizational actions of Buyer, and no further organizational proceedings of Buyer are required to complete the transactions covered by this Agreement. At or before Closing, Buyer will supply Seller with written proof that the execution and performance of this Agreement has been duly authorized by Buyer.

(d) There is no provision in the organizational certificate or operating agreement of Buyer which prohibits the execution of this Agreement or the consummation of the transactions covered by this Agreement.

(e) Buyer has had the opportunity to inspect the Premises. Buyer acknowledges that Seller has not made any representation concerning the state or condition of the Premises. Buyer is not relying on any statement or declarations of Seller, oral or in writing, as an inducement to entering into this Agreement, other than as stated in this Agreement.

(f) All obligations of Buyer set forth in this Agreement constitute legal, valid and binding obligations on Buyer, which are enforceable against Buyer in accordance with their terms, except as such validity, binding effect or enforceability may be limited by South Dakota law or to bankruptcy,

insolvency and similar laws affecting creditor's rights generally or equitable principles relating to the availability of remedies.

(g) To the knowledge of Buyer, as of the date hereof, there is no pending or threatened litigation or arbitration proceedings, or administrative proceeding or investigation, against or affecting the properties or assets comprising the Premises.

8. POST CLOSING COVENANTS OF BUYER

8.1 Until Buyer sells or abandons or discontinues service over the Premises or any portion thereof:

(a) Buyer agrees to provide rail service on reasonable request over the Premises between Mitchell, South Dakota and Kadoka, South Dakota, so long as Buyer owns the Premises and possesses operating authority to provide rail service over the portion of the Premises between Mitchell and Kadoka.

(b) Buyer agrees to reduce the rail rates for current customers located along the Premises between Mitchell and Kadoka which are in effect on the Closing Date by \$25.00 per loaded rail car.

(c) For a period of twenty (20) years after the Closing (the "Reporting Term"), Buyer will maintain any sections of the Premises upgraded by state or federal funding to Federal Railroad Administration ("FRA") Class II standards, subject only to normal wear and tear. On sections of the Premises between Mitchell, South Dakota and Kadoka, South Dakota not so upgraded, the Buyer shall keep such portion of the Premises in a condition necessary to ensure safe rail operations, including, but not limited to, tie, rail, culvert and bridge repairs, tamping and lining, surfacing, tightening bolts, driving spikes, snow removal, brush cutting, and weed control, and other necessary repairs and work.

(d) In addition to its obligations under Section 8.1(a), (b) and (c), Buyer will expend or cause to be expended on its behalf no less than \$2,140,000 annually (\$6,420,000 in total) during the first

three full state fiscal years immediately following the Closing Date (the “Purchase Commitment Term”) to maintain and improve the track structure of the Premises between Mitchell and Kadoka. For the seven fiscal years immediately following the Purchase Commitment Term (the “Funding Commitment Term”), Buyer will expend or cause to be expended on its behalf no less than \$2,000,000 annually for track maintenance and related capital expenditures (in the aggregate) on the Premises; provided, however, that any excess expenditures, during any year during the Funding Commitment Term, above that year’s required minimum expenditure shall serve as a credit against any subsequent year’s required expenditure.

(e) In any year during the Funding Commitment Term in which Buyer does not expend or cause to be expended on its behalf at least \$2,000,000 for track maintenance or capital expenditures (including credits from prior years) as required under Section 8.1(d) (a “Shortfall Year”), Buyer will refund to each customer that paid rail freight transportation charges for rail shipments originating or terminating on the Premises between Mitchell and Kadoka (“Customer”) the sum of \$25.00 per carload shipment multiplied by the number of carloads originated or terminated by that Customer during that Shortfall Year (“Refund Payment”). Buyer will make the Refund Payment to each Customer entitled to receive a refund no later than January 31st of the calendar year immediately following the Shortfall Year. The parties further agree that Buyer’s tendering of Refund Payments to Customers shall not be construed as compromising or in any way affecting Seller’s right to obtain damages or other contractual relief for Buyer’s failure to adhere to any obligations other than those set out in Section 8.1(d).

(f) By or before the 30th day following the end of each fiscal year during the Purchase Commitment Term and Funding Commitment Term, Buyer will provide a report to the Seller that shows Buyer’s track maintenance and related capital expenditures on the Premises between Mitchell and Kadoka (or elsewhere, as applicable) in the prior fiscal year and the amount of Refund Payments, if any, due to each customer.

(g) During the Purchase Commitment Term and Funding Commitment Term, within thirty (30) days of receipt of a request by Seller, Buyer will provide copies of each inspection report issued by the FRA for all or any part of the MRC Line.

(h) Buyer will comply with the terms of the Implementing Agreements. In the event that BNSF informs the Buyer in writing of Buyer's alleged non-compliance with the terms of the Implementing Agreements, Buyer shall immediately notify Seller and, if in non-compliance, shall take all necessary actions to comply with the terms of the Implementing Agreements.

(i) Seller understands that Buyer may enter into new agreements (New Agreements") with BNSF or other carriers to facilitate its provision of service to shippers on the MRC Line. Buyer agrees, that without Seller's prior written consent, Buyer will not enter into any New Agreements that will materially alter the terms of the MRC Line-related access and interchange rights the Seller obtained in the Settlement Agreement, as further set forth in the Implementing Agreements. Buyer also agrees that: (i) Buyer will include provisions in the New Agreements that allow Buyer to assign the New Agreements to the Seller if the Seller reacquires ownership of the MRC Line; (ii) Buyer will include provisions in any New Agreements that permit Buyer to provide copies of the New Agreements to the Seller and (iii) Buyer will provide the Seller with copies of any New Agreements, upon request by the Seller.

8.2 Buyer agrees that it may sell the Premises in its entirety, but may not sell anything less than the entire Premises without Seller's prior written consent. Except as otherwise provided in this Section 8.2, any bona fide agreement by Buyer to sell all or any portion of the Premises must contain the effective right for Seller to repurchase the Premises, or the applicable portion thereof, from Buyer, on the same, or substantially similar, basis as that set forth in the subsequent sale agreement; provided, however, Buyer may not agree to enter into any sales agreement terms that will materially alter the terms of the MRC Line-related access and interchange rights the Seller obtained in the Settlement Agreement, as further set forth in the Implementing Agreements. Buyer shall deliver to Seller a copy of the executed subsequent

sale agreement within seven days following its execution. After receiving such copy, Seller and Buyer shall negotiate in good faith for sixty days Seller's repurchase of the Premises, or the applicable portion thereof, from Buyer. If Seller, at any time during these sixty days, offers in writing to purchase from Buyer the Premises, or applicable portion thereof that is the subject of the subsequent sale agreement, for the same purchase price and on the same, or substantially similar, basis as that set forth in the subsequent sale agreement, then Buyer, within seven days, shall accept such offer, and within thirty days thereafter shall convey such property to Seller (subject to the Seller's timely securing any necessary regulatory approval to reacquire the subject assets). Irrespective of the above, Seller's consent shall not be required and the above restrictions of this Section 8.2 shall not apply where Buyer wishes to sell retained Non-Rail Land identified in **Exhibit I**.

8.3 (a) In the event Buyer seeks authority before the STB (or its successor agency), whether by application or exemption, to abandon service over all or any portion of the Premises, and Seller files an Offer of Financial Assistance (pursuant to 49 U.S.C. § 10904 as amended from time to time) to purchase that portion of the Premises proposed to be abandoned, to the extent allowed by applicable law, Buyer shall choose Seller as the purchaser of the property proposed to be abandoned, so long as Seller's monetary offer of Financial Assistance meets or exceeds the monetary Offer of any other party offering financial assistance, and provided further, in no event shall this section be construed or applied in a manner that would deprive Buyer of receiving the minimum constitutional value for its property. In the event that the procedures set forth in Section 8.3 are deemed not to apply to Buyer's abandonment of the current railbanked property on the MRC Line, Buyer agrees to offer the railbanked property for sale to Seller at the fair market value of the property.

(b) In the event Buyer seeks authority before the STB (or its successor agency), whether by application or exemption, to discontinue, but not abandon, service over all or any portion of

the Premises, Buyer agrees to offer the property subject to Buyer's discontinuance request for sale to Seller at the fair market value of the property.

8.4 For twenty years following the Closing Date, Buyer shall reimburse the Seller for any federal funds used to rehabilitate the Premises and that the Seller is required to pay back to any federal agency because the Buyer, or its successors or assigns, seeks, or obtains, authority to abandon, discontinue service, sell, or otherwise dispose of any portion of the Premises between Mitchell and Kadoka.

8.5 Buyer will negotiate in good faith with any person or entity applying to longitudinally place public or private utility facilities in, under, over, along or through the Land. Utility facilities include fiber optic cables, water pipelines, fuel pipelines, electrical lines, sewer facilities, communication lines and devices, and any other utility structures, equipment, devices and appurtenances (but not public highway crossings and occupancies, which are subject to the provisions of Section 3.1). Buyer will approve or deny any application for a longitudinal utility placement within one hundred twenty (120) days of receiving a complete application, unless a shorter time frame is mandated by law, and will not impose unreasonable fees, terms or conditions on any approved application. Buyer shall not deny an application unless the proposed longitudinal utility placement would be a serious threat to safe railroad operations or to the current use of the Land, would unreasonably interfere with rail operations or the applicant does not negotiate in good faith with Buyer. The benefit of Buyer's obligations under this section shall extend to any applicant for a longitudinal utility placement, and any such applicant is entitled to bring an action directly against Buyer for damages or injuries sustained by the applicant resulting from any breach of these obligations.

8.6 Any assignee, including any successor in interest, of Buyer's or Seller's rights under or property transferred pursuant to this Agreement, shall assume in writing Buyer's or Seller's continuing and existing or thereafter arising obligations under this Agreement, and under any then effective contract

assigned by Seller to Buyer, in whole or in part, in accordance with the terms of this Agreement, which obligations are related to the property or rights involved in the assignment. These obligations include, without limitation by enumeration, Buyer's obligations set forth in Sections 8.1, 8.2, 8.3, 8.4 and 8.5, and Seller's rights to enforce those obligations.

9. RISK OF LOSS

9.1 Until Closing, as between Buyer and Seller, the risk of loss or damage to the Premises shall be as set forth in the Current Sublease.

10. ANNUAL TAXES; RENTS; LIENS; CHARGES

10.1 Buyer shall be responsible for any and all annual or periodic taxes or assessments on the Premises, both general and special, including ad valorem taxes ("Taxes") that are applicable to the period after Closing.

10.2 Except for federal funding obligations, Seller represents that Seller has not incurred any debts which are a lien against the Premises. If there are any certified government assessments for improvements to the Premises, which are due and payable on or before Closing, they will be the responsibility of Seller. All certified governmental assessments which are due and payable after Closing, and any liens on the Premises for debts incurred or improvements obtained by any party other than Seller, will be the responsibility of Buyer. Nothing in this section prohibits Buyer or Seller from asserting liability against any third party.

10.3 Any rents and license fees under Use Agreements will be allocated as set forth in the Assignment and Assumption Agreement.

11. TAXES ON TRANSFER; CLOSING COSTS

11.1 Buyer shall pay all transfer taxes however styled or designated, all documentary stamps, recording costs or fees or any similar expense in connection with this Agreement, the conveyance of the Premises or necessary to record the Deed; in connection therewith South Dakota Codified Law ("SDCL")

43-4-21 generally imposes a fee on the grantor with respect to the privilege of transferring title to real property in the State of South Dakota, however pursuant to SDCL 43-4-22(2), such fee does not apply to any transfer of title by the State of South Dakota or any instrumentality, agency or political subdivision thereof, although a certificate of value (form PT-56, Certificate of Real Estate Value) is required to be filed with the appropriate register of deeds pursuant to SDCL 7-9-7 and Administrative Rule 64:04:01:06.01. The Buyer shall timely file such form(s) on the basis that no such fee is required with regard to the purchase and sale under this Agreement, with the reasonable cooperation of Seller after closing.

11.2 Buyer shall be solely responsible for and shall pay any reassessments or taxes generated by reclassification of the Premises resulting from the conveyance of the Premises hereunder.

11.3 If any state or local governmental authority requires, presently or in the future, the payment of any sales, use or similar tax upon the sale, acquisition, use or disposition of any portion of the Premises, (whether under statute, regulation or rule), Buyer assumes all responsibility for and shall pay the same, directly to said authority, and shall hold Seller harmless from such tax(es) and any interest or penalty thereon. Buyer reserves the right to claim any applicable exemption or preemption, challenge the validity of the disputed tax under federal or state law, or to assert any applicable defense. Seller shall cooperate (at no expense to Seller) with Buyer in the prosecution of any claim for refund, rebate or abatement of said tax(es).

11.4 Buyer shall pay all costs, including recordation, intangible taxes, etc. associated with its financing of a portion of the Purchase Price.

12. INDEMNIFICATION

12.1 Subject to the provisions of Section 13 pertaining to environmental liability, Buyer shall indemnify, defend, save and hold harmless Seller, its officers, agents, servants, and employees, against any liability, loss, claim, or expense, including reasonable attorneys' fees, arising from or related to Buyer's ownership interest in the Premises after Closing, Buyer's activities or operations on and over the

Premises after Closing, and Buyer's rights responsibilities and duties under this Agreement, irrespective of the fault, failure or negligence (other than sole negligence or solely due to breach of this Agreement) of or by Seller in the performance of Seller's rights, responsibilities and duties under this Agreement. This Section 12.1 is intended solely to define the rights and duties of the parties as between themselves for the occurrences described in this Section, and Buyer shall not by reason of this Section, become liable to any other party.

12.2 The provisions of this Article 12 shall survive Closing.

13. ENVIRONMENTAL MATTERS

13.1 Seller makes no representations or warranties regarding the environmental condition of the Premises. The property is being sold "AS IS, WHERE IS, WITH ALL FAULTS" with the Buyer being responsible for its own due diligence in regards to the environmental condition of the Premises, including without limitation, the necessity for any licenses, permits or other approvals for use of the Premises.

13.2 Buyer shall indemnify, defend, save and hold harmless Seller, its officers, agents, servants and employees against any claim or action in law or in equity arising from actions or events occurring prior to the Closing date if they involved the conduct of DSRC prior to the Closing, and for all other events occurring after the Closing Date, for any loss, expenses, including reasonable attorneys' fees, or damages to property (including but not limited to property of or under control of Buyer or Seller), or for personal injury to or the death of any person resulting from any violation or requirement of any applicable environmental statute, ordinance, rule, regulation, order or decision (collectively, "Environmental Laws") related to the Premises or operations over the Premises, including the release of any hazardous substance or waste. As between Buyer and Seller, Buyer shall be solely responsible for all contamination cleanup and disposal costs that may be incurred as a result of said violation or requirement.

13.3 The provisions of this Article 13 shall survive Closing.

14. SUBDIVISION APPROVAL

14.1 Any subdivision approval needed to consummate the transaction contemplated herein shall be obtained by Buyer at Buyer's sole cost, and expense. Seller shall cooperate with Buyer in obtaining said approval, to the extent necessary or required. Because such approvals may be preempted by federal law, the parties do not anticipate filing for such approvals.

15. BROKER'S FEES

15.1 Buyer and Seller each represent and warrant to the other that neither has introduced into this transaction any person, firm, or corporation who is entitled to compensation for services as a broker, agent, or finder. Buyer agrees to indemnify Seller against and hold it harmless from any and all commissions, finder's fees, costs, expenses and other charges claimed by real estate brokers or sales persons by, through or under the indemnifying party. Seller shall be under no obligation to pay or be responsible for any broker's or finder's fees, commissions, or charges in connection with handling this transaction, or Closing.

16. DEFAULT

16.1 In the event of a Default (defined below) by Buyer under this Agreement prior to Closing, Seller may elect to terminate this Agreement by providing written notice to Buyer describing such Default. If the Default is not cured by Buyer within thirty (30) calendar days from receipt of such notice, this Agreement shall automatically terminate upon the expiration of such thirty (30) day cure period.

16.2 In the event of a Default by Seller under this Agreement prior to Closing, Buyer may elect to terminate this Agreement by providing written notice to Seller describing such Default. If the Default is not cured by Seller within thirty (30) calendar days from receipt of such notice, this Agreement shall automatically terminate upon the expiration of such thirty (30) day cure period.

16.3 “Default” shall include the failure to fully and timely perform any material obligations or acts required of Buyer or Seller under this Agreement, or a representation by Buyer or Seller that is materially untrue.

16.4 In no event shall either party be liable to the other under this Agreement for any punitive, indirect, special or consequential damages.

17. ASSIGNMENT, LIMITS, SURVIVAL

17.1 This Agreement may not be assigned by Buyer without the prior written consent of Seller, except to a wholly-owned affiliate of Buyer or Buyer’s parent.

17.2 As limited in Section 17.1, this Agreement shall be binding upon the parties, their successors and permitted assigns, or upon their heirs, legal representatives and permitted assigns, as the case may be, in accordance with the provisions of Section 8.6.

17.3 Any provision calling for obligations continuing after Closing or termination of this Agreement shall survive delivery of the Deed and not be deemed merged into or replaced by any deed, whether or not the deed so states.

18. NOTICES

18.1 Notice under this Agreement shall be in writing and sent by Registered or Certified Mail, Return Receipt Requested, or by courier, express or overnight delivery, or by confirmed e-mail or facsimile.

18.2 The date such notice shall be deemed to have been given shall be the business day of receipt if received during business hours, the first business day after the business day of receipt if received after business hours, the first business day after the date sent by courier, express or overnight (“next day delivery”) service, or the third business day after the date of the postmark on the envelope if mailed, whichever occurs first.

18.3 (a) Notices to Seller shall be sent to:

Program Manager, Office of Railroads
South Dakota Department of Transportation
700 Broadway Avenue East
Pierre, SD 57501-2586

(b) Notices to Buyer shall be sent to:

Ringneck & Western Railroad, L.L.C.
Attn: CEO
315 W 3rd St
Pittsburg, KS 66762

18.4 Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party in a manner described in this Section.

19. RULES OF CONSTRUCTION

19.1 In this Agreement, all singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

19.2 All references herein to particular articles, sections, subsections or clauses are references to articles, sections, subsections or clauses of this Agreement.

19.3 The headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

19.4 Each party hereto and its counsel have had the opportunity to review and revise (or request revisions of) this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto or amendments hereof.

20. TIME OF ESSENCE

20.1 Time shall be considered of the essence both to Buyer and Seller for all activities undertaken or required pursuant to this Agreement.

21. MISCELLANEOUS

21.1 This Agreement expresses the entire agreement between the parties and supersedes all prior oral and written agreements, commitments, or understanding with respect to the matters provided for herein, and no modification of this Agreement shall be binding upon the party affected unless set forth in writing and duly executed by the affected party.

21.2 This Agreement shall be governed and construed in accordance with the laws of the State of South Dakota, the applicable provisions of federal law and the rules, regulations and policies of any agency thereof. Any suits arising out of, or related to, this Agreement must be brought in federal or state courts located in South Dakota that have jurisdiction over the matter.

21.3 If any date for performance of any obligation hereunder falls on a Saturday, Sunday or nationally established holiday, the time for performance of such obligation shall be extended until the next business day following such date.

21.4 If any provisions, clause or paragraph of this Agreement or any document incorporated by reference shall be determined invalid by a court of competent jurisdictions, such determination shall not affect the other provisions, clauses, or paragraphs of this Agreement which are not affected by the determination. The provisions, clauses, or paragraphs of this Agreement and any documents incorporated by reference are declared severable.

21.5 Except as otherwise specifically set forth in this Agreement, no remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and concurrent to the extent permitted by law, and shall be in addition to any other remedy referred to above or otherwise available to a party at law or in equity. No failure or delay on the part of Seller to exercise any right or remedy hereunder shall operate as a waiver thereof. No express or implied waiver by a party of any default or breach shall constitute a waiver of any other or subsequent default or breach by the other party.

21.6 The officer or duly authorized agent of Buyer who has executed this Agreement on behalf of Buyer warrants and affirms that s/he is fully aware of the facts and circumstances surrounding the making of this Agreement and has been personally and directly involved in the proceedings leading to the procurement of this Agreement, and neither Buyer nor anyone subject to Buyer's direction or control has paid, given, donated or agreed to pay, give or donate any money or other thing of value, either directly or indirectly, to any officer or employee of Seller in procuring this Agreement.

21.7 At and after Closing, and without further consideration, each party agrees to take such further action, including the execution and delivery of further instruments, as the other party may reasonably request in good faith to complete the sale and transfer, and otherwise carry out the purpose of this Agreement.

21.8 This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument. Execution and delivery of this Agreement by facsimile or electronic transmission shall be deemed for all purposes to be due execution and delivery by the undersigned.

21.9 Seller has applied for and has been awarded a Special Transportation Circumstances ("STC") grant in the amount of \$1,560,000.00 for construction of a meet-and-pass siding on or adjacent to the MRC Line east of Highway 45 near Kimball, South Dakota. To secure disbursement of the STC grant funds, the parties acknowledge that Seller will execute a grant agreement with USDOT that will impose reporting and other requirements. Buyer will execute a subrecipient agreement with Seller in the form shown in **Exhibit M** whereby Buyer will agree to comply with all of Seller's obligations under its grant agreement with USDOT. Buyer will pay Seller \$500,000.00 upon project completion. For two years after project completion, Buyer will pay Seller an additional \$500,000.00 per year on the annual anniversary of the completion of the project.

21.10 Except for the refund provisions contained in Section 8.1 (d) and (e), the utility provisions of Section 8.5, and the assignment of debt obligations in Section 5.1(h) that benefit MRCRRA and DSRC, there are no third party beneficiaries to any rights or benefits held by non-parties to this Agreement and this Agreement is for the sole benefit of the parties hereto, their successors and permitted assigns, or their heirs, legal representatives and permitted assigns, as the case may be.

SIGNATURE PAGE FOLLOWS

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on their behalf on the ____ day of _____, 20____.

STATE OF SOUTH DAKOTA ACTING
BY AND THROUGH ITS DEPARTMENT
OF TRANSPORTATION

By: _____
Title: _____

RINGNECK & WESTERN RAILROAD, L.L.C.

By: _____
Title: _____

EXHIBIT B – LAND DESCRIPTION

A. Mitchell to Kadoka

Commencing at the intersection with the Aberdeen to Mitchell line in the NW1/4 of Section 21, Township 103 North, Range 60 West of the 5th P.M., also known as Milepost 374.57 and additionally known as Railroad Engineer's Survey Station Number 2862+36.5, and extending in a westerly direction a distance of approximately 187.96 miles in and through the counties of Davison, Aurora, Brule, Lyman, Jones and Jackson, and terminating at the west line of Section 32, Township 2 South, Range 22 East of the B.H.M., (centerline of SD 73) also known as Milepost 562.53 and additionally known as Railroad Engineer's Survey Station Number 6440+09, containing a gross area of 4,072 acres, more or less, all of which is more particularly described on right of way and track maps designated V.S.D. 19/21 through 38A, inclusive, and on station maps V.S.D. S-21b (Mitchell); V.S.D. 19/S-23 (Betts); V.S.D. 19/S-24 (Mt. Vernon); V.S.D. 19/S-27 (Plankinton); V.S.D. 19/S-30 (White Lake); V.S.D. 19/S-33 (Kimball); V.S.D. 19/S-36 (Pukwana); and V.S.D. 19/S-38A, S-38B (Chamberlain), and also on right of way and track maps designated V.S.D. 20/1 through 31, inclusive, and on station maps V.S.D. 20/S-1 (Oacoma); V.S.D. 20/S-5 (Reliance); V.S.D. 20/S-8 (Kennebec); V.S.D. 20/S-10 (Presho); V.S.D. 20/S-13 (Vivian); V.S.D. 20/S-17 (Draper); V.S.D. 20/S-19 (Murdo); V.S.D. 20/S-22 (Okaton); V.S.D. 20/S-25 (Stamford); V.S.D. 20/S-27 (Belvidere); and V.S.D. 20/S-31 (Kadoka).

B. Kadoka To Caputa

Commencing at the east line of Section 31, Township 2 South, Range 22 East of the B.H.M., Jackson County, South Dakota (centerline of SD 73) also known as Milepost 562.53 and additionally known as Railroad Engineer's Survey Station Number 6440+09, and extending in a westerly direction a distance of approximately 83.47 miles in and through the counties of Jackson and Pennington and terminating in Gov. Lot 5 of Section 6, Township 1 South, Range 10 East of the Black Hills Meridian, at Caputa, South

Dakota also known as Milepost 646.0± and additionally known as Railroad Engineer's Survey Station Number 738 +84, all of which is more particularly described on right of way and track maps designated V.S.D. 20/31 through V.S.D. 20/52, inclusive, and on station maps V.S.D. 20/S-31 (Kadoka); V.S.D. 20/S-34 (Weta); V.S.D. 20/S-37 (Interior); V.S.D. 20/S-40 (Conata); V.S.D. 20/S-42 (Imlay); V.S.D. 20/S-45 (Scenic); V.S.D. 20/S-48 (Crescent); V.S.D. 20/S-50 (Farmingdale); V.S.D. 20/S-52 (Caputa).

C. Caputa to Rapid City

All that railroad property from Gov. Lot 5 of Section 6, Township 1 South, Range 10 East of the Black Hills Meridian, at Caputa, Pennington County, South Dakota also known as Milepost 646.0± and additionally known as Railroad Engineer's Survey Station Number 738+84, and extending in a westerly direction a distance of approximately 14.0 miles in and through the County of Pennington, State of South Dakota, and terminating at the East Line of Fourth Street in the NE1/4 of the NW1/4 of Section 1, Township 1 North, Range 7 East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota, also known as Milepost 660.0± and additionally known as Railroad Engineer's Survey Station Number 0+90, all of which is more particularly described on right of way and track maps designated V.S.D. 20/52 through V.S.D. 20/55, inclusive, and on station maps V.S.D. 20/S-52 (Caputa) and V.S.D. 20/S55-a and 20/S-55b (Rapid City).

EXHIBIT C – PROMISSORY NOTE

PROMISSORY NOTE

\$8,000,000.00

FOR VALUE RECEIVED, Ringneck & Western Railroad, L.L.C., referred to in this Promissory Note as “RINGNECK & WESTERN,” promises to pay to the order of the State of South Dakota, acting by and through its Department of Transportation, Office of Air, Rail, and Transit, referred to in this Promissory Note as the “STATE,” whose post office address is 700 East Broadway Avenue, Pierre, South Dakota 57501-2586, at Pierre, South Dakota, or at such place as the holder hereof may direct in writing, the sum of Eight Million Dollars (\$8,000,000.00), together with interest at the rate of 0% per annum on any balance remaining unpaid from time to time, amortized over five annual installments, as follows:

1. RINGNECK & WESTERN will make all payments by electronic transfer delivered to STATE in accordance with written instructions to be issued by the STATE to RINGNECK & WESTERN at least three (3) business days prior to the payment due date or by such other method of payment agreed to in writing by the parties.
2. RINGNECK & WESTERN will make the first annual installment payment to the STATE, in the amount of One Million Six Hundred Thousand Dollars (\$1,600,000.00), or in such amount as the parties may agree, on or before _____, 2022.
3. Once the initial loan payment is made, RINGNECK & WESTERN will make additional annual payments to the STATE, in like amount, on or before _____ of each year thereafter, until _____, 2026, when a final payment will be due in an amount equal to the remaining unpaid balance of the loan.
4. RINGNECK & WESTERN will have full right of prepayment, without penalty.
5. Should RINGNECK & WESTERN default in the payment of any installment, or any part, when due, the holder of this Promissory Note may, at its option, declare all unpaid indebtedness evidenced by this Promissory Note immediately due and payable.
6. RINGNECK & WESTERN waives presentment for payment, notice of nonpayment, protest, and notice of protest and consents that the time of payment may be extended or this

Promissory Note renewed without notice to RINGNECK & WESTERN and without affecting RINGNECK & WESTERN'S liability on this Promissory Note.

7. No extension of time for payment, and no alteration, amendment, or waiver of any provision of this Promissory Note will release, discharge, or modify the liability of RINGNECK & WESTERN under this Promissory Note. No delay or waiver by the STATE or the holder of this Promissory Note in enforcing any right under this Promissory Note will be deemed a continuing waiver of any right or provision under this Promissory Note, and, unless expressly waived in writing, all provisions will continue in full force and effect.
8. This Promissory Note will be governed as to validity, interpretation, and in all other respects by the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Promissory Note will be venued in the Circuit Court in and for the Sixth Judicial Circuit, Hughes County, South Dakota.

Ringneck & Western Railroad L.L.C.

By: _____

Its: _____

Date: _____

(Company Seal)

ACKNOWLEDGMENT PAGE FOLLOWS

EXHIBIT D – QUIT CLAIM DEED

Prepared by:
Karla L. Engle
Special Assistant Attorney General
South Dakota Dept. of Transportation
700 East Broadway Avenue
Pierre, SD 57501
605-773-3262
karla.Engle@state.sd.us

QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E. Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W. 3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Aurora, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing at the Davison and Aurora County line in the SE1/4 of the NE1/4 and the NE1/4 of the SE ¼ of Section 24, Township 103 North, Range 63 West of the 5th P.M., also known as Milepost 388.95, and additionally known as Railroad Engineer's Survey Station Number 3620+71, and extending in a Westerly direction a distance of approximately 23.72 miles in and through the County of Aurora and terminating at the Aurora and Brule County line in Gov. Lot 1 and Gov. Lot 2 of Section 7, Township 103 North, Range 66 West of the 5th P.M., also known as Milepost 412.67, and additionally known as Railroad Engineer's Survey Station Number 4872+20, containing a gross area of 424.55 acres, more or less, all of which is more particularly described on those certain Right-of-Way and Track maps V.S.D.19/25 through 31, inclusive, and on Station maps V.S.D.19/S-27 (Plankinton); and V.S.D.19/S-30 (White Lake), all of which are included herein and made a part hereof by reference.

EXCEPT

Lots 1, 2 and 3 of White Lake Economic Development Corporation's 1st Addition, A Portion of the East ½ of the NE ¼ of Section 15, T103N, R66W of the 5th P.M., City of White Lake, Aurora County, South Dakota, containing 25,125 square feet, more or less;

AND EXCEPT

Lot A of Gillen's Subdivision, a portion of the East ½ of the NE ¼ of Section 15, T103N, R 66 W of the 5th P.M., City of White Lake, Aurora County, South Dakota;

AND EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

The Real Property is transferred "AS IS, WHERE IS, WITH ALL FAULTS" and Grantor disclaims any representations or warranties, whether express or implied, as to the design, condition (including environmental condition), merchantability, fitness for any purpose, or quality of material, title or workmanship of the Real Property.

It is expressly understood that Grantee accepts the Real Property subject to: (i) any encumbrances existing as of _____, 20____, against the Real Property; and (ii) any licenses, and various other property interests, established after _____, 20____, and to which Grantee consented in writing.

The provisions of this deed shall be covenants running with the land binding upon and inuring to the benefit of Grantor and Grantee and their respective heirs, legal representatives, successors, assigns and any other persons claiming under Grantor or Grantee.

Prepared by:
Karla L. Engle
Special Assistant Attorney General
South Dakota Dept. of Transportation
700 East Broadway Avenue
Pierre, SD 57501
605-773-3262
karla.Engle@state.sd.us

QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W. 3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Brule, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing at the Aurora and Brule County line in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 12, Township 103 North, Range 67 West of the 5th P.M., also known as Milepost 412.67, and additionally known as Railroad Engineer's Survey Station Number 4872+20, and extending in a Westerly direction a distance of approximately 30.33 miles in and through the County of Brule and terminating at the Brule and Lyman County line at the centerline of the Missouri River in the SW $\frac{1}{4}$ of Section 21, Township 104 North, Range 71 West of the 5th P.M., also known as Milepost 443, and additionally known as Railroad Engineer's Survey Station Number 251+53, all of which is more particularly described on those certain Right-of-Way and Track maps designated V.S.D.19/31 through 38A, inclusive, and V.S.D. 20/1, and on Station maps V.S.D.19/S-33 (Kimball); V.S.D.19/S-36 (Pukwana); and V.S.D.10/S-38A, S-38B (Chamberlain), all of which are included herein and made a part hereof by reference (Mitchell to Chamberlain Line and Chamberlain to Kadoka Line);

EXCEPT

Lots S-1 & S-2 PAUL GUST ROAD, A part of the State Railroad Right Of Way in the vacated portion of Block 41, 42, 43 & 44 of the Third Addition to the City of Chamberlain, Brule County, South Dakota;

AND EXCEPT

Lot 1, Railroad Addition, a subdivision of Railroad Right of Way, in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 15, Township 104 North, Range 71 West, in the City of Chamberlain, Brule County, South Dakota;

AND EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

The Real Property is transferred "AS IS, WHERE IS, WITH ALL FAULTS" and Grantor disclaims any representations or warranties, whether express or implied, as to the design, condition (including environmental condition), merchantability, fitness for any purpose, or quality of material, title or workmanship of the Real Property.

It is expressly understood that Grantee accepts the Real Property subject to: (i) any encumbrances existing as of _____, 20____, against the Real Property; and (ii) any licenses, and various other property interests, established after _____, 20____, and to which Grantee consented in writing.

The provisions of this deed shall be covenants running with the land binding upon and inuring to the benefit of Grantor and Grantee and their respective heirs, legal representatives, successors, assigns and any other persons claiming under Grantor or Grantee.

Prepared by:
Karla L. Engle
Special Assistant Attorney General
South Dakota Dept. of Transportation
700 East Broadway Avenue
Pierre, SD 57501
605-773-3262
karla.Engle@state.sd.us

QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W.3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Davison, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing in the SE1/4 of the NW1/4 of Section 21, Township 103 North, Range 60 West of the 5th P.M., City of Mitchell, Davison County, also known as Milepost 374.57, and additionally known as Railroad Survey Station 2862+36.5, and extending in a Westerly direction a distance of approximately 38.10 miles in and through the County of Davison and terminating at the Davison and Aurora County line in Gov. Lot 2 and Gov. Lot 3 all in Section 19, Township 103 North, Range 62 West of the 5th P.M., also known as Milepost 388.95, and additionally known as Railroad Engineer's Survey Station Number 3620+71, all of which is more particularly described on those certain Right-of-Way and Track maps designated V.S.D.19/21 through 25, inclusive, and on Station maps V.S.D.19/S-21b (Mitchell); V.S.D.19/S-23 (Betts); and V.S.D.19/S-24 (Mt. Vernon), all of which are included herein and made a part hereof by reference. (Mitchell to Chamberlain Line)

EXCEPT

Lot A of Farmers Elevator Company First Addition to the City of Mt. Vernon, in the West ½ of Section 22, T 103 N, R 62 W of the 5th P.M., Davison County, South Dakota, containing 36,000 square feet, more or less;

AND EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

The Real Property is transferred "AS IS, WHERE IS, WITH ALL FAULTS" and Grantor disclaims any representations or warranties, whether express or implied, as to the design, condition (including environmental condition), merchantability, fitness for any purpose, or quality of material, title or workmanship of the Real Property.

It is expressly understood that Grantee accepts the Real Property subject to: (i) any encumbrances existing as of _____, 20____, against the Real Property; and (ii) any licenses, and various other property interests, established after _____, 20____, and to which Grantee consented in writing.

The provisions of this deed shall be covenants running with the land binding upon and inuring to the benefit of Grantor and Grantee and their respective heirs, legal representatives, successors, assigns and any other persons claiming under Grantor or Grantee.

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Karla L. Engle
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South Dakota Dept. of Transportation
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605-773-3262
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QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E. Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W. 3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Jackson, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing at the Jones and Jackson County line in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 1, Township 2 South, Range 25 East of the B.H.M., also known as Milepost 536.19, and additionally known as Railroad Engineer's Survey Station Number 5049+56, and extending in a Westerly direction a distance of approximately 25.81 miles in and through the County of Jackson and terminating at the South line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, Township 2 South, Range 22 East of the B.H.M., also known as Milepost 562.0 and additionally known as Railroad Engineer's Survey Station Number 6415+31.5, all of which is more particularly described on Right-of-Way and Track Maps designated V.S.D.20/24 through 31, inclusive, and on Station Maps V.S.D.20/S-25 (Stamford); V.S.D.20/S-27 (Belvidere); and V.S.D.20/S-31 (Kadoka), all of which are included herein and made a part hereof by reference. (Chamberlain to Kadoka Line)

ALSO

Commencing at the North line of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 32, Township 2 South, Range 22 East of the B.H.M., also known as Milepost 562.0 and additionally known as Railroad Engineer's Survey Station Number 6415+31.5, and extending in a Westerly direction a distance of approximately 27.91 miles in and through the County of Jackson and terminating at the Jackson and Pennington County line in Gov. Lot 4 and Gov. Lot 5 of Section 6, Township 4 South, Range 18 East of the B.H.M., also known as Milepost

589.91, and additionally known as Railroad Engineer's Survey Station Number 7885+78, all of which is more particularly described on those certain Right-of-Way and Track maps designated V.S.D.20/31 through 38, inclusive, and on the Station maps V.S.D.20/S-31 (Kadoka); V.S.D.20/S-34 (Weta); and V.S.D.20/S-37 (Interior), all of which are included herein and made a part hereof by reference. (Kadoka to Rapid City line);

EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

The Real Property is transferred "AS IS, WHERE IS, WITH ALL FAULTS" and Grantor disclaims any representations or warranties, whether express or implied, as to the design, condition (including environmental condition), merchantability, fitness for any purpose, or quality of material, title or workmanship of the Real Property.

It is expressly understood that Grantee accepts the Real Property subject to: (i) any encumbrances existing as of _____, 20____, against the Real Property; and (ii) any licenses, and various other property interests, established after _____, 20____, and to which Grantee consented in writing.

The provisions of this deed shall be covenants running with the land binding upon and inuring to the benefit of Grantor and Grantee and their respective heirs, legal representatives, successors, assigns and any other persons claiming under Grantor or Grantee.

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QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E. Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W. 3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Jones, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing at the Lyman and Jones County line at the east line of Section 36, Township 1 South, Range 31 East of the B.H.M., also known as Milepost 496.78, and additionally known as Railroad Engineer's Survey Station Number 2967+37, and extending in a Westerly direction a distance of approximately 39.41 miles in and through the County of Jones and terminating at the Jones and Jackson County line in Lot 7 of Section 6, Township 2 South, Range 26 East of the B.H.M., also known as Milepost 536.19, and additionally known as Railroad Engineer's Survey Station Number 5049+56, all of which is more particularly described on those certain Right-of-Way and Track Maps designated V.S.D.20/14 through 24, inclusive, and on Station Maps V.S.D.20/S-17 (Draper); V.S.D.20/S-19 (Murdo); and V.S.D.20/S-22 (Okaton), all of which are included herein and made a part hereof by reference (Chamberlain to Kadoka Line);

EXCEPT

Lot R1 of State of South Dakota Railroad Property in the N ½ of the NE ¼ of Section 212, Township 2 South, Range 28 East, B.H.M. in the City of Murdo, Jones County, South Dakota, containing 3.65 Acres, more or less;

AND EXCEPT

Dakota Mill and Grain Addition Lots R1 and R2, to the City of Murdo, lying in the NW1/4 NE1/4 of Section 12, T 2 S, R 28 E, Black Hills P.M., Jones County, South Dakota, containing 29,324 square feet, as shown on the plat recorded with the Jones County Register of Deeds on the 28th day of July, 2006 in Book 4 of Plats page 16, in and for said county;

AND EXCEPT

Lot R2-A and R2-B in NW¹/₄NE¹/₄ of Section 12, Township 2 South, Range 28 East of the Black Hills Meridian in City of Murdo, Jones County, South Dakota;

AND EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

The Real Property is transferred "AS IS, WHERE IS, WITH ALL FAULTS" and Grantor disclaims any representations or warranties, whether express or implied, as to the design, condition (including environmental condition), merchantability, fitness for any purpose, or quality of material, title or workmanship of the Real Property.

It is expressly understood that Grantee accepts the Real Property subject to: (i) any encumbrances existing as of _____, 20____, against the Real Property; and (ii) any licenses, and various other property interests, established after _____, 20____, and to which Grantee consented in writing.

The provisions of this deed shall be covenants running with the land binding upon and inuring to the benefit of Grantor and Grantee and their respective heirs, legal representatives, successors, assigns and any other persons claiming under Grantor or Grantee.

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QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W. 3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Lyman, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing at the centerline of the Missouri River in Gov. Lot 3, Section 20, Township 104 North, Range 71 West of the 5th P.M., also known as Milepost 443, and additionally known as Railroad Engineer's Survey Station Number 251+53, and extending in a Westerly direction a distance of approximately 53.78 miles in and through the County of Lyman and terminating at the Lyman and Jones County line in Gov. Lot 1, Section 7, Township 105 North, Range 79 West of the 5th P.M., also known as Milepost 496.78, and additionally known as Railroad Engineer's Survey Station Number 2967+37, containing a gross area of 1,032.63 acres, more or less, all of which is more particularly described on those certain Right-of-Way and Track maps designated V.S.D. 20/1 through 14, inclusive, and on Station maps V.S.D.20/S-1 (Oacoma); V.S.D.20/S-5 (Reliance); V.S.D.20/S-8 (Kennebec); V.S.D.20/S-10 (Presho); and V.S.D.20/S-13 (Vivian), all of which are included herein and made a part hereof by reference (Chamberlain to Kadoka Line);

EXCEPT

Lot 17A, S.D. Railroad Second Addition, being a subdivision of a portion of the South Dakota Railroad Property in the NE 1/4 of Section 24, T 104 N, R 72 W of the 5th P.M., in the Town of Oacoma, Lyman County, South Dakota, containing 7,100 square feet, (0.16 Acre) more or less;

AND EXCEPT

Lot 2 of the South Dakota Railroad right-of-way in the N ½ of Section 24, T104N, R72W of the 5th P.M., in the Town of Oacoma, Lyman County, South Dakota, containing 6,225 square feet, more or less;

AND EXCEPT

Lot 3 of S.D. Railroad First Addition, a subdivision of a portion of the South Dakota railroad property in the N ½ of Section 24, T 104 N, R 72 W of the 5th P.M., in the town of Oacoma, Lyman County, South Dakota containing 5,629 square feet;

AND EXCEPT

Lot 16A, S.D. Railroad Second Addition, being a subdivision of a portion of the South Dakota Railroad property in the NE ¼ of Section 24, T 104 N, R 72 W of the 5th P.M. in the Town of Oacoma, Lyman County, South Dakota, containing 7,100 square feet, more or less;

AND EXCEPT

Lot 1 of S.D. Railroad First Addition, a subdivision of a portion of the South Dakota Railroad Right of Way in the N ½ of Section 24, T 104 N, R 72 W of the 5th P.M., in the Town of Oacoma, Lyman County, South Dakota, containing 26,874 Square Feet or 0.62 Acres;

AND EXCEPT

LOT S-1, S.D. Railroad Second Addition, being a subdivision of a portion of the South Dakota Railroad property in the NE ¼ of Section 24, T 104 N, R 72 W of the 5th P.M. in the Town of Oacoma, Lyman County, South Dakota, containing 0.81 Acres, more or less;

AND EXCEPT

An extension of Auld Avenue, a subdivision of a portion of the South Dakota Railroad right-of-way in the N ½ of Section 24, T104N, R72W of the 5th P.M., in the Town of Oacoma, Lyman County, South Dakota, containing 6,813 square feet, more or less;

AND EXCEPT

Lot B1, in the Southwest Quarter (SW1/4) of Section Ten (10), Township One Hundred Five North (105N), Range Seventy-seven West (77W) of the 5th P.M., City of Presho, Lyman County, South Dakota, consisting of 0.6 acre more or less;

AND EXCEPT

Dakota Mill and Grain Addition Lots R1 and R2, to the City of Presho, lying the NE1/4 SW ¼ of Section 10, T 105 N - R 77 W, 5th P.M., Lyman County, South Dakota, containing 117,989.7 square feet, as shown on the plat recorded with the Lyman County Register of Deeds on the 3rd day of May 2006 on Microfilm No. 06-247, in and for said county;

AND EXCEPT

Lot 5, Dakota Mill and Grain Addition in the N½ of the SE¼ and the N½ of the SW¼ all in Section 11, T105N, R77W of the 5th P.M., Lyman County, South Dakota, according to the plat filed for record in and for said county. Said Lot 5 contains 3.6 acres, more or less;

AND EXCEPT

Lot 6, Dakota Mill and Grain Addition in the N1/2 of the SE1/4 and the N1/2 of the SW1/4 all in Section 12, T105N, R77W of the 5th P.M., Lyman County, South Dakota, according to the plat filed for record in and for said county. Said Lot 6 contains 3.6 acres, more or less;

AND EXCEPT

Lot 7, Dakota Mill and Grain Addition in the N1/2 of the SE1/4 and N1/2 of the SW1/4 all in Section 7, T105N, R76W of the 5th P.M., Lyman County, South Dakota, according to the plat filed for record in and for said county. Said Lot 7 contains 3.6 acres, more or less;

AND EXCEPT

Lots One (1) and Three (3) of the plat entitled: Plat of Lots 1, 2 & 3, Railroad Addition, A subdivision of the Railroad Right of Way in the NW1/4SE1/4 & the NE1/4SE1/4 of Section 3, T105N, R79W, Town of Vivian, Lyman County, South Dakota, according to the plat thereof filed for record in and for said county on October 13, 2010, at 9:05 a.m. in Micro #10-564 and Plat #298;

AND EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of

whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

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It is expressly understood that Grantee accepts the Real Property subject to: (i) any encumbrances existing as of _____, 20____, against the Real Property; and (ii) any licenses, and various other property interests, established after _____, 20____, and to which Grantee consented in writing.

The provisions of this deed shall be covenants running with the land binding upon and inuring to the benefit of Grantor and Grantee and their respective heirs, legal representatives, successors, assigns and any other persons claiming under Grantor or Grantee.

EXEMPT FROM TRANSFER FEE SDCL 43-4-22(2)

Dated this ___ day of _____, 20____.

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION

By _____
Its Secretary

ACKNOWLEDGMENT FOLLOWS

Prepared by:
Karla L. Engle
Special Assistant Attorney General
South Dakota Dept. of Transportation
700 East Broadway Avenue
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karla.Engle@state.sd.us

QUIT CLAIM DEED

The State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota), Grantor, whose principal place of business is at 700 E. Broadway Ave., Pierre, Hughes County, South Dakota, 57501-2586, for and in consideration of One Dollar (\$1.00) and other valuable consideration CONVEYS and QUITCLAIMS to Ringneck & Western Railroad, L.L.C., Grantee, whose principal place of business is at 315 W. 3rd St., Pittsburg, Kansas, 66762, all of Grantor's real property and interests in real property, including (except where otherwise noted) all of Grantor's railroad property, including without limitation abutting extra width properties, trackage including sidings, switches, buildings, bridges, culverts, right of way fences and all other fixtures, situated in the County of Pennington, South Dakota, more particularly described as follows and referred to as the "Real Property":

Commencing at the Jackson and Pennington County line in the SE¹/₄ of the NE¹/₄ and in Gov. Lot 1 of Section 1, Township 4 South, Range 17 East of the B.H.M., also known as Milepost 589.91, and additionally known as Railroad Engineer's Survey Station Number 7885+78, and extending in a Westerly direction a distance of approximately 70.09 miles in and through the County of Pennington and terminating at the East line of Fourth Street in the NE¹/₄ of the NW¹/₄ of Section 1, Township 1 North, Range 7 East of the B.H.M., also known as Milepost 660.0, and additionally known as Railroad Engineer's Survey Station Number 0+90 in Rapid City, all of which is more particularly described on those certain Right-of-Way and Track maps designated V.S.D.20/38 through 55, inclusive, and on Station maps V.S.D.20/S-40 (Conata); V.S.D. 20/S-48 (Creston); V.S.D. 20/S-50 (Farmingdale); V.S.D.20/S-52 (Caputa); and V.S.D. 20/S-55a and V.S.D.20/S-55b (Rapid City), all of which are included herein and made a part hereof by reference (Kadoka to Rapid City Line);

EXCEPT

The North 43.5 feet of Rapid Street from 2nd Street to 3rd Street adjacent to Lots 17-32 inclusive and South of Block 68, exclusive of Railroad Right-of-Way in Block 68, Northeast Quarter of Section 1, Township 1 North, Range 7 East of the Black Hills

Meridian, Rapid City, Pennington County, South Dakota, as shown on the Resolution of Vacation recorded in Book 65 at Page 4668 in and for said county.

AND EXCEPT

A strip of land, one hundred (100) feet in width, being fifty (50) feet on each side of the center line of the spur track, as now located, and extending from the south side to the north side of the Northwest Quarter (NW¹/₄) of the Southeast Quarter (SE¹/₄), Section Twenty-eight (28), containing three and six hundredths (3.06) acres, more or less; and a strip of land, one hundred (100) feet in width, being fifty (50) feet on each side of said spur track, extending from the south side to the northwest corner of the West Half (W¹/₂) of the Northeast Quarter (NE¹/₄), Section Twenty-eight (28), containing six and eighty-one one-hundredths (6.81) acres, more or less; ALL in Township One (1) south, Range Eleven (11) east; and a piece of land lying in the Northwest Quarter (NW¹/₄) of the Northeast Quarter (NE¹/₄) of Section Twenty-eight (28), Township One (1) south, Range Eleven (11) east, and more particularly described as follows: Beginning at the southeast corner of said Northwest Quarter (NW¹/₄) of Northeast Quarter (NE¹/₄); thence north, along the east boundary of said Northwest Quarter (NW¹/₄) of Northeast Quarter (NE¹/₄), a distance of five hundred thirty (530) feet; thence northwesterly, at an angle of sixty-eight degrees eight minutes (68 degrees 08 minutes) with said eastern boundary, to an intersection with the eastern boundary of right of way of the White River Valley Railway spur; thence southerly, along said right of way, for a distance of six hundred forty feet (640 feet); thence southeasterly, in a straight line, to a place of beginning, containing seven and eleven-hundredths (7.11) acres, more or less; and a piece of land, fifty (50) feet in width, lying southerly of and adjoining the southerly boundary of the right of way for the main track of the railway of said Company, and extending from the east side to the west side of the Southwest Quarter (SW¹/₄) of the Southeast Quarter (SE¹/₄) of Section Twenty-eight (28), Township One (1) south, Range Eleven (11) east, containing one and sixty-seven hundredths (1.67) acres, more or less;

AND EXCEPT

A tract of land, lying in the Southwest Quarter (SW¹/₄) of the Southeast Quarter (SE¹/₄), Section Twenty-eight (28), Township One (1) south, Range Eleven (11) east, and more particularly described as follows, vis.: Beginning at a point in east boundary of said Southwest Quarter (SW¹/₄) of the Southeast Quarter (SE¹/₄), which is fifty (50) feet distant, measured at right angles, from the center line of the spur of the White River Valley Railway Company; thence northwesterly, on an eight degree curve, parallel to and fifty (50) feet from said center line, for a distance of four hundred sixty-five (465) feet, more or less; thence northerly, on a tangent, parallel to and fifty (50) feet from said center line, to an intersection with the north boundary of the Southwest Quarter (SW¹/₄) of the Southeast Quarter (SE¹/₄) aforesaid; thence west, along said north boundary, to a point which is west of and fifty (50) feet distant, measured at right angles, from the center line of the west wye track, connecting the spur with the main line of said White River Valley Railway; thence southerly, on an eleven degree curve, parallel to and fifty (50) feet from the center line of said west wye track, a distance of nine hundred fifteen (915) feet, more

or less; thence westerly on a tangent parallel to said center line, to an intersection with the northerly boundary of the right of way of said White River Valley Railway mainline, thence southeasterly, along said right of way, to an intersection with the said eastern boundary of said Southwest Quarter (SW¹/₄) of the Southeast Quarter (SE¹/₄); thence north, along said eastern boundary, to place of beginning; containing seven and sixty-eight hundredths (7.68) acres.

AND EXCEPT

A tract of land lying in the East One-half (E¹/₂) of the Northeast Quarter (NE¹/₄) of Section Twenty-eight (28), Township One (1) South, Range Eleven (11) East, and more particularly described as follows: Beginning at the Northeast corner of the Southeast Quarter (SE¹/₄) of the Northeast Quarter (NE¹/₄) of said Section; thence South along the boundary of said Southeast Quarter (SE¹/₄) of the Northeast Quarter (NE¹/₄) for a distance of Six Hundred Forty (640) feet; thence Northwesterly at an angle of 64 degrees 08 minutes with said Eastern boundary in a straight line to the Northwest corner of said Southeast Quarter (SE¹/₄) of the Northeast Quarter (NE¹/₄); thence North along the Western boundary of the Northeast Quarter (NE¹/₄) of the Northeast Quarter (NE¹/₄) of said Section Twenty-eight (28) for a distance of Five Hundred Thirty (530) feet; thence Southeasterly at an angle of 68 degrees 08 minutes with said Western boundary in a straight line to the place of beginning, containing Seventeen Seventy-six One-hundredths (17.76) acres, more or less.

AND EXCEPT

[INSERT ADDITIONAL EXCESS PROPERTIES PLATTED AND SOLD]

Grantor reserves a permanent easement for construction, repair, maintenance and operation of all existing public highway crossings and occupancies, whether recorded or not, and irrespective of whether such crossings or occupancies are under the supervision and control of Grantor or another public highway authority.

Grantor reserves all permanent and temporary easements necessary for construction, repair, maintenance and operation of all public highway crossings and occupancies in connection with the projects identified in Grantor's Statewide Transportation Improvement Program for the period from 2021 through 2024, which is on file at Grantor's principal place of business.

Grantor reserves all rights to all deposits of coal, ores, metals, and other minerals, asphaltum, oil, gas and other like substances, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

The Real Property is transferred "AS IS, WHERE IS, WITH ALL FAULTS" and Grantor disclaims any representations or warranties, whether express or implied, as to the design, condition (including environmental condition), merchantability, fitness for any purpose, or quality of material, title or workmanship of the Real Property.

EXHIBIT E – BILL OF SALE

BILL OF SALE

This Bill of Sale is entered into by and between the State of South Dakota, Acting By And Through Its Department Of Transportation, whose mailing address is 700 East Broadway Avenue, Pierre, South Dakota 57501-2586 (“Grantor”), and Ringneck & Western Railroad, L.L.C, a Delaware limited liability company whose mailing address is 315 W. 3rd St., Pittsburg, Kansas 66762 (“Grantee”).

WHEREAS, Grantor and Grantee have entered into the Agreement for Sale of the MRC Line (“Line Sale Agreement”), effective as of _____, 20__ (“Effective Date”), pursuant to which Grantor has agreed to sell and Grantee has agreed to purchase the MRC Line as defined in Section 1.1 of the Line Sale Agreement; and

WHEREAS, pursuant to Section 6 of the Line Sale Agreement, Grantor and Grantee have agreed that the closing on the Line Sale shall be effective on _____, 20__ (the “Closing Date”); and

WHEREAS, Section 3.2 of the Line Sale Agreement states that Grantor shall convey the MRC Line “Track” and “Track Supporting Structures,” as defined in Section 1.1. of the Line Sale Agreement to Grantee pursuant to a Bill of Sale.

WHEREAS, in accordance with the terms of Line Sale Agreement, Grantor and Grantee are entering into this Bill of Sale.

NOW, THEREFORE IN CONSIDERATION of the foregoing and other good and valuable consideration, the receipt whereof is hereby acknowledged,

1. On the Closing Date, Grantor does hereby sell, assign, transfer and deliver unto the Grantee, without any covenants of warranty whatsoever and without recourse to the Grantor, all its right, title and interest, if any, in the following described Track and Track Supporting Structures, and any other property that is considered in the rail industry to be Track and Supporting Structures, including without limitation by enumeration, to-wit:

All rail, ties, spikes, tie plates, rail anchors, bridges, trestles, culverts, signaling equipment, and other supporting structures, ballast, track materials and supplies (excluding any vehicles, maintenance equipment on wheels, radios, computer equipment, or office furnishings or supplies) that on the date of this Bill of Sale, are not already being conveyed to Grantee by virtue of the Quitclaim Deed of even date, but which then are present on the real property comprised of the railroad lines from milepost 374.57 at Mitchell, South Dakota to Milepost 660 in Rapid City, South Dakota together with all materials and appurtenances, associated therewith in an "as-is" condition which lies within that portion of a parcel of land situated in that part of Davison, Aurora, Brule, Lyman, Jones, Jackson, and Pennington Counties, South Dakota as more particularly shown in Exhibit A to the Line Sale Agreement, and by this reference made a part hereof; provided, however, Grantor does not purport to own any interest in signaling or grade crossing equipment or property to the extent that it may be owned by a third party, such as a governmental authority or municipality, Grantor does convey and transfer whatever rights and obligations it may have to possess or use such signaling or grade crossing equipment. Grantee agrees to assume all obligations thereto, including dismantling costs if the Grantee decides to remove said Personal Property

TO HAVE AND TO HOLD, together with all appurtenances thereunto belonging to Grantee and its permitted successors and assigns, forever.

2. Grantee has fully examined and inspected the Track and Track Supporting Structures, and has in all respects accepted and approved the same and all parts and appurtenances thereof and accepts this Bill of Sale with the understanding that the Grantor has made no representations or warranties respecting the nature or condition of the Track and Track Supporting Structures.

3. THE TRACK AND TRACK SUPPORTING STRUCTURES ARE SOLD AS IS WHERE IS WITH ALL FAULTS, DEFECTS AND CONDITIONS OF ANY KIND, NATURE OR DESCRIPTION AS OF THE EFFECTIVE DATE. THERE HAVE BEEN NO REPRESENTATIONS, WARRANTIES, GUARANTEES, STATEMENTS OR INFORMATION, EXPRESSED OR IMPLIED, PERTAINING TO SUCH PROPERTY, THE VALUE THEREOF, OR ANY OTHE MATTER WHATSOEVER MADE OR FURNISHED TO GRANTEE BY THE GRANTOR OR ANY OF ITS OFFICIALS, AGENTS OR EMPLOYEES.

4. In the event that this Bill of Sale contradicts or otherwise conflicts with the provisions of the Line Sale Agreement, the Line Sale Agreement shall control.

5. Subject to the provisions of Section 17 of the Line Sale Agreement, this Bill of Sale shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

6. This Bill of Sale is binding upon the signatories not as individuals, but solely in their capacities as officials of their respective organizations.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this Bill of Sale to be signed by its duly authorized representatives.

Ringneck & Western Railroad, L.L.C.

State of South Dakota
Department of Transportation

By: _____
Its: _____
Date: _____

By: _____
Its: Secretary
Date: _____

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF _____)
) : SS
COUNTY OF _____)

On this ____ day of _____, 20__, before me, _____, a Notary Public within and for said County and State, personally appeared, _____, who acknowledged himself/herself to be the _____ of the Ringneck & Western Railroad, L.L.C., known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

(Notary Seal)

My Commission Expires: _____

STATE ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
) : SS
COUNTY OF HUGHES)

On this ____ day of _____, 20__, before me, _____, a Notary Public within and for said County and State, personally appeared Joel Jundt, Interim Secretary, South Dakota Department of Transportation, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

(Notary Seal)

My Commission Expires: _____

**EXHIBIT F – FORM OF ASSIGNMENT AND ASSUMPTION - IMPLEMENTING
AGREEMENTS**

ASSIGNMENT AND ASSUMPTION – IMPLEMENTING AGREEMENTS

This Assignment Agreement (“Assignment Agreement”) is made as of this ____ day of _____, 20__ by and among the MRC Regional Railroad Authority (the “Authority”), the State of South Dakota acting by and through its Department of Transportation (the “State”) and Ringneck & Western Railroad, L.L.C. (“Railroad”).

WHEREAS, the BNSF Railway Company (“BNSF”) and the State entered into an agreement (“Settlement Agreement”) dated April 25, 2005;

WHEREAS, the Settlement Agreement provided, subject to the mutual agreement of BNSF, the Authority and Dakota Southern Railroad Company (“DSRC”), BNSF would provide the Authority, the State, and DSRC specified haulage and trackage rights over specified BNSF lines;

WHEREAS, BNSF, the Authority and DSRC implemented the Settlement Agreement by entering into an agreement entitled “Overhead Haulage Agreement (convertible to Overhead Trackage Rights Between Mitchell, South Dakota, Aberdeen, South Dakota and Sioux City, IA),” dated Nov. 22, 2005 (“Haulage Agreement”); and an agreement entitled “Trackage Rights Agreement Mitchell, South Dakota,” dated Nov. 22, 2005 (“Mitchell Trackage Rights Agreement”);

WHEREAS, BNSF and DSRC implemented the Settlement Agreement by entering into an agreement entitled “Second Amendment to Interchange and Lease Agreement Between BNSF Railway Company and Dakota Southern Railway Company, dated November 22, 2005 (“Interchange Agreement”);

WHEREAS, Haulage Agreement, the Mitchell Trackage Rights Agreement, and the Interchange Agreement (collectively the “Implementing Agreements”) contain assignment provisions; and

WHEREAS, in conjunction with the State’s sale and Railroad’s purchase, of the MRC Line, the State and the Authority desire to assign their rights and obligations under the Implementing Agreements;

NOW THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree that:

1. Pursuant to Section 15(C) of the Haulage Agreement, the Authority assigns its rights and obligations under the Haulage Agreement to Railroad, and Railroad accepts this assignment.

2. Pursuant to Section 8.2 of Exhibit C to the Haulage Agreement, the State assigns its rights and obligations under the contingent trackage rights agreement to Railroad, and Railroad accepts this Assignment.

3. Pursuant to Section 8.2 of Exhibit B to the Mitchell Trackage Rights Agreement, the State assigns its rights and obligations under the Mitchell Trackage Rights Agreement to Railroad, and Railroad accepts this assignment.

4. Pursuant to Section VI of the Second Amendment to the Interchange Agreement, the State assigns its rights and obligations under the Interchange Agreement to Railroad, and Railroad accepts this assignment.

5. The assignments set forth in Section 1, 2, 3 and 4 of this Agreement will be effective on the closing date of the sale of the MRC Line to Railroad as set forth in the Agreement For the Sale of the MRC Line Between the State and the Railroad, dated _____ (“Line Sale Agreement”)

6. DSRC’s rights and obligations under the Haulage Agreement, the Mitchell Trackage Rights Agreement and the Interchange Agreement are terminated pursuant to the provisions of each agreement on the closing date of the Line Sale Agreement.

7. In the event that the State reacquires ownership of the MRC Line, Railroad agrees to assign its rights and obligations under the Haulage Agreement, the Mitchell Trackage Rights Agreement, and the Interchange Agreement to the Authority or, if requested by the State to do so, to the State.

8. Subject to the provisions of Section 17 of the Line Sale Agreement, this Assignment Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

9. In the event that this Assignment Agreement contradicts or otherwise conflicts with the provisions of the Line Sale Agreement, the Line Sale Agreement shall control.

7. This Assignment Agreement shall be governed and construed in accordance with the law of the State of South Dakota.

IN WITNESS WHEREOF, the parties hereto have caused a duly authorized representative to execute this Assignment Agreement. This Assignment Agreement is binding on the signatory not as an individual, but solely in his capacity as an official of the party on whose behalf he is executing this Assignment Agreement.

SIGNATURE PAGE FOLLOWS

MRC Regional Railroad Authority

By: _____

Its: _____

Date: _____

Ringneck & Western Railroad, L.L.C.

By: _____

Its: _____

Date: _____

State of South Dakota acting by the through
its Department of Transportation

By: _____

Its: Interim Secretary

Date: _____

ACKNOWLEDGMENTS FOLLOW

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF _____)
) : SS
COUNTY OF _____)

On this ____ day of _____, 20__, before me, _____, a Notary Public within and for said County and State, personally appeared, _____, who acknowledged himself/herself to be the _____ of the Ringneck & Western Railroad L.L.C., a limited liability company, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as such officer

In witness whereof I hereunto set my hand and official seal.

(Notary Seal) _____
NOTARY PUBLIC
My Commission Expires: _____

AUTHORITY ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
) : SS
COUNTY OF HUGHES)

On this ____ day of _____, 20__, before me, _____, a Notary Public within and for said County and State, personally appeared _____, Chairperson of the MRC Regional Railroad Authority, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(Notary Seal) _____
NOTARY PUBLIC
My Commission Expires: _____

EXHIBIT G – USE AGREEMENTS

The Permit NBR alpha codes are:

- **CL** Private at-grade crossing, for rural driveways and farming.
- **NL** Power and communication lines, over, under or along the right-of-way.
- **PL** Temporary right of entry needed for construction projects and surveying.
- **PM** Property maintenance for mowing contracts.
- **RE** Right of way easement for public roadways.
- **SL** Siding and spur agreements.
- **T** Trackage and siding agreements.
- **TC** Track and siding construction agreements.
- **TR** Track agreement for removal of an old siding.
- **VL** Public Crossings and intersection agreements of public highways with railroads.
- **WL** Pipeline for carrying any liquid, potable water, sanitary sewer, storm sewer, oil, or natural gas.

| Number | Nearest Town | Permittee Holder | Type |
|---------|-----------------|---|--|
| CL108 | Oacoma, SD | Town of Oacoma | Temp Xings Haul Road |
| CL122 | Rapid City, SD | Murphy Siding | Private pasture Xing |
| CL131 | Presho, SD | Dakota Mill & Grain | Private Crossing |
| CL132A | Rapid City, SD | Permit NBR | Private crossing with rail removal |
| CL132B | Rapid City, SD | Jaynell Higgins/ Mumford | Private crossing with rail removal |
| CL134 | Rapid City, SD | Judy Rhode | Private Crossing |
| CL137 | Chamberlian, SD | Chamberlian/Oacoma | Route Changed not near Rail |
| CL138 | Rapid City, SD | LLB; LLC - Duane Brink • Penning Co. deeds | Private At grade crossing & Easement vacation Hwy 44 project |
| CL139 | Rapid City, SD | Stomer Trust | Private at grade Crossing on railbank |
| CL140 | Chamberlian, SD | James R. Swanson | Private Farm Crossing |
| CL141 | Chamberlian, SD | James R. Swanson | Private Farm Crossing |
| CL142 A | Oacoma, SD | Lenny Wolcott | Private Farm Crossing 12' |
| CL142 B | Oacoma, SD | Lenny Wolcott | Private Farm Crossing 12' |
| CL142 C | Oacoma, SD | Lenny Wolcott | Private Farm Crossing 12' |
| CL143 A | Oacoma, SD | Lenny Wolcott | Private Farm Crossing 17' & 8' |
| CL143 B | Oacoma, SD | Lenny Wolcott | Private Farm Crossing 17' & 8' |
| CL144 | Presho, SD | Timothy D. Wagner | Private Farm Crossing 18' |
| CL145 | Rapid City, SD | Chad & Stacie Collins | Private Residential Crossing Rail Removal |
| CL147 | Presho, SD | Judith Brost | Private Residential Crossing |
| CL148 | Rapid City, SD | Chs. Mix Electric | Private at Grade Rails & Trails |
| NL 513 | Mitchell, SD | Northwestern Bell | Underground Wire |
| NL 514 | Chamberlain, SD | Northwestern Bell | Underground Wire |
| NL263 | Mitchell, SD | Western Contracting Corp. | Underground Wire |

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|---------|----------------|---|---|
| NL264 | Mitchell, SD | F.L. Moyer | Bill of sale - Shed & fence at stock yard |
| NL265 | Mitchell, SD | City of Mitchell | Lights S. Sanborn & S. Minnesota St. |
| NL266 | Mitchell, SD | NWPS | Lights & Power |
| NL267 | Mitchell, SD | NWPS | Overhead Wires |
| NL268 | Mitchell, SD | NWPS | Overhead Wires |
| NL269 | Mitchell, SD | Mitchell Produce Co. | Short Clearance E RR Street |
| NL270 | Mitchell, SD | Northwestern Bell | Underground Wire |
| NL271 | Mitchell, SD | Northwestern Bell | Underground Wire |
| NL272 | Mitchell, SD | East River Electric Power | Overhead Wires |
| NL273 | Mitchell, SD | Western Union Telegraph Co. | Bills of sale - Wires & Facilities |
| NL274 | Mitchell, SD | NWPS | Overhead Wires |
| NL275 | Mitchell, SD | NWPS | Overhead Wires |
| NL276 | Mitchell, SD | NWPS | Overhead Wires |
| NL277 | Mitchell, SD | NWPS | Overhead Wires |
| NL278 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL279 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL280 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL281 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL282 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL283 | Mitchell, SD | Intercounty Electric Assn. | Underground Wire |
| NL284 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL285 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL286 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 A | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 B | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 C | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 D | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 E | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 F | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL287 G | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL288 | Mt. Vernon, SD | Western Contracting Corp. | Underground Wire |
| NL289 | Mt. Vernon, SD | USA Dept. of Interior - Bureau of reclamation | Overhead Wires |
| NL290 | Mt. Vernon, SD | Farmers & Merchants Tile Co. | Underground Wire |
| NL291 | Mt. Vernon, SD | Sanborn Telephone Coop. | Underground Wire |
| NL292 | Plankinton, SD | Western Contracting Corp. | Track Pit |
| NL293 | Plankinton, SD | Fuller Lumber Co. | Track Pit |
| NL294 | Plankinton, SD | Plankinton Concrete Products Co. | Conveyor Pit |
| NL295 | Plankinton, SD | Frank Marso | Overhead Wires |
| NL296 | Plankinton, SD | City of Plankinton | Overhead Wires |
| NL297 | Plankinton, SD | Dakota Central Telephone Co. | Overhead Wires |
| NL298 | Plankinton, SD | Tri County Electric Assoc. Inc | Overhead Wires |

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|-------|-----------------|---|-------------------------------|
| NL299 | Plankinton, SD | East River Electric Power | Overhead Wires |
| NL300 | Plankinton, SD | NW Bell Telephone | Underground Wire |
| NL301 | Plankinton, SD | Citizens Telephone Company | Underground Wire |
| NL302 | White Lake, SD | Dave Gustafson & Co. | Track Hopper |
| NL303 | White Lake, SD | Aurora County Ready Mix | Conveyor Pit |
| NL304 | White Lake, SD | Midstate Telephone Co. | Overhead Wires |
| NL305 | White Lake, SD | Aurora County Ready Mix | Overhead Wires |
| NL306 | White Lake, SD | Midstate Telephone Co. | Overhead Wires |
| NL307 | White Lake, SD | Midstate Telephone Co. | Overhead Wires |
| NL308 | White Lake, SD | Midstate Telephone Co. | Underground Wire |
| NL309 | White Lake, SD | Midstate Telephone Co. | Underground Wire |
| NL310 | White Lake, SD | Midstate Telephone Co. | Underground Wire |
| NL311 | White Lake, SD | Northwestern Public Service | Overhead Wires |
| NL312 | Kimball, SD | Midstate Telephone Co. | Overhead Wires |
| NL313 | Kimball, SD | Olson Brothers | Relocation of stock yards |
| NL314 | Kimball, SD | Midstate Telephone Co. | Overhead Wires |
| NL315 | Kimball, SD | Midstate Telephone Co. | Overhead Wires |
| NL316 | Kimball, SD | Midstate Telephone Co. | Overhead Wires |
| NL317 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL318 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL319 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL320 | Kimball, SD | State of SD - State Hwy Commission | Overhead Wires |
| NL321 | Kimball, SD | Northwestern Public Service | Overhead Wires |
| NL322 | Kimball, SD | USA Dept. of Interior - Bureau of reclamation | Unloading Auger |
| NL323 | Pukwana, SD | Larson Tiegan Co. | Overhead Wires |
| NL324 | Pukwana, SD | Midstate Telephone Co. | Overhead Wires |
| NL325 | Pukwana, SD | Midstate Telephone Co. | Overhead Wires |
| NL326 | Pukwana, SD | Midstate Telephone Co. | Overhead Wires |
| NL327 | Pukwana, SD | Midstate Telephone Co. | Underground Wire |
| NL328 | Pukwana, SD | Northwestern Public Service | Overhead Wires |
| NL329 | Chamberlain, SD | Ready Mix Company | Track Pit |
| NL330 | Chamberlain, SD | Northwestern Engineering Co. | Underground Wire |
| NL331 | Chamberlain, SD | L.G. Everist Co. | Overhead Wires |
| NL332 | Chamberlain, SD | Milwaukee Motor Trans. Co. | Track Pit |
| NL333 | Chamberlain, SD | Milwaukee Motor Trans. Co. | Track Pit |
| NL334 | Chamberlain, SD | Milwaukee Motor Trans. Co. | Track Pit |
| NL335 | Chamberlain, SD | Milwaukee Motor Trans. Co. | Underground Wire |
| NL336 | Chamberlain, SD | Central Electric & Telephone | Overhead Wires |
| NL337 | Chamberlain, SD | Northwestern Bell Telephone | Underground Wire |
| NL338 | Chamberlain, SD | USA | Culvert Pipe Ft. Randall Prj. |
| NL339 | Chamberlain, SD | West Central Electric Coop. | Overhead Wires |

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|---------|-----------------|----------------------------------|------------------------------|
| NL340 | Chamberlain, SD | William A. Smith Contracting Co. | Roadway runway for unloading |
| NL341 | Chamberlain, SD | Tri County Electric Assoc. Inc | Overhead Wires |
| NL342 | Chamberlain, SD | Northwestern Bell Telephone | Poles, Wires & Arms |
| NL343 | Chamberlain, SD | Northwestern Bell Telephone | Underground Wire |
| NL344 | Chamberlain, SD | Northwestern Bell Telephone | Underground Wire |
| NL345 | Chamberlain, SD | Northwestern Bell Telephone | Underground Wire |
| NL346 | Chamberlain, SD | Northwestern Bell Telephone | Underground Wire |
| NL347 | Chamberlain, SD | Northwestern Bell Telephone | Underground Wire |
| NL348 | Chamberlain, SD | Northwestern Public Service | Underground Wire |
| NL349 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL350 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL351 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL352 | Chamberlain, SD | Northwestern Public Service | Underground Wire |
| NL527 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL528 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL529 | Mitchell, SD | NW Bell Telephone | unloading Pit |
| NL530 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL531 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL532 A | Mitchell, SD | Northwestern Public Service | Underground Wire |
| NL532 B | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL533 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL534 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL535 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL536 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL537 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL538 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL539 | Mitchell, SD | NW Bell Telephone | Overhead Wires |
| NL541 | Mitchell, SD | Western Contracting Corp. | Overhead Wires |
| NL542 | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL543 | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL544 | Mitchell, SD | East River Electric Power | Overhead Wires |
| NL545 | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL546 A | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL546 B | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL546 C | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL547 A | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL547 B | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL547 C | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL548 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL731 | Oacoma, SD | Still Telephone Company | Overhead Wires |
| NL732 | Oacoma, SD | NW Bell Telephone | Poles & Wires west of Depot |

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|-------|--------------|------------------------------|------------------|
| NL733 | Oacoma, SD | West Central Electric Coop. | Overhead Wires |
| NL734 | Oacoma, SD | West Central Electric Coop. | Overhead Wires |
| NL735 | Oacoma, SD | NW Bell Telephone | Underground Wire |
| NL736 | Oacoma, SD | NW Bell Telephone | Underground Wire |
| NL737 | Oacoma, SD | Dave Gustafson & Co. | Underground Wire |
| NL738 | Reliance, SD | Hill Telephone Company | Overhead Wires |
| NL739 | Reliance, SD | Hill Telephone Company | Overhead Wires |
| NL740 | Reliance, SD | West Central Electric Coop. | Supply Lines |
| NL741 | Reliance, SD | Central Mix Conc. | Underground Wire |
| NL742 | Reliance, SD | NW Bell Telephone | Underground Wire |
| NL743 | Reliance, SD | NW Bell Telephone | Underground Wire |
| NL744 | Reliance, SD | NW Bell Telephone | Underground Wire |
| NL746 | Kennebec, SD | A.L. Freelove | Overhead Wires |
| NL747 | Kennebec, SD | J.F. Spotts | Overhead Wires |
| NL748 | Kennebec, SD | Kennebec Telephone | Overhead Wires |
| NL749 | Kennebec, SD | Kennebec Telephone | Underground Wire |
| NL750 | Kennebec, SD | Kennebec Telephone | Underground Wire |
| NL751 | Presho, SD | Travel Mix Inc. | Underground Wire |
| NL752 | Presho, SD | Travel Mix Inc. | Underground Wire |
| NL753 | Presho, SD | Travel Mix Inc. | Underground Wire |
| NL754 | Presho, SD | NW Bell Telephone | Underground Wire |
| NL755 | Presho, SD | NW Bell Telephone | Underground Wire |
| NL756 | Presho, SD | Dave Gustafson & Co. | Underground Wire |
| NL757 | Presho, SD | West Central Electric Coop. | Underground Wire |
| NL758 | Vivian, SD | L.G. Everist Co. | Underground Wire |
| NL759 | Vivian, SD | L.G. Everist Co. | Underground Wire |
| NL760 | Vivian, SD | Vivian Fort Pierre Telephone | Underground Wire |
| NL761 | Vivian, SD | Vivian Fort Pierre Telephone | Underground Wire |
| NL762 | Vivian, SD | West Central Electric Coop. | Underground Wire |
| NL763 | Vivian, SD | West Central Electric Coop. | Underground Wire |
| NL764 | Vivian, SD | West Central Electric Coop. | Underground Wire |
| NL765 | Vivian, SD | West Central Electric Coop. | Underground Wire |
| NL766 | Vivian, SD | Vivian Telephone Exchange | Underground Wire |
| NL767 | Vivian, SD | NW Bell Telephone | Underground Wire |
| NL768 | Vivian, SD | Vivian Telephone Exchange | Underground Wire |
| NL769 | Draper, SD | William French | Underground Wire |
| NL770 | Draper, SD | Central Electric & Gas | Underground Wire |
| NL771 | Murdo, SD | Travel Mix Inc. | Track Pit |
| NL772 | Murdo, SD | Travel Mix Inc. | Track Pit |
| NL773 | Murdo, SD | West Central Electric Coop. | Overhead Wires |
| NL774 | Murdo, SD | Central Electric & Gas | Overhead Wires |

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|-------|-----------------|---|------------------------------|
| NL775 | Murdo, SD | Central Electric & Gas | Overhead Wires |
| NL776 | Murdo, SD | West Central Electric Coop. | Overhead Wires |
| NL777 | Murdo, SD | NW Bell Telephone | Overhead Wires |
| NL778 | Okaton, SD | L.G. Everist Co. | Track Hopper |
| NL779 | Okaton, SD | West Central Electric Coop. | Overhead Wires |
| NL780 | Okaton, SD | West Central Electric Coop. | Overhead Wires |
| NL781 | Okaton, SD | Okaton Light & Power | Overhead Wires |
| NL782 | Okaton, SD | West Central Electric Coop. | Overhead Wires |
| NL783 | Stamford, SD | West Central Electric Coop. | Overhead Wires |
| NL784 | Stamford, SD | Sam Manke | Volt wind charger for sale |
| NL785 | Belvidere, SD | Belvidere Stockyards Assoc. | Platforms reduced clearances |
| NL786 | Belvidere, SD | Belvidere Telephone Company | Overhead Wires |
| NL787 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL788 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL789 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL790 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL791 | Kadoka, SD | American Oil Company | Underground Wire |
| NL792 | Kadoka, SD | Central Electric & Gas | Underground Wire |
| NL793 | Kadoka, SD | Kadoka Telephone Company | Overhead Wires |
| NL794 | Weta, SD | West Central Electric Coop. | Supply Lines |
| NL795 | Weta, SD | West Central Electric Coop. | Supply Lines |
| NL796 | Weta, SD | USA Dept. of Interior - Bureau of reclamation | Overhead Wires |
| NL797 | Interior, SD | Golden West Telephone Co. | Overhead Wires |
| NL798 | Interior, SD | West River Electric | Overhead Wires |
| NL799 | Interior, SD | Golden West Telephone Co. | Underground Wire |
| NL800 | Interior, SD | West River Electric | Underground Wire |
| NL801 | Imlay, SD | West River Electric | Overhead Wires |
| NL802 | Imlay, SD | West River Electric | Overhead Wires |
| NL803 | Imlay, SD | West River Electric | Overhead Wires |
| NL804 | Imlay, SD | Golden West Telephone Co. | Underground Wire |
| NL805 | Scenic, SD | NW Bell Telephone | Overhead Wires |
| NL806 | Scenic, SD | West River Electric | Overhead Wires |
| NL807 | Scenic, SD | Golden West Telephone Co. | Underground Wire |
| NL808 | Creston, SD | West River Electric | Overhead Wires |
| NL809 | Creston, SD | West River Electric | Underground Wire |
| NL810 | Creston, SD | NW Bell Telephone | Underground Wire |
| NL811 | Farmingdale, SD | Rapid River Gravel Company | Exchange of Gravel |
| NL812 | Farmingdale, SD | Sarah W. Wallman | Overhead Wires |
| NL813 | Farmingdale, SD | West River Electric | Overhead Wires |
| NL814 | Farmingdale, SD | West River Electric | Overhead Wires |
| NL815 | Farmingdale, SD | West River Electric | Overhead Wires |

| | | | |
|-------|-----------------|---|-------------------|
| NL816 | Farmingdale, SD | NW Bell Telephone | Underground Wire |
| NL817 | Farmingdale, SD | West River Electric | Overhead Wires |
| NL818 | Farmingdale, SD | West River Electric | Overhead Wires |
| NL819 | Farmingdale, SD | USA Dept. of Interior - Bureau of reclamation | Underground Wire |
| NL820 | Caputa, SD | West River Electric | Overhead Wires |
| NL821 | Murphy, SD | West River Electric | Underground Wire |
| NL822 | Murphy, SD | NW Bell Telephone | Underground Wire |
| NL823 | Murphy, SD | NW Bell Telephone | Underground Wire |
| NL824 | Murphy, SD | NW Bell Telephone | Underground Wire |
| NL825 | Rapid City, SD | Barber Transportation | Overhead Wires |
| NL826 | Rapid City, SD | Dakota Wyoming & Missouri | Overhead Wires |
| NL827 | Rapid City, SD | Dakota Pacific Ry CO. | Overhead Wires |
| NL828 | Rapid City, SD | Dakota Power Company | Overhead Wires |
| NL829 | Rapid City, SD | Black hills Power & Light Co. | Overhead Wires |
| NL830 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL831 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL833 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL834 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL835 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL836 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL837 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL838 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL839 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL840 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL841 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL842 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL843 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL905 | Murdo, SD | NW Bell Telephone | Underground Cable |
| NL906 | Vivian, SD | NW Bell Telephone | Underground Cable |
| NL928 | Kadoka, SD | West Central Electric Coop. | Overhead Wires |
| NL932 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL938 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL939 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL941 | Plankinton, SD | City of Plankinton | Underground Wire |
| NL945 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL946 | Kennebec, SD | West Central Electric Coop. | Overhead Wires |
| NL947 | Kennebec, SD | West Central Electric Coop. | Overhead Wires |
| NL948 | Murdo, SD | West Central Electric Coop. | Overhead Wires |
| NL949 | Mitchell, SD | West Central Electric Coop. | Underground Wire |
| NL955 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL956 | Chamberlain, SD | NW Bell Telephone | Underground Wire |

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| NL970 | Presho, SD | Hubbard Milling Company | Underground Wire |
| NL971 | Rapid City, SD | Rapid Cable TV | Overhead Wires |
| NL976 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL977 | Chamberlain, SD | NW Bell Telephone | Underground Wire |
| NL979 | Mitchell, SD | NW Bell Telephone | Overhead Wires |
| NL983 | Kadoka, SD | NW Bell Telephone | Overhead Wires |
| NL988 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL991 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL992 | Belvidere, SD | Golden West Telephone Co. | Underground Wire |
| NL993 | Belvidere, SD | Golden West Telephone Co. | Underground Wire |
| NL994 | Belvidere, SD | Golden West Telephone Co. | Underground Wire |
| NL997 | Chamberlain, SD | Fort Hale Telephone Company | Overhead Wires |
| NL998 | Chamberlain, SD | USA Dept. of Interior - Bureau of reclamation | Overhead Wires |
| NL1002 | Draper, SD | West Central Electric Coop. | Overhead Wires |
| NL1003 | Draper, SD | West Central Electric Coop. | Overhead Wires |
| NL1004 | Draper, SD | West Central Electric Coop. | Overhead Wires |
| NL1005 | Draper, SD | West Central Electric Coop. | Overhead Wires |
| NL1006 | Draper, SD | West Central Electric Coop. | Overhead Wires |
| NL1018 | Kadoka, SD | NW Bell Telephone | Underground Wire |
| NL1019 | Kadoka, SD | Golden West Telephone Co. | Underground Wire |
| NL1020 | Kennebec, SD | West Central Electric Coop. | Overhead Wires |
| NL1021 | Kennebec, SD | West Central Electric Coop. | Overhead Wires |
| NL1022 | Kennebec, SD | West Central Electric Coop. | Overhead Wires |
| NL1023 | Kennebec, SD | West Central Electric Coop. | Overhead Wires |
| NL1029 | Mitchell, SD | Isaac Spears | Ice Contract |
| NL1030 | Mitchell, SD | Ernest G. Wilson | Ice Contract |
| NL1031 | Mt. Vernon, SD | Museum of Pioneer Life | Remove/Donate |
| NL1032 | Murdo, SD | NW Bell Telephone | Overhead Wires |
| NL1033 | Murdo, SD | West Central Electric Coop. | Overhead Wires |
| NL1034 | Murdo, SD | NW Bell Telephone | Underground Wire |
| NL1035 | Murdo, SD | NW Bell Telephone | Underground Wire |
| NL1036 | Murdo, SD | NW Bell Telephone | Underground Wire |
| NL1037 | Murdo, SD | Dave Gustafson & Co. | Track Pit |
| NL1038 | Murdo, SD | Woodrich Construction | Conveyor |
| NL1039 | Murdo, SD | Anderson Gas & Appliance | Tower |
| NL1043 | Pukwana, SD | Pukwana Light & Power | Overhead Wires |
| NL1044 | Presho, SD | Ted Wagner | Underground Wire |
| NL1046 | Reliance, SD | Ready Mix Company | Underground Wire |
| NL1057 | Rapid City, SD | Chicago & Northwestern Railway Co. | Overhead Wires |
| NL1058 | Rapid City, SD | NW Bell Telephone | Underground Wire |
| NL1063 | Mt. Vernon, SD | Sanborn Telephone Coop. | Underground Wire |
| NL1067 | Kimball, SD | Midstate Telephone Co. | Underground Wire |

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| NL1075 | Mitchell, SD | Northwestern Public Service | Underground Wire |
| NL1088 | White Lake, SD | Midstate Telephone Co. | Underground Wire |
| NL1089 | White Lake, SD | Midstate Telephone Co. | Underground Wire |
| NL1093 | Mitchell, SD | NW Bell Telephone | Underground Wire |
| NL1097 | Mitchell, SD | Northwestern Public Service | Underground Wire |
| NL1104 | Mitchell, SD | US West | Underground Wire |
| NL1107 | Mitchell, SD | Northwestern Public Service | Overhead Wires |
| NL1114 | Mitchell, SD | US West | Overhead Wires |
| NL1126 | Mitchell, SD | US West | Underground Wire |
| NL1127 | Murdo, SD | US West | Overhead Wires |
| NL1133 | Mitchell, SD | US West | Underground Wire |
| NL1137 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL1138 | Murdo, SD | US West | Underground Wire |
| NL1143 | Mt. Vernon, SD | South Dakota Network Inc. | Underground Wire |
| NL1144 | Plankinton, SD | South Dakota Network Inc. | Underground Wire |
| NL1151 | Mitchell, SD | South Dakota Network Inc. | Underground Wire |
| NL1158 | Mitchell, SD | South Dakota Network Inc. | Underground Wire |
| NL1163 | Mitchell, SD | Sioux Falls Cable TV | Underground Wire |
| NL1164 | Chamberlain, SD | SD Dept. Of Transportation | Overhead Wires |
| NL1167 | Rapid City, SD | West River Electric | Overhead Wires |
| NL1170 | Belvidere, SD | Golden West Telephone Co. | Underground Wire |
| NL1175 | Oacoma, SD | West Central Electric Coop. | Overhead Wires |
| NL1177 | Kimball, SD | Midstate Telephone Co. | Overhead Wires |
| NL1178 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL1179 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL1181 | Mitchell, SD | US West | Underground Wire |
| NL1188 | Rapid City, SD | Black hills Power & Light Co. | Overhead Wires |
| NL1189 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL1193 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL1194 | Mitchell, SD | Sanborn Telephone Coop. | Underground Wire |
| NL1197 | Chamberlain, SD | Northwestern Public Service | Overhead Wires |
| NL1202 | Mitchell, SD | Sioux Falls Cable TV | Underground Wire |
| NL1203 | Plankinton, SD | Sioux Falls Cable TV | Underground Wire |
| NL1206 | Chamberlain, SD | US West | Underground Wire |
| NL1208 | Mitchell, SD | US West | Underground Wire |
| NL1209 | Mitchell, SD | Sioux Falls Cable TV | Overhead Wires |
| NL1213 | Mitchell, SD | US West | Underground Wire |
| NL1214 | Pukwana, SD | Midstate Telephone Co. | Underground Wire |
| NL1215 | Kimball, SD | Midstate Telephone Co. | Underground Wire |
| NL1217 | Pukwana, SD | Midstate Telephone Co. | Underground Wire |
| NL1224 | Plankinton, SD | Sioux Valley Telephone | Underground Wire |

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| NL1225 | Plankinton, SD | Sioux Valley Telephone | Underground Wire |
| NL1230 | Murdo, SD | GWS Inc. | Underground Wire |
| NL1231 | Murdo, SD | GWS Inc. | Overhead Wires |
| NL1238 | Vivian, SD | Kennebec Telephone | Overhead Wires |
| NL1239 | Presho, SD | Kennebec Telephone | Overhead Wires |
| NL1241 | Betts, SD | Intercounty Electric Assn. | Underground Wire |
| NL1259 | Kimball, SD | Northwestern Public Service | Overhead Wires |
| NL1267 | Plankinton, SD | Tri County Electric Assoc. Inc | Overhead Wires |
| NL1268 | Plankinton, SD | Tri County Electric Assoc. Inc | Overhead Wires |
| NL1276 | Reliance, SD | Golden West Telephone Co. | Underground Wire |
| NL1285 | Mitchell, SD | Dakota Telecom. Group Inc | Underground Wire |
| NL1320 | Belvidere, SD | West Central Electric Coop. | Overhead Wires |
| NL1325 | Mt. Vernon, SD | Sanborn Telephone Coop. | Underground Wire |
| NL1362 | Presho, SD | West Central Electric Coop. | Overhead Wires |
| NL1363 | White Lake, SD | Midstate Telephone Co. | Underground Wire |
| NL1364 | Pukwana, SD | Midstate Telephone Co. | Underground Wire |
| NL1365 | Belvidere, SD | Performance Development | Underground Wire |
| NL1366 | White Lake, SD | Central Electric of Mitchell | Underground Wire |
| NL1369 A | Mt. Vernon, SD | Santel Communications | Underground Wire |
| NL1369 B | Mt. Vernon, SD | Santel Communications | Underground Wire |
| NL1370 A | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 B | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 C | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 D | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 E | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 F | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 G | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1370 H | Okaton, SD | Golden West Telephone Co. | Underground Wire |
| NL1373 | Mitchell, SD | Qwest | Underground Wire |
| NL1378 | Mitchell, SD | Qwest | Underground Wire |
| NL1391 | Mitchell, SD | MidCo | Underground Wire |
| NL1395 | Mitchell, SD | MidCo | Underground Wire |
| NL1412 | Rapid City, SD | Basin Electric Power Coop | Overhead Wires |
| NL1413 | Rapid City, SD | Qwest | Overhead Wires |
| NL1417 | Rapid City, SD | Sam Com Inc | Overhead Wires |
| NL1418 A | Mitchell, SD | Sam Com Inc | Underground Wire |
| NL1418 B | Mitchell, SD | Sam Com Inc | Underground Wire |
| NL1430 | Reliance, SD | Golden West Telephone Co. | Underground Wire |
| NL1431 | Reliance, SD | Golden West Telephone Co. | Underground Wire |
| NL1536 | Belvidere, SD | Golden West Communication | Underground Cable |
| NL1538 | Belvidere, SD | Golden West Communication | Underground Cable |
| NL1535 | Belvidere, SD | Golden West Telecommunication | Underground Cable |
| NL1537 | Belvidere, SD | Golden West Telecommunication | Underground Cable |

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| NL1540 | Belvidere, SD | Golden West Communication | Underground Cable |
| NL1541 | Belvidere, SD | Golden West Communication | Underground Cable |
| NL1542 | Belvidere, SD | Golden West Communication | Underground Cable |
| NL1485 | Chamberlain, SD | Midstate Communications | Underground Cable |
| NL1486 | Chamberlain, SD | Midstate Communications | Underground Cable |
| NL1488 | Chamberlain, SD | Midstate Communications | Underground Cable |
| NL1489 | Chamberlain, SD | Midstate Communications | Underground Cable |
| NL1557 | Draper, SD | West Central Electric Cooperative | Underground Cable |
| NL1459 | Farmingdale, SD | West River Electric Assoc. | Overhead wire |
| NL1532 | Interior, SD | Golden West Telephone Company | Underground Cable |
| NL1478 | Kadoka, SD | Golden West | Underground Cable |
| NL1479 | Kadoka, SD | Golden West | Underground Cable |
| NL1461 | Kennebec, SD | West Central Electric Cooperative | Overhead wire |
| NL1469 | Kennebec, SD | Kennebec Telephone Company | Underground Cable |
| NL1471 | Kennebec, SD | Kennebec Telephone Company | Underground Cable |
| NL1539 | Kimball, SD | Midstate Communications | Underground Cable |
| NL1565 | Imlay, SD | Golden West Telecommunication | Underground Cable |
| NL1439 | Mitchell, SD | SND Communications | Underground Cable |
| NL1452 | Mitchell, SD | South Dakota Network | Underground Cable |
| NL1490 | Mt. Vernon, SD | Santel Communications Coop. | Underground Cable |
| NL1491 | Mt. Vernon, SD | Santel Communications Coop. | Underground Cable |
| NL1492 | Mt. Vernon, SD | Santel Communications Coop. | Underground Cable |
| NL1493 | Mt. Vernon, SD | Santel Communications Coop. | Underground Cable |
| NL1571 | Murdo, SD | West Central Electric Cooperative | Underground Cable |
| NL1451 | Oacoma, SD | Golden West Telecommunication | Underground Cable |
| NL1484 | Oacoma, SD | Midstate Communications | Underground Cable |
| NL1487 | Oacoma, SD | Midstate Communications | Underground Cable |
| NL1467 | Okaton, SD | Golden West Communication | Underground Cable |
| NL1463 | Plankinton, SD | Golden West Telecommunication | Underground Cable |
| NL1464 | Plankinton, SD | Golden West Telecommunication | Underground Cable |
| NL1477 | Plankinton, SD | Golden West Telecommunication | Underground Cable |
| NL1481 | Plankinton, SD | Golden West Telecommunication | Underground Cable |
| NL1494 | Plankinton, SD | Santel Communications Coop. | Underground Cable |
| NL1531 | Plankinton, SD | Golden West Telecommunication | Public Crossing |
| NL1500 | Pukwana, SD | Midstate Communications | Underground Cable |
| NL1501 | Pukwana, SD | Midstate Communications | Underground Cable |
| NL1502 | Pukwana, SD | Midstate Communications | Underground Cable |
| NL1442 | Rapid City, SD | West River Electric Association Inc. | Underground Cable |
| NL1445 | Rapid City, SD | West River Electric Association Inc. | Overhead wire |
| NL1450 | Rapid City, SD | Golden West Communication | Underground Cable |
| NL1455 | Rapid City, SD | Golden West Communication | Underground Cable |

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| NL1456 | Rapid City, SD | West River Electric Association Inc. | Overhead wire |
| NL1457 | Rapid City, SD | West River Electric Association Inc. | Overhead wire |
| NL1458 | Rapid City, SD | West River Electric Association Inc. | Overhead wire |
| NL1476 | Rapid City, SD | SD Network LLC | Underground Cable |
| NL1495 | Rapid City, SD | City of Rapid City | Underground Cable |
| NL1550 | Rapid City, SD | WAPA UGP SDMO | Overhead wire |
| NL1543 | Stamford, SD | Golden West Communication | Underground Cable |
| NL1499 | White Lake, SD | Midstate Communications | Underground Cable |
| NL1503 | White Lake, SD | Midstate Communications | Underground Cable |
| NL1434 | Presho, SD | West Central Electric Cooperative | Overhead wire |
| NL1462 | Presho, SD | West Central Electric Cooperative | Overhead wire |
| NL1470 | Presho, SD | Kennebec Telephone Company | Underground Cable |
| PL109 | Mitchell, SD | Weinstein International | Private Right of Entry |
| PL327 | Oacoma, SD | City of Oacoma | Private Right of Entry |
| PL106 | Imlay, SD | SD Dept. Of Transportation | Private Right of Entry |
| PL108 | Imlay, SD | SD Dept. Of Transportation | Private Right of Entry |
| PL109 | Mitchell, SD | Corn Palace North main AG Committee | Private Right of Entry |
| PL110 | Imlay, SD | SD Dept. Of Transportation | Private Right of Entry |
| PL111 | Mitchell, SD | City of Mitchell | Private Right of Entry |
| PL116 | Kennebec, SD | Construction Services | Right of Entry for batch plant |
| PL128 | Mitchell, SD | City of Mitchell | Dump Snow |
| PL131 | Mitchell, SD | City of Mitchell | Dike & Sitting Pond |
| PL133 | Mitchell, SD to Chamberlain, SD | Dakota Southern Railway | Track Repairs |
| PL139 | Mitchell, SD | SD Dept. Of Transportation | ROE Rubber Xing Sec. 22 & 27 |
| PL140 | Mitchell, SD | SD Dept. Of Transportation | Temp ROE Super Span Sec. 23 |
| PL141 | Mitchell, SD | SD Dept. Of Transportation | ROE Super Span Sec. 23 & 26 |
| PL150 | Mitchell, SD | SD Dept. Of Transportation | RR Structure Burr Street |
| PL151 | Mitchell, SD | SD Dept. Of Transportation | RR Structure Burr Street |
| PL152 | Mitchell, SD | City of Mitchell | Clear Brush |
| PL159 | Mitchell, SD | Boyd or Kay Reimnitz | Road Access |
| PL168 | Rapid City, SD | SD Dept. Of transportation | Placing Gravel over tracks/ Twilight Drive |
| PL169 | Rapid City, SD | Twin City Testing | Bore Test holes |
| PL172 | Oacoma, SD | Town of Oacoma | Construct Sewer pods |
| PL174 | Mitchell, SD | Davison County | Clean ROW |
| PL175 | Mitchell, SD | Twin City Testing | Test bore |
| PL186 | Chamberlain, SD | Steven Thomas | ROE Removal of dirt |
| PL188 | Oacoma, SD | City of Oacoma | ROE Drainage Ditch |
| PL199 | Kadoka, SD | City of Kadoka Easement | Private Right of Entry |
| PL200 | Rapid City, SD | SD Dept. Of transportation | Private Right of Entry |
| PL205 | Mitchell, SD | SD Dept. Of transportation | Temp ROE |
| PL206 | Mitchell, SD | SD Dept. Of transportation | Perm ROE |

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| PL207 | Mitchell, SD | SD Dept. Of transportation | Perm ROE |
| PL208 | Mitchell, SD | SD Dept. Of transportation | Temp ROE |
| PL214 | Chamberlain, SD | Steven Thomas | Temp ROE Dirt Removal |
| PL223 | Mitchell, SD | SD Dept. Of transportation | Temp entry & bridge const. |
| PL233A | Plankinton, SD | SD Dept. Of transportation | Hwy 281 Xing |
| PL233B | Rapid City, SD | SD Dept. Of transportation | Temp ROE |
| PL238 | Rapid City, SD | Bankwest | Temp ROE |
| PL239 | Mitchell, SD | SPN of Mitchell | Temp ROE for TOPO Surveying |
| PL248 | Rapid City, SD | Bart Hamm | Temp ROE Liability waiver to cross bridge |
| PL279 | Scenic, SD | Dayco Limited | Temp ROE Liability waiver to cross bridge |
| PL252 | Rapid City, SD | Stephen Bulle | Temp ROE Liability waiver to cross bridge |
| PL254 | Rapid City, SD | Don Rice | Temp Stockpile |
| PL256 | Rapid City, SD | M&G Oil Company | Temp ROE Drill wells and Samuel |
| PL257 | Caputa, SD | Don Mann Enterprises, Inc. | Temp ROE to South Railroad bed |
| PL259 | Mt. Vernon, SD | Farmers Elevator co of Mt. Vernon | Temp ROE to DIA for & plug old sewer line |
| PL260 | Kennebec, SD | SD Wheat Growers of Kennebec | Spotting crane for bin repair between main and house |
| PL263 | Chamberlain, SD | Dakota Rentals | Recover Slough dirt from RR Row |
| PL264 | Chamberlain, SD | James Lindley | Move dirt & fill cracks in slough area |
| PL265 | Presho, SD | City of Presho | Storm water Drainage ditch 25' from CL of Mainline |
| PL268 | Kadoka, SD | Pearl Motel | Temporary right of entry for event |
| PL269 | Kadoka, SD | Midwest Coop | Fill track section with gravel on elevator track |
| PL270 | Chamberlain, SD | Chamberlain/Oacoma Gun Club | 25-foot ROE for Access Road |
| PL271 | Kadoka, SD | Future Focus Consulting | Rail to Trail Study Mako Sicca Trail |
| PL272 | Chamberlain, SD | Midland Contracting Inc. | Remove Borrow Dirt from Extra Width Property |
| PL273 | Mt. Vernon, SD | Bruce Martin | Clean Trees under Brush & Clean RR Ditch |
| PL275 | Rapid City, SD | Donald and Phillis Rice | TROE to temporarily pile topsoil on RRROW in RC |
| PL276 | Chamberlain, SD | National Salvage & Service Corporation | TROE for MRC salvage post tiger II |
| PL277 | Caputa, SD | Phillips Construction | TROE to repair Irrigation system Drainage |
| PL278 | White Lake, SD | Vander Pol Dragline, Inc. | TROE for riprap project on interstate bridge @MP 411 |
| PL279 | Chamberlain, SD | Lloyd Priebe & sons Const. | Remove Borrow From extra with property south of sale barn |
| PL280 | Oacoma, SD | SD DOT Materials and Surfacing | Borings for ground slump |
| PL284 | Chamberlain, SD | City of Chamberlain | Remove Borrow From extra width property south of sale barn |
| PL285 | Plankinton, SD | Aurora County | Permanent ROE sidewalk for School kids |
| PL286 | Rapid City, SD | American Colloid co. Division of Minerals Teckrulog Inc. | Temporary ROE for access to maple St. Yard |
| PL287 | Reliance, SD | Reliance Railroad, LLC | Permanent Roe for Siding Adjoining State Row |
| PL288 | Oacoma, SD | City of Oacoma | Temp ROE to Upgrade Sewer line and manholes |
| PL290 | White Lake, SD | City of White Lake | TROE to Extend Culver & Widen Street for safe passing |
| PL291 | Rapid City, SD | City of Rapid City | TROE to Mill & overlay Jolly lane and Remove Rail |
| PL293 | Rapid City, SD | SD Dept. Of transportation | Survey crew should widen project 2024 |

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| PL296 | Rapid City, SD | Dakota Mill and Grain | Right of Entry for culvert and shoulder work |
| PL305 | Mt. Vernon, SD | Santel Communications | Boring fiber optic under railroad |
| PL306 | Mt. Vernon, SD | Santel Communications | Boring fiber optic under railroad |
| PL307 | Mitchell, SD | City of Mitchell | Boring fiber optic under railroad |
| PL308 | Chamberlain, SD | SD Dept. Of transportation | Temp Right of Entry |
| PM110 | Town of Oacoma | Oacoma, SD | Property Maintenance Agreement |
| PM111 | Town of Kennebec | Kennebec, SD | Property Maintenance Agreement |
| PM112 | Town of Presho | Presho, SD | Property Maintenance Agreement |
| PM113 | Town of Draper | Draper, SD | Property Maintenance Agreement |
| PM114 | City of Murdo | Murdo, SD | Property Maintenance Agreement |
| PM115 | Town of Belvidere | Belvidere, SD | Property Maintenance Agreement |
| PM116 | Town of Interior | Interior, SD | Property Maintenance Agreement |
| PM117 | Town of Reliance | Reliance, SD | Property Maintenance Agreement |
| PM118 | City of Kadoka | Kadoka, SD | Property Maintenance Agreement |
| PM137 | City of Parkston | Parkston, SD | Property Maintenance Agreement |
| PM140 | Pennington County | Rapid City, SD | PMA - Weed spray |
| PM142 | Pennington County | Rapid City, SD | PMA - Weed spray |
| RE1 | State of South Dakota --DOT | Aurora Co Easement with SD DOT | R/W |
| RE10 | State of South Dakota -- 5502 | Brule | R/W |
| RE11 | SD Sate Highway Commission -- 5876 | Brule | Roadway & Sidewalk |
| RE12 | Chamberlain -- 5902 | Brule | Roadway & Sidewalk |
| RE22 | City of Mitchell -- 12527 | Davison | Roadway |
| RE23 | City of Mitchell -- 12562 | Davison | Sewer line - R/W |
| RE24 | Mitchell Sanitary Rendering Co - 12608 | Davison | Sewer line - R/W |
| RE25 | C.M. ST. P&P Co. - 12670 | Davison | Highway Relocation near Mitchell |
| RE37 | City of Rapid City - 38039 | Pennington | R/W |
| SL129 | Mitchell, SD | Bresnahan | Spur Track |
| SL130 | Mitchell, SD | NWPS | Spur Track |
| SL131 | Mitchell, SD | F.H. Winsor | Industry Track |
| SL132 | Mitchell, SD | Mouse House Inc. | 499' Track |
| SL133 | Mitchell, SD | Pricilla Cohrt | Spur Track |
| SL134 | Mitchell, SD | American Oil Company | Industry Track |
| SL135 | Mitchell, SD | Robert Burns Lumber Co. | Spur Track |
| SL136 | Mitchell, SD | Dakota Acceptance & Warehouse Co. | 517' Track |
| SL137 | Mitchell, SD | C &T Warehouse Co. Inc | 410' Industry Track |
| SL138 | Mitchell, SD | C &T Warehouse Co. Inc | 145' Track |
| SL139 | Mitchell, SD | C &T Warehouse Co. Inc | 443' Track |

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| SL140 | Mitchell, SD | Ronnie's Salvage Co. | 445' Track |
| SL141 | Plankinton, SD | Western Contracting Corp | 5160' Track |
| SL142 | Plankinton, SD | Highway Construction Co. | 4600' Track |
| SL143 | Kimball, SD | Northwestern Engr. Co. | 3863' Track |
| SL144 | Kimball, SD | Northwestern Engr. Co. | 3885' Track |
| SL145 | Chamberlain, SD | J.H. Lindekugel & sons | 400' Track |
| SL146 | Chamberlain, SD | Guy H. James Construction | 3200' Track |
| SL147 | Chamberlain, SD | Chamberlain Wholesale Grocery | Industry Track |
| SL181 | Mitchell, SD | SD Concrete Products Co. | 445' Track/ Spur Track |
| SL182 | Mitchell, SD | Farmers Union Coop Assoc. | 50' Track |
| SL183 | Mitchell, SD | Farmers Union Coop Assoc. | 15' Constr. 564' Maintenance & operations. |
| SL197 | Reliance, SD | Dave Gustafson Construction Co. | 952' Industry Track |
| SL198 | Vivian, SD | Dave Gustafson Construction Co. | 1025' Industry Track |
| SL199 | Murdo, SD | Town & County Gas Co. | 250' Track |
| SL200 | Okaton, SD | L.G. Everist & Dave Gustafson | 3292' Industry Track |
| SL201 | Creston, SD | L.G. Everist | 1910' Industry Track |
| SL202 | Rapid City, SD | Rapid Valley Steel Co. | 363' Industry Track |
| SL203 | Rapid City, SD | Texaco Inc. | 985' Industry Track |
| SL204 | Rapid City, SD | Rushmore Homes | 740' Industry Track |
| SL205 | Rapid City, SD | Col. Gas - Rapid City, Inc. | 778' Industry Track |
| SL206 | Rapid City, SD | Robins & Stearns Lumber Co. | 825' Industry Track |
| SL207 | Rapid City, SD | Northwestern Bell Telephone | Spur Track |
| SL208 | Rapid City, SD | BH Power & Light Co. | 228' Spur Track btwn Cross & Central St. |
| SL209 | Rapid City, SD | BH Power & Light Co. | 328' Spur Track @ 12th Street |
| SL210 | Rapid City, SD | Dakotah Packing Co. | Industry Track |
| SL211 | Rapid City, SD | Ziegler Building Center | 540' Industry Track |
| SL212 | Rapid City, SD | Kinecht Lumber Co. | 280' Industry Track |
| SL213 | Rapid City, SD | Gifford & Johnson Inc. | 92' Industry Track |
| SL214 | Rapid City, SD | BH Albright Wholesale Grocery Co. | Spur Track |
| SL215 | Rapid City, SD | BH Packing Co. & Warren Lamb Co. | 3071' Industry Track |
| SL216 | Rapid City, SD | Marsh Wholesale Foods, Inc. | Industry Track |
| SL230 | Stamford, SD | Dave Gustafson Construction Co. | 1300' Track |
| SL240 | Caputa, SD | Eugene Holcomb | Spur Track |
| SL241 | Chamberlain, SD | Chamberlain Investment Co. | Spur Track |
| SL243 | Kimball, SD | Kimball Milling Co. | Private Sidetrack |
| SL245 | Mitchell, SD | Mitchell Brick & Tile Works | Spur Track |
| SL246 | Mitchell, SD | Robert Lytle Company | Spur Track |
| SL247 | Mitchell, SD | Manhattan Oil Company | Spur Track |
| SL248 | Mitchell, SD | Dakota Silo Company | Spur Track |
| SL249 | Mitchell, SD | Barnard, Giles & Moses | Industry Track |
| SL250 | Murdo, SD | Woodrich Construction Co. | Industry Track |

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| SL260 | Oacoma, SD | SD State Hwy Commission | Spur Track & Gravel Pit |
| SL261 | Oacoma, SD | Highway Construction Co. | Spur Track |
| T185 | Mt. Vernon, SD | Farmers Elevator Co. | Track Lease |
| T205 | Mitchell, SD | Farmers Elevator Co. | Track Lease |
| T220 | Reliance, SD | Farmers Elevator Co. | Track Lease |
| T221 | Draper, SD | Cenex Harvest States Coop | Track Lease |
| T222 | Kennebec, SD | Farmers Elevator Co. | Track Lease |
| T223 | Kadoka, SD | Cenex Harvest States Coop | Track Lease |
| T227 | White Lake, SD | White Lake Grain & Seed | Track Lease |
| T228 | Plankinton, SD | Jensen Grain Co. | Track Lease |
| T230 | Kadoka, SD | Cenex Harvest States Coop | Track Lease |
| T233 | Chamberlain, SD | Farmers Elevator Co. | Track Lease |
| T234 | Chamberlain, SD | Redi-Mix Inc. | Track Lease |
| T238 | Chamberlain, SD | Harvest States Coop. | Track Lease |
| T259 | Murdo, SD | Dakota Mill & Grain | Track Lease |
| T260 | Presho, SD | Dakota Mill & Grain | Track Lease |
| T269 | Vivian, SD | Dakotaland Bird Seed Co. | Track Lease |
| TL117 | Rapid City | C & NW RY CO T849 | Side Track Xing |
| TL118 | Rapid City | C & NW RY CO T848 | Interchange Track |
| TR115 | Rapid City | Dakota Southern; Railway Co. | Track removal for relay materials to put in eastern end of MRC |
| VL102 | Mitchell, SD | City of Mitchell | Crossing W. 5th Avenue |
| VL103 | Rapid City, SD | City of Rapid City | Sedivy Lane |
| VL132 | Mitchell, SD | City of Mitchell | St. Xing under tracks |
| VL133 | Mitchell, SD | City of Mitchell | Not to open St. across ROW |
| VL134 | Mitchell, SD | City of Mitchell | Renewal of bridges |
| VL135 | Mitchell, SD | SD Highway Comm. | Reconstruct of old bridge |
| VL136 | Mitchell, SD | State of SD | Auto Manual Control Signals |
| VL137 | Mitchell, SD | State of SD | Constr. Contract for bridge |
| VL138 | Mitchell, SD | State of SD; City of Mitchell | Grade Xing, adj. Of communications Line |
| VL139 | Plankinton, SD | State of SD | Reconstruction of US 281 Xing |
| VL140 | Plankinton, SD | State of SD; Dept. of Trans, Div. of Hwys | Xing rehab |
| VL141 | Plankinton, SD | State of SD; Dept. of Trans, Div. of Hwys | Signals at main street |
| VL142 | Mt. Vernon, SD | State of SD | Auto Manual Control Signals |
| VL143 | White Lake, SD | State of SD | Signals |
| VL144 | White Lake, SD | State of SD | Xing Protection |
| VL145 | Chamberlain, SD | White River Valley Railway | Construct a Bridge |
| VL146 | Chamberlain, SD | S War Dept. | Embankment enlarge bridge |
| VL147 | Chamberlain, SD | City of Chamberlain | Const of wagon road |
| VL148 | Chamberlain, SD | M.J. King J.I. King & Wife | Pontoon Bridge |
| VL149 | Chamberlain, SD | US War Dept. | Current Retain. In Bridge Missouri R Bridge |
| VL150 | Chamberlain, SD | State of SD | Auto Manual Control Signals |
| VL151 | Chamberlain, SD | State of SD - State of Hwy Comm | OH Bridge |

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| VL152 | Chamberlain, SD | Richard F Kelly; John W. Larson | Priv. Grade Xing Extend of RR Culvert |
| VL153 | Chamberlain, SD | State of SD; Dept. Hwys | Super Structure over RR tracks |
| VL213 | Oacoma, SD | SD State Highway Comm. | OH Bridge |
| VL214 | Oacoma, SD | SD State of Highways | Drainage Hwy Bridge |
| VL215 | Vivian, SD | SD State Highway Comm. | Signals |
| VL216 | Vivian, SD | State Hwy Comm of SD | Signals |
| VL217 | Okaton, SD | SD State Hwy Comm | OH Bridge |
| VL218 | Imlay, SD | SD Dept of Trans Div. of Hwys | Xing Protection |
| VL219 | Scenic, SD | SD (State Hwy Com) | Xing Protection |
| VL220 | Rapid City, SD | Chicago& Northwestern Ry Co. | Signals |
| VL221 | Rapid City, SD | SD Hwy Comm | Signals |
| VL222 | Rapid City, SD | SD State Hwy Comm | Track Changes |
| VL223 | Rapid City, SD | State of SD | Xing Protection |
| VL224 | Rapid City, SD | SD Div. of Highways | Industry Track |
| VL225 | Rapid City, SD | SD Dept. of Transportation, Div. of Highways | Reconstruct Street Xing |
| VL233 | Lyman, SD | State of SD | Xing signal protection |
| VL234 | Kadoka, SD | State of SD | Reconstruction of Xing |
| VL237 | Kennebec, SD | State of SD Hwy Comm | improve grade Xing |
| VL238 | Murdo, SD | SD Dept of Highways | 2 Hwy OH Bridges Borrow |
| VL239 | Kadoka, SD | SD State Hwy Comm | Track raise & Reconstruction Xing |
| VL243 | Rapid City, SD | SD Dept. of Transportation | Removal of Xing |
| VL244 | Rapid City, SD | SD Dept. of Transportation | Removal of Xing |
| VL262 | Rapid City, SD | Yasmeen Dream LLC. IE Hani Shafni | public at grade crossing with removal until reactivation |
| VL264 | Presho, SD | Casey Griffith | Public at grade crossing 16' timber |
| VL265 | Rapid City, SD | City of Rapid City | Bike trail along Campbell St. |
| WL 506 | Belvidere, SD | Schmidt & Larson | Potable Water |
| WL 507 | Belvidere, SD | Belvidere Coop Creamery Co | Sanitary Sewer |
| WL 711 | Belvidere, SD | Town of Belvidere | Water Line |
| WL 712 | Belvidere, SD | C.V. Brunson | Water Line |
| WL 880 | Belvidere, SD | City of Belvidere | Water Line |
| WL 1017 | Belvidere, SD | West River/Lyman-Jones RWS | Water Line |
| WL 1024 | Belvidere, SD | West River/Lyman-Jones RWS | Water Line |
| WL 1074 | Belvidere, SD | West River/Lyman-Jones RWS | Water Line |
| WL 708 | Betts, SD | Davison RWS | Potable Water |
| WL 1112 | Chamberlain, SD | Lloyd Priebe & Sons | Potable Water |
| WL 514 | Creston, SD | Peter Lemley | Pipeline |
| WL 515 | Creston, SD | Edward Swinehart | Potable Water |
| WL 501 | Draper, SD | C.W. Nies | Pipeline |
| WL714 | Draper, SD | City of Draper | Water Line |
| WL 715 | Draper, SD | City of Draper | Sanitary sewer |
| WL 1099 | Draper, SD | Trans Canada Projects | Crude Oil |

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| WL 990 | Draper, SD | West River/Lyman-Jones | Water Line |
| WL 993 | Draper, SD | Oglala Sioux RWS | Water Line |
| WL 516 | Farmingdale, SD | State DOT - Highways | Water Line |
| WL 718 | Farmingdale, SD | Adolph Mallman | Drainage Pipe |
| WL 509 | Interior, SD | Dept of Interior Nat. Parks Service | Potable Water |
| WL 510 | Interior, SD | Leo Harkin | Potable Water |
| WL 511 | Interior, SD | Jesse Baysinger | Potable Water |
| WL 512 | Interior, SD | Julius Saunders | Potable Water |
| WL 657 | Interior, SD | West River/Lyman-Jones RWS | Water Line |
| WL 719 | Interior, SD | Town of Interior | Water Line |
| WL 958 | Interior, SD | West River/Lyman-Jones RWS | Water Line |
| WL 508 | Kadoka, SD | Village of Kadoka | Water Line |
| WL 720 | Kadoka, SD | Charles M Ainslie | Water Line |
| WL 1042 | Kadoka, SD | Oglala Sioux Tribe | Potable Water |
| WL 1082 | Kadoka, SD | Roxanne Britton | Water Line |
| WL 1092 | Kadoka, SD | Oglala Sioux Tribe | Potable Water |
| WL 485 | Kennebec, SD | William J. Ryan | Sanitary Sewer |
| WL 486 | Kennebec, SD | Standard Oil Company | Pipeline |
| WL 487 | Kennebec, SD | City of Kennebec | Potable Water |
| WL 488 | Kennebec, SD | State Hwy Commission | Gas Line |
| WL 489 | Kennebec, SD | West River Oil Company | Gas Line |
| WL 721 | Kennebec, SD | William Anderson | Water Line |
| WL 722 | Kennebec, SD | Walter Lloyd | Water Line |
| WL 723 | Kennebec, SD | John Mc Brayer | Water Line |
| WL 724 | Kennebec, SD | Ronald Moore | Water Line |
| WL 725 | Kennebec, SD | Walter Lloyd | Sanitary Sewer |
| WL 1002 | Kennebec, SD | West River / Lyman-Jones | Water Line |
| WL 1004 | Kennebec, SD | Lower Brule RWS | Potable Water |
| WL 696 | Kimball, SD | Aurora-Brule Rural Water System | Potable Water |
| WL 856 | Kimball, SD | City of Kimball | Water Line |
| WL 857 | Kimball, SD | City of Kimball | Water Line |
| WL 1081 | Kimball, SD | City of Kimball | Sanitary Sewer |
| WL 1104 | Kimball, SD | Aurora-Brule Rural Water System | Water Line |
| WL230 | Mitchell, SD | Northwestern Energy | Drainage Pipe |
| WL 708 | Mitchell, SD | Davison RWS | Water Line |
| WL 753 | Mitchell, SD | City of Mitchell | Storm Sewer line |
| WL 835 | Mitchell, SD | Davison RWS | Water Line |
| WL 858 | Mitchell, SD | City of Mitchell | Potable Water |
| WL 907 | Mitchell, SD | SD DOT | Gas Line |
| WL 908 | Mitchell, SD | Davison RWS | Water Line |
| WL 1037 | Mitchell, SD | City of Mitchell | Water Line |
| WL 855 | Mt. Vernon, SD | Northwestern Energy | Gas Line |

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| WL 943 | Mt. Vernon, SD | Davison County | Water Line |
| WL 1019 | Mt. Vernon, SD | City of Mount Vernon | Water Line |
| WL 502 | Murdo, SD | City of Murdo | Water Line |
| WL 503 | Murdo, SD | City of Murdo | Water Line |
| WL 504 | Murdo, SD | City of Murdo | Potable Water |
| WL 505 | Murdo, SD | City of Murdo | Water Line |
| WL 560 | Murdo, SD | Everett Zaugg & Robert Bak | Pipeline |
| WL 729 | Murdo, SD | City of Murdo | Sanitary Sewer |
| WL 730 | Murdo, SD | City of Murdo | Water Line |
| WL 731 | Murdo, SD | City of Murdo | Water Line |
| WL 798 | Murdo, SD | Jones County Hwy Dept | Water Line |
| WL 836 | Murdo, SD | Smith Livestock Supply | Sanitary Sewer |
| WL 1005 | Murdo, SD | Rosebud RWS | Water Line |
| WL 1052 | Murdo, SD | West River/Lyman-Jones Rural Water Supply | Potable Water |
| WL 1062 | Murdo, SD | Oglala Sioux Tribe | Potable Water |
| WL 475 | Oacoma, SD | E.S Carpenter | Water Line |
| WL 476 | Oacoma, SD | City of Oacoma | Water Line |
| WL 622 | Oacoma, SD | Town of Oacoma | Sanitary Sewer |
| WL 741 | Oacoma, SD | Town of Oacoma | Sanitary Sewer |
| WL 834 | Oacoma, SD | Town of Oacoma | Water Line |
| WL 859 | Oacoma, SD | Town of Oacoma | Water Line |
| WL 897 | Oacoma, SD | US West communication | Gas Line |
| WL 922 | Oacoma, SD | West River/Lyman-Jones | Sanitary Sewer |
| WL 923 | Oacoma, SD | West River/Lyman-Jones | Water Line |
| WL 490 | Presho, SD | Gus Anderson | Water Line |
| WL 491 | Presho, SD | C.S. Hubbard | Water Line |
| WL 492 | Presho, SD | Lewis & Knutson | Gas Line |
| WL 493 | Presho, SD | City of Presho | Water Line |
| WL 494 | Presho, SD | City of Presho | Gas Line |
| WL 495 | Presho, SD | Mike Schiffler | Water Line |
| WL 496 | Presho, SD | Travel Mix Inc | Water Line |
| WL 497 | Presho, SD | Arthur Engelgau | Water Line |
| WL 734 | Presho, SD | City of Presho | Sanitary Sewer |
| WL 962 | Presho, SD | Lower Brule RWS | Water Line |
| WL 1070 | Presho, SD | City of Presho | Sanitary Sewer |
| WL 1084 | Presho, SD | West River/Lyman-Jones RWS, Inc | Potable Water |
| WL 591 | White Lake, SD | Aurora-Brule Rural Water System | Underground Pipe |
| WL 667 | White Lake, SD | Aurora-Brule Rural Water System | Water Line |
| WL 669 | White Lake, SD | Darrell A. Mairose | Water Line |
| WL 670 | White Lake, SD | City of White Lake | Water Line |
| WL 675 | White Lake, SD | City of White Lake | Water Line |

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| WL 948 | White Lake, SD | City of White Lake | Gas Line |
| WL 1108 | White Lake, SD | City of White Lake | Sanitary Sewer -waterline |
| WL 499 | Vivian, SD | City of Vivian | Water Line |
| WL 500 | Vivian, SD | Vivian Sanitary District | Sanitary Sewer |
| WL 742 | Vivian, SD | Myrle Hilton | Water Line |
| WL 893 | Vivian, SD | Golden West Telecommunication | Underground Pipe |
| WL 894 | Vivian, SD | Golden West Telecommunication | Underground Pipe |
| WL 895 | Vivian, SD | Golden West Telecommunication | Underground Pipe |
| WL 896 | Vivian, SD | Golden West Telecommunication | Underground Pipe |
| WL 924 | Vivian, SD | West River/Lyman-Jones | Potable Water |
| WL 1060 | Vivian, SD | West River/Lyman-Jones | Potable Water |
| WL 1061 | Vivian, SD | West River/Lyman-Jones | Potable Water |
| WL 518 | Rapid City, SD | Charles Morris | Drainage Pipe |
| WL 519 | Rapid City, SD | City of Rapid City | Storm Sewer line |
| WL 520 | Rapid City, SD | Dacotah Packing Company | Drainage Pipe |
| WL 521 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 523 | Rapid City, SD | Black Hills Utilities Company | Gas Line |
| WL 524 | Rapid City, SD | Black Hills Utilities Company | Gas Line |
| WL 525 | Rapid City, SD | SD Seed Growers Exchanges | Sanitary Sewer |
| WL 526 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 527 | Rapid City, SD | Edgar Schaefer | Water Line |
| WL 528 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 529 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 530 | Rapid City, SD | Puntan Oil Company Inc. | Gas Line |
| WL 531 | Rapid City, SD | Barber Transportation Company | Sanitary Sewer |
| WL 532 | Rapid City, SD | City of Rapid City | Water Line |
| WL 533 | Rapid City, SD | City of Rapid City | Storm Sewer line |
| WL 534 | Rapid City, SD | City of Rapid City | Water Line |
| WL 535 | Rapid City, SD | City of Rapid City | Water Line |
| WL 536 | Rapid City, SD | City of Rapid City | Storm Sewer line |
| WL 537 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 538 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 539 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 540 | Rapid City, SD | City of Rapid City | Water Line |
| WL 541 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 542 | Rapid City, SD | City of Rapid City & Hillman | Water Line |
| WL 543 | Rapid City, SD | Black Hills Power & Lights Co. | Storm Sewer line |
| WL 544 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 545 | Rapid City, SD | Montana Dakota Utilities Co | Underground Pipe |
| WL 546 | Rapid City, SD | Montana Dakota Utilities Co | Underground Pipe |
| WL 547 | Rapid City, SD | Rapid Valley Water Service Co. | Underground Pipe |

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| WL 548 | Rapid City, SD | SD Dept of Highways | Underground Pipe |
| WL 549 | Rapid City, SD | State Of South Dakota | Underground Pipe |
| WL 550 | Rapid City, SD | Rapid City Economic Dev. Foundation | Underground Pipe |
| WL 551 | Rapid City, SD | Independent Construction Co. | Underground Pipe |
| WL 593 | Rapid City, SD | Rapid valley Sanitary District | Underground Pipe |
| WL 624 | Rapid City, SD | City of Rapid City | Wastewater Line |
| WL 634 | Rapid City, SD | Wyco Pipeline Company | Petroleum Line |
| WL 635 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 636 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 646 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 562 | Scenic, SD | Robert Jurish | Water Line |
| WL 659 | Rapid City, SD | City of Rapid City | Storm Sewer line |
| WL 743 | Rapid City, SD | Black Hills Wholesale Grocery Co. | Sanitary Sewer |
| WL 805 | Rapid City, SD | City of Rapid City | Water Line |
| WL 806 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 837 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 846 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 905 | Rapid City, SD | SD DOT | Water Line |
| WL 1020 | Rapid City, SD | City of Rapid City | Water Line |
| WL 1025 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 1029 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 1030 | Rapid City, SD | Covington Consultant Group, Inc | Storm Sewer line |
| WL 1066 | Rapid City, SD | Rapid valley Sanitary District-Water | Water Line |
| WL 1069 | Rapid City, SD | City of Rapid City | Water Line |
| WL 1073 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 1076 | Rapid City, SD | City of Rapid City | Gas Line |
| WL 1080 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 1083 | Rapid City, SD | City of Rapid City | Potable Water |
| WL 1086 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 1087 | Rapid City, SD | Montana Dakota Utilities Co | Gas Line |
| WL 1088 | Rapid City, SD | Montana Dakota Utilities Co | Water Line |
| WL 1098 | Rapid City, SD | Green Valley Sanitary District | Water Line |
| WL 1116 | Rapid City, SD | Jon Ziegler | Sanitary Sewer |
| WL 991 | Rapid City, SD | City of Rapid City | Sanitary Sewer |
| WL 736 | Pukwana, SD | Village of Pukwana | Sanitary Sewer |
| WL 735 | Plankinton, SD | City of Plankinton | Sanitary Sewer |
| WL 797 | Plankinton, SD | City of Plankinton | Water Line |
| WL 942 | Plankinton, SD | City of Plankinton | Potable Water |
| WL 1015 | Plankinton, SD | Davison County Rural Water | Potable Water |
| WL 1056 | Plankinton, SD | Arora Brule Rule Water | Water Line |
| WL 1100 | Plankinton, SD | City of Plankinton | Sanitary Sewer |

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| WL 1101 | Plankinton, SD | City of Plankinton | Potable Water |
| WL 1053 | Okaton, SD | West River/Lyman-Jones Rural Water Supply | Potable Water |
| WL 517 | Murphy, SD | M. Keliher | Water Line |
| 1473 | Betts, SD | Donald Stehly | Lease |
| 1655 | Mount Vernon, SD | Barbara Johnson | Lease |
| 519 | Plankinton, SD | City of Plankinton | Lease |
| 1616 | Plankinton, SD | Marvin Jara | Lease |
| 1624 | Plankinton, SD | Travis Fink | Lease |
| 1625 | Plankinton, SD | Clint Moore | Lease |
| 1178 | White Lake, SD | Jimmy Miller | Lease |
| 1653 | White Lake, SD | Robin Knigge | Lease |
| 1643 | Kimball, SD | James Swanson | Lease |
| 1654 | Kimball, SD | Barbara Johnson | Lease |
| 1623 | Pukwana, SD | James Swanson | Lease |
| 1641 | Pukwana, SD | Louis Mark Brennan | Lease |
| 1642 | Pukwana, SD | Lowell Swanson | Lease |
| 1308 | Chamberlain | CHS | Lease |
| 1158 | Presho | Mortenson | Lease |
| 1573 | Vivian | Erickson | Lease |
| 1332 | Murdo | Hullinger | Lease |
| 1435 | Kadoka | CHS | Lease |
| 1221 | Murphy | Union Oil Co | Lease |
| 1311 | Murphy | Nelson Oil & Gas | Lease |
| 1331 | Rapid City | McKie Ford Inc | Lease |
| 1421 | Rapid City | Discount Lumber Mart | Lease |
| 1490 | Rapid City | Crescent Electric | Lease |
| 1621 | Rapid City | Rapid City- Park Dept | Lease |
| 911043 | Rapid City | American Colloid | Lease |
| | Kadoka to Caputa, SD | Seller | Railbank |
| | Caputa to Rapid City, SD | Seller | Railbank |

EXHIBIT H – FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT – USE AGREEMENTS

ASSIGNMENT AND ASSUMPTION AGREEMENT – USE AGREEMENTS

This Assignment and Assumption Agreement – Use Agreements is by and between the State of South Dakota, acting by and through Its Department of Transportation (the “State”), whose mailing address is 700 East Broadway Avenue, Pierre, South Dakota 57501-2586, and Ringneck & Western Railroad, L.L.C. (“R&W”), a Delaware limited liability company whose mailing address is 315 W. 3rd St., Pittsburg, Kansas 66762.

WHEREAS, the State and R&W have entered into an agreement for sale of the MRC Line (“Line Sale Agreement”), effective as of _____, 20__, pursuant to which the State has agreed to sell and R & W has agreed to purchase the MRC Line as defined in Section 1.1 of the Line Sale Agreement; and

WHEREAS, pursuant to Section 6 of the Line Sale Agreement, the State and R&W have agreed that the closing on the Line Sale Agreement shall be effective on _____, 20__ (the “Closing Date”); and

WHEREAS, Section 3.5 of the Line Sale Agreement states the sale of the MRC Line shall include the assignment and assumption of the State’s interests and obligations in all leases, permits, licenses, easements, occupancies, limitations and other property interests and agreements over the MRC Line; and

WHEREAS, in accordance with the terms of the Line Sale Agreement, the State and R&W are entering into this Assignment and Assumption – Use Agreements;

NOW THEREFORE, FOR VALUE RECEIVED, as set forth in the Line Sale Agreement, the State and R&W have entered into this Assignment and Assumption Agreement (“Assignment”), effective as of the Closing Date.

1. The State does hereby fully assign unto R&W on the Closing Date all of the right, title and interest of the State in contract(s), agreement(s), lease(s), license(s), occupancy agreement(s), permit(s) or easement(s) (collectively “Use Agreements,”) identified in **Attachment “A”** appended hereto and made a part hereof whereby the State let and granted various rights on or across a portion of its rights of way generally known as the MRC Line extending from Milepost 374.57 at Mitchell, South Dakota to Milepost 660 in Rapid City, South Dakota for the uses specified in said Use Agreements and as more particularly described in said documents; provided, however, the State does not assign, and hereby retains, all of its rights and interests as the trail sponsor under two Use Agreements, pursuant to 16 U.S.C. Sec. 1247(d): the “Railbanking Agreement” (dated August 28, 1997) that applies to the portion of the MRC Line between Milepost 562.53 near Kadoka, South Dakota and Milepost 646.0 near Caputa, South Dakota and the “Agreement For Lease Termination and Preservation of Right of Way Through Recreational Trail Use” (dated July 9, 2009) that applies to the portion of the MRC Line between Milepost 646.0 near Caputa, South Dakota and Milepost 659.6 in Rapid City, South Dakota (collectively “Railbanking Agreements”). The State specifically assigns its rights under the Railbanking Agreements to reactivate service over the banked segments.

2. Except for the State’s retention of rights and interests as trail sponsor under the Railbanking Agreements, pursuant to 16 U.S.C. Sec. 1247(d), R&W hereby accepts the assignment and transfer by the State and assumes all of the State’s obligations and liabilities arising or connected with the assigned Use

Agreements which occur on or after the Line Sale Agreement Closing Date and agrees to perform all of the State's responsibilities and obligations under the assigned Use Agreements occurring on or after the Closing Date; provided, however, if any Use Agreements apply to areas that are outside the MRC Line, the assignment and assumption as to those Use Agreements shall be partial and shall include only the rights, obligations and liabilities that apply to areas within the MRC Line. All rights and obligations under the assigned Use Agreements arising prior to the Closing Date shall remain the rights and obligations of the State, not R&W.

3. Within thirty (30) days after the Closing Date, R&W will provide a written notice of this Assignment to each Use Agreement lessee, license or grantee to the current address of each in a form to be mutually agreed upon by the State and R&W.

4. In the event the Parties identify Use Agreements that were inadvertently omitted or included in this Assignment, the parties shall amend this Assignment and **Attachment A** as soon as reasonably practicable to include or omit same, as applicable, and the parties shall deem that amendment to have occurred as of the Closing Date.

5. **THE ASSIGNED AGREEMENTS ARE ASSIGNED AND TRANSFERRED AS IS WHERE IS WITH ALL FAULTS, DEFECTS AND CONDITIONS OF ANY KIND, NATURE OR DESCRIPTION AS THE OF THE CLOSING DATE. THERE HAVE BEEN NO REPRESENTATIONS, WARRANTIES, GUARANTEES, STATEMENTS OR INFORMATION, EXPRESSED OR IMPLIED, PERTAINING TO SUCH ASSIGNED AGREEMENTS, THE VALUE THEREOF, OR ANY OTHER MATTER WHATSOEVER MADE OR FURNISHED TO R&W BY THE STATE OR ANY OF ITS OFFICIALS, AGENTS OR EMPLOYEES.**

6. In the event the State reacquires ownership of the MRC Line pursuant to Section 8.2 or 8.3 of the Line Sale Agreement, R&W agrees to assign its rights and obligations under the Use Agreements to the State; provided, however, all rights and obligations under the assigned Use Agreements acquired after the Closing Date in the Line Sale Agreement and prior to the State's reacquisition of ownership of the MRC Line shall remain the rights and obligations of R&W, not the State.

7. In the event that this Assignment contradicts or otherwise conflicts with the provisions of the Line Sale Agreement, the Line Sale Agreement shall control.

8. Subject to the provisions of Section 17 of the Line Sale Agreement, this Assignment shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

9. This Assignment shall be governed and construed in accordance with the law of the State of South Dakota.

10. This Assignment is binding upon the signatories not as individuals, but solely in their capacities as officials of their respective organizations.

Ringneck & Western Railroad, L.L.C.

State of South Dakota
Department of Transportation

By: _____

By: _____

Its: _____

Its: Interim Secretary

Date: _____

Date: _____

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF _____)
) : SS
COUNTY OF _____)

On this ____ day of _____, 20__, before me, _____, a Notary Public within and for said County and State, personally appeared, _____, who acknowledged himself/herself to be the _____ of the Ringneck & Western Railroad, L.L.C., known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

(Notary Seal)

My Commission Expires: _____

STATE ACKNOWLEDGMENT

STATE OF SOUTH DAKOTA)
) : SS
COUNTY OF HUGHES)

On this ____ day of _____, 20__, before me, _____, a Notary Public within and for said County and State, personally appeared Joel Jundt, Interim Secretary, South Dakota Department of Transportation, known to me or satisfactorily proven to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

NOTARY PUBLIC

(Notary Seal)

My Commission Expires: _____

EXHIBIT I – NON-RAIL LAND DESCRIPTION

| LEASE NUMBER | TOWN | COUNTY | CUSTOMER | LEGAL DESCRIPTION (IF KNOWN) |
|------------------|------------|---------|-----------------------------|---|
| 944 | MT VERNON | DAVISON | FARMERS ELEVATOR CO | LOTS B & C OF FARMER'S ELEVATOR COMPANY FIRST ADDITION TO THE CITY OF MOUNT VERNON IN THE WEST ½ OF SECTION 22, T 103N, R 62W OF THE 5 TH P.M., DAVISON COUNTY, SOUTH DAKOTA |
| 866, 1125 & 1237 | PLANKINTON | AURORA | PLANKINTON ELEVATOR CO, LLC | LOTS R-1, 2 & 4, RAILROAD FIRST ADDITION TO THE CITY OF PLANKINTON IN THE NE1/4 OF SECTION 22, T 103N, R 64W OF THE 5 TH P.M., AURORA COUNTY, SOUTH DAKOTA |
| 1578 | PLANKINTON | AURORA | B&H HOLDING LLC | LOT R-3, RAILROAD FIRST ADDITION TO THE CITY OF PLANKINTON IN THE NE1/4 OF SECTION 22, T 103N, R 64W OF THE 5 TH P.M., AURORA COUNTY, SOUTH DAKOTA |
| 1246 | WHITE LAKE | AURORA | CHS INC | LOT R-5OF RAILROAD FIRST ADDITION IN THE NW1/4 OF SECTION 14, T 103N, R 66W OF THE 5 P.M., CITY OF WHITE LAKE, AURORA COUNTY, SOUTH DAKOTA |
| 798 & 1281 | WHITE LAKE | AURORA | EDINGER BROTHER PARTNERSHIP | LOTS R-8 AND R-9 OF RAILROAD FIRST ADDITION IN THE NW1/4 OF SECTION 14, T 103N, R 66W OF THE 5 P.M., CITY OF WHITE LAKE, AURORA COUNTY, SOUTH DAKOTA |
| 1502 | WHITE LAKE | AURORA | JOE BOSWORTH | LOT R-6 OF RAILROAD FIRST ADDITION IN THE NW1/4 OF SECTION 14, T 103N, R 66W OF THE 5 P.M., CITY OF WHITE LAKE, AURORA COUNTY, SOUTH DAKOTA |
| 1581 | WHITE LAKE | AURORA | ALAN ASSMUS | LOT R-4 & R-7 OF RAILROAD FIRST ADDITION IN THE NW1/4 OF SECTION 14, T 103N, R 66W OF THE 5 P.M., CITY OF WHITE LAKE, AURORA COUNTY, SOUTH DAKOTA |
| 1586 | WHITE LAKE | AURORA | MIKE KIEFFER | LOTS R-1, 2 & 3 OF RAILROAD FIRST ADDITION IN THE NE1/4 OF SECTION 15, T 103N, R 66W OF THE 5TH P.M., CITY OF WHITE LAKE, AURORA COUNTY, SOUTH DAKOTA |
| 1163 & 1301 | KIMBALL | BRULE | KIMBALL GRAIN/GARY GASSEL | LOT R-3 OF RAILROAD FIRST ADDITION TO THE CITY OF KIMBALL IN THE SE1/4 OF SECTION 3, T 103N, R 68W OF THE 5TH P.M., BRULE COUNTY, SOUTH DAKOTA |
| 1244 | KIMBALL | BRULE | HANCOCK OIL & PROPANE, LLC | LOT R-5 OF RAILROAD FIRST ADDITION TO THE CITY OF KIMBALL IN THE SE1/4 OF SECTION 3, T 103N, R 68W OF THE 5TH P.M., BRULE COUNTY, SOUTH DAKOTA |
| 1322 | KIMBALL | BRULE | VALLEY SPRAYING SERVICE | LOT R-2 OF RAILROAD FIRST ADDITION TO THE CITY OF KIMBALL IN THE SE1/4 OF SECTION 3, T 103N, R 68W OF THE 5TH P.M., BRULE COUNTY, SOUTH DAKOTA |
| | KIMBALL | BRULE | CITY OF KIMBALL | LOT R-4 OF RAILROAD FIRST ADDITION TO THE CITY OF KIMBALL IN THE SE1/4 OF SECTION 3, T 103N, R 68W OF THE 5TH P.M., BRULE COUNTY, SOUTH DAKOTA |
| 1626 | KIMBALL | BRULE | RYAN SKLUZAK | LOT R-1 OF RAILROAD FIRST ADDITION TO THE CITY OF KIMBALL IN THE SE1/4 OF SECTION 3, T 103N, R 68W OF THE 5TH P.M., BRULE COUNTY, SOUTH DAKOTA |

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|------------|-------------|---------|-------------------------------|--|
| 754 & 1402 | PUKWANA | BRULE | BRULE COUNTY COOP | LOT R-1 OF RAILROAD ADDITION TO THE TOWN OF PUKWANA IN THE NE1/4 OF SECTION 26, T 104N, R 70W OF THE 5TH P.M., BRULE COUNTY, SOUTH DAKOTA |
| 1536 | CHAMBERLAIN | BRULE | BRUCE STECKELBERG | |
| 788 | CHAMBERLAIN | BRULE | BURKE OIL | |
| 1278 | CHAMBERLAIN | BRULE | CHAMBERLAIN REMIX LLC | |
| 1088 | CHAMBERLAIN | BRULE | CHAMBERLAIN AUCTION | |
| 1385 | CHAMBERLAIN | BRULE | CHAMBERLAIN WHOLESALE GROCERY | |
| 921 | CHAMBERLAIN | BRULE | CHS INC | |
| 1308 | CHAMBERLAIN | BRULE | CHS INC | |
| 1607 | CHAMBERLAIN | BRULE | CHS INC | |
| 1303 | CHAMBERLAIN | BRULE | CITY OF CHAMBERLAIN | |
| 1321 | CHAMBERLAIN | BRULE | CITY OF CHAMBERLAIN | |
| 1302 | CHAMBERLAIN | BRULE | GARY FELTMAN | |
| 681 | CHAMBERLAIN | BRULE | MARK KLEIN | |
| 1651 | CHAMBERLAIN | BRULE | MARK SAXTON | |
| 680 | CHAMBERLAIN | BRULE | PETE CHRISTENSEN | |
| 1298 | CHAMBERLAIN | BRULE | TERENCE HICKEY | |
| 1470 | CHAMBERLAIN | BRULE | TERENCE HICKEY | |
| 1656 | CHAMBERLAIN | BRULE | TERENCE HICKEY | |
| 1188 | CHAMBERLAIN | BRULE | TODD ORTH | |
| 1170 | DRAPER | JONES | CHS INC | |
| 1247 | DRAPER | JONES | AGTEGRA | LOT 1, AGTEGRA ADDITION TO THE TOWN OF DRAPER, IN THE SW1/4 OF SECTION 28, T1S, R30E OF THE BLACK HILLS MERIDIAN, JONES COUNTY, SOUTH DAKOTA |
| 1541 | INTERIOR | JACKSON | JENNIFER REISSER | |
| 1108 | INTERIOR | JACKSON | PERRY GUPTILL | |
| 1632 | INTERIOR | JACKSON | PERRY GUPTILL | |
| 1633 | INTERIOR | JACKSON | PERRY GUPTILL | |
| 1664 | INTERIOR | JACKSON | PERRY GUPTILL | |
| 851 | KADOKA | JACKSON | CHS INC | |
| 1068 | KADOKA | JACKSON | CHS INC | |
| 1073 | KADOKA | JACKSON | CHS INC | |

| | | | |
|------|----------|------------|---------------------------------|
| 1177 | KADOKA | JACKSON | CHS INC |
| 1187 | KADOKA | JACKSON | CHS INC |
| 1349 | KADOKA | JACKSON | GRANT PATTERSON |
| 1146 | KADOKA | JACKSON | JOHN RODGERS |
| 1142 | KADOKA | JACKSON | MARK CARLSON/DISCOUNT FUEL INC |
| 1263 | KADOKA | JACKSON | MARK CARLSON/DISCOUNT FUEL INC |
| 1328 | KADOKA | JACKSON | MARK CARLSON/DISCOUNT FUELS INC |
| 1374 | KADOKA | JACKSON | RICHARD GROVEN |
| 1096 | KADOKA | JACKSON | STEPHEN RIGGINS |
| 1116 | KENNEBEC | LYMAN | AGTEGRA |
| 1590 | KENNEBEC | LYMAN | AGTEGRA |
| 1601 | KENNEBEC | LYMAN | EUGENE MERTENS |
| 939 | KENNEBEC | LYMAN | TOWN OF KENNEBEC |
| 940 | KENNEBEC | LYMAN | TOWN OF KENNEBEC |
| 1648 | KENNEBEC | LYMAN | TOWN OF KENNEBEC |
| 1243 | MURDO | JONES | BAKER TRUCKING |
| 1613 | MURDO | JONES | CHRISTOPHER & KATIE NIX |
| 1240 | MURDO | JONES | CODY MCKENZIE |
| 973 | MURDO | JONES | JAMES HOCKENBURY |
| 1332 | MURDO | JONES | RICHARD HULLINGER |
| 1665 | MURDO | JONES | WAYNE HUNT |
| 1221 | MURPHY | PENNINGTON | FARMERS UNION OIL COMPANY |
| 1311 | MURPHY | PENNINGTON | NELSON OIL & GAS |
| 1556 | OACOMA | LYMAN | ALAN SUHL & KARLEEN HANG |
| 1400 | OACOMA | LYMAN | CHAMBERLAIN/OACOMA GUN CLUB |
| 1071 | OACOMA | LYMAN | CITY OF OACOMA |
| 1111 | OACOMA | LYMAN | CITY OF OACOMA |
| 1228 | OACOMA | LYMAN | CITY OF OACOMA |
| 1614 | OACOMA | LYMAN | CITY OF OACOMA |
| 1615 | OACOMA | LYMAN | CITY OF OACOMA |
| 1585 | OACOMA | LYMAN | LEONARD SPRINGER |

| | | | | |
|------|------------|------------|---------------------------|---|
| 1559 | OACOMA | LYMAN | TERRY CHMELA | |
| 1591 | OACOMA | LYMAN | TERRY KENOBIE | |
| 1605 | PRESHO | LYMAN | DAKOTA MILL & GRAIN | |
| 1151 | PRESHO | LYMAN | ROSEBUD CONCRETE | |
| 1234 | PRESHO | LYMAN | FARMERS UNION OIL/AGTEGRA | |
| 1490 | RAPID CITY | PENNINGTON | CRESENT ELECTRIC SUPPLY | |
| 1242 | RELIANCE | LYMAN | SD WHEAT GROWERS/AGTEGRA | |
| 1215 | RELIANCE | LYMAN | FARMERS UNION OIL/AGTEGRA | |
| 1185 | RELIANCE | LYMAN | LOWELL HIEB | |
| 910 | VIVIAN | LYMAN | PATRICK OIL CO | PATRICK TRACT 1 A SUBDIVISION OF THE NW1/4 OF THE SE1/4 OF SECTION 3, T105N, R79W OF THE 5TH P.M., TOWN OF VIVIAN, LYMAN COUNTY, SOUTH DAKOTA |
| 1587 | CAPUTA | PENNINGTON | H&H LAND COMPANY | LOT X SHOWING A PARCEL OF LAND SITUATED IN GOVERNMENT LOT 1 OF SECTION 1, T1S, R9E OF THE BLACK HILLS MERIDIAN, PENNINGTON COUNTY, SOUTH DAKOTA |

EXHIBIT J – FORM OF CURRENT LEASE TERMINATION

AMENDMENT NUMBER 4 TO AGREEMENT NUMBER 910866

BACKGROUND

1. On January 1, 2012, the State of South Dakota acting by and through Its Department of Transportation, referred to in this Amendment as the “STATE” and MRC Regional Railroad Authority, referred in this Amendment as the “AUTHORITY,” entered into a lease agreement, which agreement, referred to in this Amendment as the “AGREEMENT,” was signed by a representative of each party and assigned the Number 910866.

2. Having previously amended the AGREEMENT, the parties now wish to further amend the AGREEMENT to modify the term of the AGREEMENT.

THE STATE AND THE AUTHORITY MUTUALLY AGREE AS FOLLOWS:

1. Section 18 of the AGREEMENT, entitled Term, is revised to read as follows:

18. Term. Subject to paragraphs 10 and 19, this Agreement will continue in full force and effect until the earlier of (i) the closing date of the sale described in the Agreement for the Sale of the MRC Line between the State of South Dakota Acting By and Through Its Department of Transportation and Ringneck & Western Railroad, L.L.C. or (ii) a period of twenty (20) years after the effective date of this Agreement. Any obligations, including payment obligations, incurred or accrued by either party under the terms of this Agreement prior to the termination date of this Agreement will survive and continue to be enforceable, including accrued payments that are not due to be paid until after the termination date of this Agreement.

2. Section 21 of the AGREEMENT, entitled “Operator’s First Right of Refusal,” is amended by adding the following sentence at the end of the Section: ‘The provisions in this Section 21 do not apply if the State sells the Rail Facilities to Ringneck & Western Railroad, L.L.C.’”

3. Except as modified by this Amendment, all other terms and conditions of the AGREEMENT, along with prior amendments, will remain in full force and effect.

4. The South Dakota State Railroad Board (the “Board”), with the consent of the Governor, has authorized the Secretary of Transportation to execute this Amendment on

behalf of the STATE. A copy of the fully executed resolution of the Board is attached to this Amendment as **Exhibit A**.

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 AUTHORITY to enter into the same.

MRC Regional Railroad Authority

State of South Dakota
Department of Transportation

By: _____

By: _____

Its: Chairman

Its: Secretary

Date: _____

Date: _____

(Corporate Seal, if any)

Approved as to Form:

Special Assistant Attorney General

ACKNOWLEDGMENTS FOLLOW

EXHIBIT K – FORM OF CURRENT SUBLEASE TERMINATION

AMENDMENT NUMBER 3 TO AGREEMENT NUMBER 910867

BACKGROUND

1. On January 1, 2012, the MRC Regional Railroad Authority, referred in this Amendment as the “Authority,” and Dakota Southern Railroad Company, referred to in this Amendment as the “Operator,” entered into a sublease agreement, which agreement, referred to in this Amendment as the “AGREEMENT,” was signed by a representative of each party and assigned the Number 910867 by the State of South Dakota, acting by and through its Department of Transportation, referred to in this Amendment as the “State.”
2. Having previously amended the AGREEMENT, the parties now wish to further amend the AGREEMENT to modify the term of the AGREEMENT.

THE STATE AND THE OPERATOR MUTUALLY AGREE AS FOLLOWS:

1. Section 17 of the AGREEMENT, entitled Term, is revised to read as follows:
 17. Term. Subject to paragraphs 9 and 18, this Agreement will continue in full force and effect until the earlier of (i) the closing date of the sale described in the Agreement for the Sale of the MRC Line between the State of South Dakota Acting By and Through Its Department of Transportation and Ringneck & Western Railroad L.L.C. or (ii) a period of twenty (20) years from and after the effective date of this Agreement. Any obligations, including payment obligations, incurred or accrued by the Operator under the terms of this Agreement prior to the termination date of this Agreement will survive and continue to be enforceable by the Authority, including accrued payments that are not due to be paid until after the termination date of this Agreement.
2. Section 20 of the AGREEMENT, entitled “Operator’s First Right of Refusal,” is amended by adding the following sentence at the end of the Section: “The provisions in this Section 20 do not apply if the State sells the Rail Facilities to Ringneck & Western Railroad, L.L.C.”
3. Except as modified by this Amendment, all other terms and conditions of the AGREEMENT, as amended, will remain in full force and effect.

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 Authority and the Operator to enter into the same.

Dakota Southern Railway Company

MRC Regional Railroad Authority

By: _____

By: _____

Its: President

Its: Chairperson

Date: _____

Date: _____

(Corporate Seal)

Consent to enter into this Amendment given this ____ day of _____ 20__

State of South Dakota
Department of Transportation

By: _____

Its: Secretary

Approved as to Form:

Special Assistant Attorney General

ACKNOWLEDGMENTS FOLLOW

EXHIBIT L – FORM OF ASSIGNMENT AND ASSUMPTION OF LOAN AGREEMENT

ASSIGNMENT AND ASSUMPTION OF LOAN AGREEMENT NUMBER 716819

BACKGROUND:

1. Effective June 19, 2019, the State of South Dakota, acting by and through its Department of Transportation, referred to in this Assignment as “STATE,” and MRC Regional Railroad Authority, referred to in this Assignment as “AUTHORITY,” entered into a loan agreement, which was signed by representatives of each party and assigned agreement number 716819 by STATE. On September 10, 2020, the parties amended the loan agreement by execution of Amendment Number 1 to Agreement Number 716819. Said loan agreement as amended will be referred to as the “AGREEMENT.”
2. The loan issued under the AGREEMENT was for repairing damages to the Mitchell to Rapid City rail line (“MRC Line”) caused by the high accumulation of snow and heavy rains causing flooding and infrastructure damage in 2019.
4. STATE issued loan proceeds to AUTHORITY totaling One Million, Two Hundred Eighty-two Thousand, Six Hundred Thirty-three and 77/100 Dollars (\$1,282,633.77). The repairs that were financed by the loan have been completed and the Federal Emergency Management Agency (FEMA) has repaid Eight Hundred Twenty Thousand, Two Hundred Thirty-seven 85/100 Dollars (\$820,237.85) to date toward the principal loan balance. The current principal loan balance is Four Hundred Sixty-two Thousand, Three Hundred Ninety-five and 92/100 Dollars (\$462,395.92).
5. STATE and Ringneck & Western Railroad, L.L.C. (“R&W”) have entered into an Agreement for Sale of the MRC Line (“Line Sale Agreement”), effective as of _____, 20____, pursuant to which the STATE has agreed to sell and R&W has agreed to purchase the MRC Line.
6. Pursuant to Section 6 of the Line Sale Agreement, STATE and R&W have agreed that the closing on the Line Sale Agreement shall be effective on _____, 20____ (the “Closing Date”).
7. Section 5.1 of the Line Sale Agreement states that sale of the MRC Line shall include the assignment and assumption of the AUTHORITY’s interests and obligations in the AGREEMENT.
8. In accordance with the terms of the Line Sale Agreement, STATE, AUTHORITY and R&W are entering into this Assignment and Assumption of Loan Agreement Number 716819.

FOR VALUE RECEIVED, THE RECEIPT AND SUFFICIENCY OF WHICH IS ACKNOWLEDGED, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. AUTHORITY assigns to R&W on the Closing Date all interests, rights, obligations and liabilities of AUTHORITY in the AGREEMENT, subject to all the terms and conditions of the AGREEMENT.
2. STATE consents to AUTHORITY'S assignment of the AGREEMENT to R&W.
3. R&W accepts the assignment of the AGREEMENT, as amended, subject to all the terms and conditions of such AGREEMENT, and assumes all of AUTHORITY'S interests, rights, obligations, and liabilities arising or connected with the assigned AGREEMENT. R&W agrees to perform all of AUTHORITY'S responsibilities and obligations under the AGREEMENT.
4. As part of its acceptance of the assignment, R&W has executed the attached promissory note.
5. AUTHORITY guarantees the payment of all money to become due under the AGREEMENT. If R&W defaults in the payment of any amounts required under the AGREEMENT, AUTHORITY agrees to make such payments as though liable under such AGREEMENT, waiving all notice and demands.
6. This Assignment is governed by, construed, and enforced in accordance with the laws of South Dakota. Any lawsuit pertaining to this Assignment will be venued in Circuit Court in the Sixth Judicial Circuit, Hughes County, South Dakota.⁷ This Assignment is effective on the Closing Date.

This Assignment 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, AUTHORITY and R&W to enter into the same.

SIGNATURE PAGE FOLLOWS

MRC Regional Railroad Authority

By: _____

Its: _____

Date: _____

(AUTHORITY Seal, if any)

State of South Dakota
Department of Transportation

By: _____

Its: _____

Date: _____

Approved as to Form:

Special Assistant Attorney General

Ringneck & Western Railroad, L.L.C.

By: _____

Its: _____

Date: _____

(Company Seal)

ACKNOWLEDGMENTS FOLLOW

PROMISSORY NOTE

\$462,395.92

FOR VALUE RECEIVED, Ringneck & Western, L.L.C., referred to in this Promissory Note as “R&W,” promises to pay to the State of South Dakota, acting by and through its Department of Transportation, referred to in this Promissory Note as the “STATE,” at 700 East Broadway Avenue, Pierre, South Dakota 57501-2586, at Pierre, South Dakota, or at such place as the holder hereof may direct in writing, the principal sum of Four Hundred Sixty-two Thousand, Three Hundred Ninety-five and 92/100 Dollars (\$462,395.92), together with interest at the rate of 2% per annum on any balance remaining unpaid from time to time, amortized over twenty years, as follows:

1. In no event will the total principal loan amount exceed the sum of Four Hundred Sixty-two Thousand, Three Hundred Ninety-five and 92/100 Dollars (\$462,395.92).
2. R&W will make annual installment payments to STATE on or before July 1 of each year from 2021 through 2026, inclusive, with interest accruing on the unpaid principal balance of this note at the rate of 2% per year. These installment payments will be based on the following formula: $A = P [r(1 + r)^n] / [(1 + r)^n - 1]$. A represents the payment amount period, P represents the unpaid principal loan amount minus federal fund reimbursements received by the STATE from the Federal Emergency Management Agency (“FEMA”) for flood repairs to the STATE-owned Mitchell to Rapid City railroad line, r represents interest rate per period, and n represents the number of periods. The number of periods will be 20 years for purposes of calculating payment amounts from 2021 through 2025.
3. On July 1, 2026, the final payment will be due in an amount equal to the remaining unpaid principal balance of the loan minus any federal fund reimbursements received by the STATE from FEMA, together with all unpaid accrued interest.
4. Each annual installment payment will be applied first to interest accrued to the date such payment is received by the STATE, with any balance to be applied to principal.
5. R&W will have full right of prepayment, without penalty.
6. Should R&W default in the payment of any installment, or any part, when due, the holder of this note may, at its option, declare all unpaid indebtedness evidenced by this note, including any unpaid principal and accrued interest, immediately due and payable.

7. R&W severally waives presentment for payment, notice of nonpayment, protest, and notice of protest and severally consents that the time of payment may be extended or this note renewed without notice to R&W, and without affecting R&W'S liability on this Promissory Note. The holder may rearrange, adjust, and extend the times and amounts of payments of interest and principal of this note by agreement with the present or subsequent owner of the property securing the same, without notice to or consent of and without releasing any party liable thereon. No extension of time for payment, and no alteration, amendment, or waiver of any provision of this note will release, discharge, or modify the liability the undersigned under this note. No delay or waiver by STATE or the holder of this note in enforcing any right under this note will be deemed a continuing waiver of any right or provision under this note, and, unless expressly waived in writing, all provisions will continue in full force and effect.
8. This note will be governed as to validity, interpretation, and in all other respects by the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this note will be venued in the Circuit Court in and for the Sixth Judicial Circuit, Hughes County, South Dakota.

Ringneck & Western Railroad, L.L.C.

By: _____

Its: _____

Date: _____

(Company Seal)

ACKNOWLEDGMENT

STATE OF _____)
): SS
 COUNTY OF _____)

On this the ___ day of _____, 20___, before me, _____, a notary public within and for said County and State, personally appeared _____, known to me to be the _____ of Ringneck and Western Railroad, L.L.C., a limited liability company, and that he/she as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as such officer.

In witness whereof I hereunto set my hand and officials seal.

NOTARY PUBLIC

(Notary Seal)

My Commission Expires: _____

EXHIBIT M – FORM OF SUBRECIPIENT AGREEMENT

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
DIVISION OF THE SECRETARIAT
OFFICE OF AIR, RAIL, AND TRANSIT

SUB-RECIPIENT AGREEMENT
BETWEEN

Ringneck & Western Railroad, L.L.C.
XXXXXX
XXXXXX

State of South Dakota
Department of Transportation
Office of Air, Rail, and Transit
700 East Broadway Avenue
Pierre SD 57501

Referred to in this Agreement as the Sub-Recipient

Referred to in this Agreement as the State

The State and the Sub-Recipient enter into this Agreement (the "Agreement") for a grant award of federal financial assistance to the Sub-Recipient.

A. REQUIRED AUDIT PROVISIONS FOR GRANT AWARDS

1. FEDERAL AWARD IDENTIFICATION:

- a. Sub-Recipient's name: Ringneck & Western Railroad, L.L.C.
- b. Sub-Recipient's DUNS number: [redacted] and unique entity identifier: [redacted]
- c. Federal Award Identification Number (FAIN): 20.325
- d. Federal award date: [redacted]
- e. Sub-award period of performance: [redacted]
- f. Amount of federal funds obligated to the Sub-Recipient by this Agreement: \$1,560,000.00.
- g. Total amount of federal funds obligated to the Sub-Recipient: \$1,560,000.00
- h. Total amount of the federal award committed to the Sub-Recipient: \$1,560,000.00
- i. The federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA), is as follows: this award is under the provisions of the Consolidated Appropriations Act, 2017, (Public Law No. 115-32, Division K, Title I (2017 Appropriation); Consolidated Appropriations Act, 2018, Public Law No. 115-141, Division L, Title I (2018 Appropriations); Consolidated Appropriations Act, 2019, Public Law No. 116-6, Division G, Title I (2019 Appropriations); Consolidated Appropriations Act, 2020, Public Law No. 116-94, Division H, Title I (2020 Appropriations), regarding Special Transportation Circumstances (STC) direct grant funding as described in the Notice of Funding Availability for the U.S. Department of Transportation's National Infrastructure Investment for Consolidated Rail Infrastructure and Safety Improvements for Fiscal Year 2020, Federal Register[insert date], Volume ____, No. ____." The federal award consists of construction of a new 10,000-foot siding east of South Dakota Highway 45 near the Gavilon Elevator east of Kimball, South Dakota.
- j. Name of federal awarding agency: United States Department of Transportation
Pass-through entity: South Dakota Department of Transportation
Contact information for awarding official of the pass-through entity:
Joel Jundt

Interim Secretary
South Dakota Department of Transportation
700 East Broadway Avenue
Pierre SD 57501
(605) 773-3265
Joel.Jundt@state.sd.us

- k. CFDA No. and name: 20.325 Consolidated Rail Infrastructure and Safety Improvements (Special Transportation Circumstances);
- l. Is the grant award for research and development (R&D)? Yes No
- m. Indirect Cost Rate for federal award: Not Applicable

2. PERIOD OF PERFORMANCE OF THIS AGREEMENT:

This Agreement will be effective when fully executed by authorized representatives of the State and the Sub-Recipient and will end on Project Closeout, unless sooner terminated pursuant to the terms of this Agreement. The term "Project Closeout" is defined elsewhere in this Agreement.

3. SCOPE OF WORK AND PERFORMANCE PROVISIONS:

a. GENERAL PROVISIONS:

- i. The State and the Sub-Recipient are working together to construct 10,000 feet of pound rail and install two (2) switches located near Kimball, South Dakota in order to handle rail track safely and for operational efficiency, referred to in this Agreement as the "Project." The total estimated cost of the Project is Two Million Five Hundred Thousand Dollars (\$2,500,000.00).
- ii. The State applied for and was awarded a fiscal year 2020 (FY2020) Special Transportation Circumstances Grant ("Grant") from the United States Department of Transportation ("USDOT") in the amount of One Million Five Hundred Sixty Thousand Dollars (\$1,560,000.00) to pay for a portion of the work needed for the Project. The USDOT will not provide funding in excess of this Grant amount.
- iii. The Grant will be administered by the Federal Railroad Administration ("FRA"). The State is the recipient of the Grant and Ringneck & Western Railroad, L.L.C. is the sub-recipient of the Grant.

b. PURPOSE:

The purpose of Special Transportation Circumstances (STC) Grants is to provide directed grant funding under the Consolidated Rail Infrastructure and Safety Improvements Program and the Restoration and Enhancement Grant Program to certain states that lack intercity passenger rail service or are not connected to the national rail system.

c. SCOPE OF PROJECT:

A detailed Statement of Work is attached to this Agreement as Attachment 2. Attachment 2 is incorporated into this Agreement as if set out in full and is made an integral part of this Agreement.

d. RESPONSIBILITIES:

- i. The Sub-Recipient will complete the Project as described in the State's technical application for the Grant, as modified by this Agreement and any amendments to this Agreement.
- ii. The Sub-Recipient will comply with all the requirements and provisions contained in this Agreement, including the attachments to this Agreement. This Agreement includes the following attachments, which are incorporated into this Agreement as if set out in full and are made an integral part of this Agreement:

| | |
|--------------|---|
| Attachment 1 | Authorizing Resolution of S.D. State Railroad Board |
| Attachment 2 | Statement of Work |
| Attachment 3 | Estimated Project Schedule |
| Attachment 4 | Estimated Project Budget |
| Attachment 5 | Performance Measurement Table |
| Attachment 6 | Assurances and Certifications |

- iii. The Sub-Recipient will abide by all the environmental requirements identified in the Categorical Exclusion (CE) document issued by FRA and will ensure all Project work complies with all applicable local, state, and federal environmental requirements.
- iv. The FRA has designated this Project to be a project in a rural area, as defined in the Notice of Funding Availability. The Sub-Recipient will comply with the requirements that accompany that designation on minimum award size, geographic location, and cost sharing.
- v. The Sub-Recipient and the Sub-Recipient's contractors will submit a coronavirus disease of 2019 ("COVID-19") plan prior to any work starting on the Project.
- vi. The Sub-Recipient will follow the State's procurement policy when obtaining a consultant from the State's retainer list to prepare a Final Engineering Design Set, obtain environmental and historical preservation clearances (including completing a Mitigation Plan if required by FRA), and finalize all contract bid documents. The Sub-Recipient will pay the consultant for all plan preparation, environmental and historical preservation clearances, and contract bid document preparation costs incurred for the Project. Sub-Recipient may request Grant reimbursement for these contract administration costs. The State and the Sub-Recipient will work together to manage these costs. Any changes in the scope of work for the consultant will require approval by both the State and the Sub-Recipient.
- vii. The Sub-Recipient's engineering firm will let for bid all Project work, including acquisition of rail, ties, and other track materials necessary for the Project. The Sub-Recipient's engineering firm will conduct the bid-lettings and contract awards in accordance with all bidding requirements imposed by the State. The Sub-Recipient's engineering firm will submit all bid documents to the Sub-Recipient and State for its review prior to any bid-letting. The Sub-Recipient will be the contracting party for construction of the Project. The Sub-Recipient will pay the contractor for all costs incurred for the Project, including but not limited to all labor, material, equipment and interest.
- viii. The Sub-Recipient will hire a consultant to perform administration for construction of the Project in accordance with the State's procurement policy. The Sub-Recipient will pay the consultant for all contract administration costs incurred for the Project. The Sub-Recipient may request Grant reimbursement for these contract administration costs. The State and the Sub-Recipient will work together to manage these costs. Any changes in the scope of work for the consultant will require approval by both the State and the Sub-Recipient.

- ix. The Sub-Recipient will be responsible for completing the Project in compliance with all Grant requirements imposed on the Sub-Recipient by the State or the FRA. The Sub-Recipient will fully cooperate with the State and FRA in meeting these requirements.
- x. The Sub-Recipient will be responsible for paying all Project costs, including payment to suppliers for any materials. After the Sub-Recipient has paid for Project work, the Sub-Recipient will submit invoices and detailed supporting documentation of the Sub-Recipient's payments to the State for reimbursement. The State will reimburse the Sub-Recipient for up to One Million Five Hundred Sixty Thousand Dollars (\$1,560,000.00) in federal Grant funds and Six Hundred Forty Thousand Dollars (\$640,000.00) in State funds for eligible expenses as determined by FRA. For federal Grant funds, reimbursements will be paid to the Sub-Recipient at the rate of 62.4% of total eligible and properly documented Project costs as determined by FRA, up to the maximum limiting amount of One Million Five Hundred Sixty Thousand Dollars (\$1,560,000.00). For State funds, reimbursements will be paid to the Sub-Recipient at the rate of 25.6% of total eligible and properly documented Project costs as determined by FRA, up to the maximum limiting amount of Six Hundred Forty Thousand Dollars (\$640,000.00) in State funds. The Sub-Recipient will be solely responsible for paying all ineligible Project costs and all remaining costs in excess of Grant fund and State fund reimbursements. Total federal Grant reimbursements will not exceed 62.4% and total State fund reimbursements will not exceed 25.6% of the total properly documented Project costs as determined by FRA. The Sub-Recipient's share of Project costs is currently estimated to be Three Hundred Thousand Dollars (\$300,000.00), and the Sub-Recipient certifies it has committed Three Hundred Thousand Dollars (\$300,000.00) to fund the Project. The Sub-Recipient acknowledges and agrees that its actual share of Project costs will be based on actual costs. The Sub-Recipient further pledges to provide all Project funding, in excess of federal Grant fund and State fund reimbursements, necessary to complete the Project.
- xi. The State will monitor compliance with this Agreement and will make periodic Grant funding reimbursements to the Sub-Recipient within thirty (30) days of receipt of all documentation required by this Agreement.
- xii. The State's employees will receive advance authorization from the Sub-Recipient's train master or the train master's designee before entering the Sub-Recipient's railroad right of way for purposes of on-site inspections, and such advance authorization will not be unreasonably withheld. This advance authorization requirement does not apply to the engineering consultant when performing contract administration for construction of the Project.

4. BASIS FOR SUBAWARD AMOUNT:

The Project budget consists of funding from the following sources:

| | |
|--------------------------------------|---------------------|
| Amount awarded under the Grant: | \$ 1,560,000.00 |
| Amount awarded under the State | \$ 640,000.00 |
| Amount matched by the Sub-Recipient: | \$ 300,000.00 |
| Total estimated Project Cost: | \$ 2,500,000.00 |

The Sub-Recipient will be solely responsible for paying all Project costs in excess of the Grant and State fund reimbursements. The Sub-Recipient's estimated Project cash contribution is Three Hundred Thousand Dollars (\$300,000.00).

If the actual Project costs are less than the Total Project Cost, then the Sub-Recipient may reduce non-STC funds contributed to the Project, but in no event will the Sub-Recipient receive federal Grant reimbursements for more than 62.4% of the total Project Cost or State grant reimbursements for

more than 25.6% of the total Project Cost. The Sub-Recipient will be responsible for payment of all costs that are ineligible for or in excess of reimbursements from the Grant or from State funds.

5. RISK ASSESSMENTS, MONITORING, AND REMEDIES:

Risk assessments will be ongoing throughout the project period. The Sub-Recipient agrees to allow the State to monitor the Sub-Recipient to ensure compliance with program requirements, to identify any deficiencies in the administration and performance of the award and to facilitate the same. At the discretion of the State, monitoring may include but is not limited to the following: On-site visits, follow-up, document or desk reviews, third-party evaluations, virtual monitoring, technical assistance and informal monitoring such as email and telephone interviews. As appropriate, the cooperative audit resolution process may be applied.

The Sub-Recipient will comply with ongoing risk assessments, facilitate the monitoring process, and further, the Sub-Recipient understands and agrees that the requirements and conditions under the grant award may change as a result of the risk assessment/monitoring process.

In the event of noncompliance or failure to perform under the grant award, the State has the authority to apply remedies, including but not limited to: temporary withholding payments, disallowances, suspension or termination of the Grant or State award, suspension of other federal and State awards received by the Sub-Recipient, debarment, or other remedies including civil and criminal penalties as appropriate.

6. RETENTION AND INSPECTION OF RECORDS:

The Sub-Recipient will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, and statistical, fiscal, and other information records necessary for reporting and accountability required by the State. The Sub-Recipient will retain such records for a period of three (3) years after the date of the submission of the final expenditure report.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. The three-year retention period may be extended upon written notice by the State. Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition. When records are transferred to or maintained by the federal awarding agency or the State, the three-year retention requirement is not applicable to the Sub-Recipient. In the event Sub-Recipient must report program income after the period of performance, the retention period for the records pertaining to the earning of the program income starts from the end of Sub-Recipient's fiscal year in which the program income is earned. In the event the documents and their supporting records consist of indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, the following applies: (1) If submitted for negotiation - If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the State) to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission. (2) If not submitted for negotiation - If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the State) for negotiation purposes, then the three-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the Sub-Recipient's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

The Sub-Recipient will keep all records, books, papers, and documents related to the proceeds of the Grant and State funds, the total cost of the project funded by the Grant and State funds, project costs paid by other sources, and such other financial records pertinent to the Grant and State fund project. The State, through any authorized representative, will have access to and the right to examine and copy all such records, books, papers, and documents. The State shall have access to personnel of the Sub-Recipient for purposes of interview and discussion related to the records, books, papers and documents. State Proprietary Information, which will include all information disclosed to the Sub-Recipient by the State, will be retained in the Sub-Recipient's secondary and backup systems and will remain fully subject to the obligations of confidentiality stated in this Agreement until such information is erased or destroyed in accordance with the Sub-Recipient's established record retention policies. All accounts and records will be kept by the Sub-Recipient in accordance with an accounting system that meets the requirements of 2 C.F.R. 200.301—200.303 and 2 CFR 200 Subpart F and will facilitate an effective audit in accordance with the Single Audit Act of 1984, as amended (31 U.S.C. §§ 7501-7507).

"State Proprietary Information" will include all information disclosed to the Sub-Recipient by the State. The Sub-Recipient acknowledges that it will have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. The Sub-Recipient will not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this Agreement; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this Agreement; (iii) make State Proprietary Information available to any of its employees, officers, agents or consultants except those who have agreed to obligations of confidentiality at least as strict as those set out in this Agreement and who have a need to know such information. The Sub-Recipient is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. The Sub-Recipient will protect confidentiality of the State's Proprietary Information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information will not include information that (i) was in the public domain at the time it was disclosed to the Sub-Recipient; (ii) was known to the Sub-Recipient without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by the Sub-Recipient without the benefit or influence of the State's information; (v) becomes known to the Sub-Recipient without restriction from a source not connected to the State of South Dakota. The State's Proprietary Information will include names, social security numbers, employer numbers, addresses, and all other data about applicants, employers, or other clients to whom the State provides services of any kind. The Sub-Recipient understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68, as well as applicable federal regulations, and agrees to immediately notify the State of the disclosure of State Proprietary Information, whether intentional or inadvertent. The Sub-Recipient acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this agreement for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws, including but not limited to posting this Agreement on the State's website.

The Sub-Recipient acknowledges that the State shares general information, including performance information, about the Sub-Recipient among and between other State agencies upon request of such agencies for the purpose of making determinations of the risk involved with potential, subsequent grant awards and for other purposes. The Sub-recipient expressly consents and agrees to such uses by the State.

To maximize the transparency and accountability of funds authorized under the Act as required by Congress and in accordance with 2C.F.R. Part 200 Common Rules provisions, the Sub-Recipient will maintain records that identify adequately the source and application of Grant funds.

All payments to the Sub-Recipient by the State are subject to site review and audit as prescribed and carried out by the State. Any over-payment under this Agreement must be returned to the State within thirty days after written notification to the Sub-Recipient.

7. AUDIT REQUIREMENTS:

If the Sub-Recipient expends \$750,000.00 or more in federal awards during the Sub-Recipient's fiscal year, the Sub-Recipient must have an audit conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General's approval should be obtained annually. Approval of an auditor must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit
A-133 Coordinator
427 South Chapelle
% 500 East Capitol
Pierre, SD 57501-5070

If the Sub-Recipient expends less than \$750,000.00 during any Sub-Recipient fiscal year, the State may perform a more limited program or performance audit related to the completion of the Agreement objects, the eligibility of services or costs, and adherence to Agreement provisions.

If the Sub-Recipient is subject to the Single Audit Act Amendments of 1996 and the audit requirements of 2 C.F.R. Part 200, Subpart F, Sub-Recipient will separately identify the expenditures for Federal awards under the Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by 2 C.F.R. Part 200. This will be accomplished by identifying expenditures for Federal awards made under the Act separately on the SEFA, and as separate rows under Item 6 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "FY 2020 STC" in identifying the name of the Federal program on the SEFA and as the first characters in Item 6c of Part III on the SF-SAC.

Audits will be filed with and approved by the State Auditor General by the end of the ninth month following the end of the fiscal year of the entity being audited or thirty (30) days after receipt of the auditor's report, whichever is earlier.

For either an entity-wide, independent financial audit, or an audit under 2 CFR Part 200 Subpart F, the Sub-Recipient will resolve all interim audit findings to the satisfaction of the auditor. The Sub-Recipient will facilitate and aid any such reviews, examinations, and agreed upon procedures, the State or its contractor(s) may perform.

Failure to complete audit(s) as required, including resolving interim audit findings, will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and awards may be suspended, until the audit is completely resolved.

The Sub-Recipient will be responsible for payment of any and all audit exceptions which are identified by the State. The State may conduct an agreed upon procedures engagement as an audit strategy. The Sub-Recipient may be responsible for payment of any and all questioned costs, as defined in 2 C.F.R. 200.84, at the discretion of the State.

Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of the Sub-Recipient must be made available if needed and upon request at the Sub-Recipient's regular place of business for audit by personnel authorized by the State. The State and federal agency each has the right to return to audit the program during performance under the grant or after close-out, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.

If applicable, the Sub-Recipient will comply in full with the administrative requirements and cost principles as outlined in OMB uniform administrative requirements, cost principles, and audit requirements for federal awards – 2 C.F.R. Part 200 (Uniform Administrative Requirements).

8. SUB-RECIPIENT ATTESTATION

By signing this Agreement, the Sub-Recipient attests to the following requirements as set forth in South Dakota Codified Law (SDCL) § 1-56-10:

- a. A conflict of interest policy is enforced within the Sub-Recipient's organization;
- b. The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the Sub-Recipient's website;
- c. An effective internal control system is employed by the Sub-Recipient's organization; and
- d. If applicable, the Sub-Recipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the Sub-Recipient's website.

The Sub-Recipient further represents that any and all concerns or issues it had in complying with the foregoing attestations were provided to the State and resolved to the State's satisfaction prior to signing this Agreement.

In the event of a significant change in the conflict of interest policy, the Sub-recipient agrees to provide immediate notice of such change to the State and provide a copy of the new conflict of interest policy. The Sub-Recipient understands that any change in the conflict of interest policy may result in a change in the monitoring or other performance requirements for the Grant and state funds and expressly agrees to comply with those changes and to facilitate any additional monitoring as required by the State.

9. OWNERSHIP OF RIGHT-OF-WAY OF PROJECT

By signing this Agreement, the Sub-Recipient attests to the following requirements set forth in accordance with **49 U.S.C. § 22905(c)(1)**:

- a. The State does not own any or all right-of-way used by the Project funded by this Agreement.
- b. The Sub-Recipient owns all right-of-way used by the Project funded by this Agreement.
- c. The infrastructure capacity is adequate to accommodate both existing and future freight rail operations resulting from this Project.
- d. Railroad collective bargaining agreements with railroad employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed on the railroad transportation corridor (as appropriate).
- e. The Sub-Recipient assures compliance with liability requirements consistent with 49 U.S.C. § 28103.

10. CLOSEOUT

- a. No later than 90 days after the Project completion date, the Sub-Recipient will:
 - i. Submit a final Federal Financial Report (SF-425), a certification or summary of Project expenses, and third-party audit reports.

- ii. Provide a report comparing the final work, schedule, and budget to the statement of work described in **Attachment 2**, the schedule described in **Attachment 3**, and the budget described in **Attachment 4**.
- b. In this Agreement, "Project Closeout" means the date the State notifies the Sub-Recipient that:
 - i. The Sub-Recipient has submitted all required information, including the reports identified in this Agreement.
 - ii. The parties have completed the administrative procedures described in 2 CFR 200.343-345.
 - iii. The Project is closed out.

B. STANDARD PROVISIONS

1. TERMINATION AND FUND EXPIRATION

a. Termination by the State

The State may, in its sole discretion, terminate this Agreement and all of its obligations under this Agreement if any of the following occur:

- i. The Sub-Recipient fails to obtain or provide the funding necessary to complete the Project in accordance with this Agreement.
- ii. The Sub-Recipient fails to begin construction before _____;
- iii. The Sub-Recipient fails to begin expenditure of award funds by _____;
- iv. The Sub-Recipient fails to complete the Project by _____;
- v. The Sub-Recipient fails to comply with the environmental requirements as set forth in this Agreement;
- vi. The Sub-Recipient fails to meet the terms, conditions and obligations specified in this Agreement, including a material failure to comply with the schedule contained in **Attachment 3**, even if it is beyond the reasonable control of the Sub-Recipient; or
- vii. The FRA terminates its cooperative agreement with the State concerning the Grant.

Upon termination for any of the defaults set out in subsections i through vii above, the State may require the Sub-Recipient to re-pay all Grant and State funds, except that if the Sub-Recipient fails to maintain the Project property as required by paragraph C.15. of this Agreement, the Sub-Recipient will repay a prorated share of the Grant and State funds as set forth in that paragraph. The Sub-Recipient will make repayment within 60 days of written demand by the State. The Sub-Recipient's obligation to repay Grant and State funds survives the termination of this Agreement.

b. Closeout Termination:

This Agreement terminates upon Project Closeout.

c. Grant Fund Expiration:

Grant funds will become unavailable for reimbursement, liquidation, and adjustment after _____ . After that date, the State will not be obligated to make any further Grant fund reimbursements under this Agreement.

d. Reporting and Record Keeping Survival:

The reporting and record keeping requirements set forth in this Agreement survive the termination of the Agreement and the expiration of Grant funds.

2. AMENDMENT

This Agreement may be renewed, amended, or terminated upon mutual written consent of the parties and will be executed by an authorized representative of each of the parties.

3. NOTICE

Any notice, report or communication required under this Agreement will be in writing and sent to the following addresses or such authorized designees and addresses as the parties may designate from time to time in writing:

South Dakota Department of Transportation
Attn: Interim Secretary and Air Rail & Transit Program Manager
700 East Broadway Avenue
Pierre, South Dakota 57501

Ringneck & Western Railroad L.L.C.

Attn: _____

Notices or communications to or between the parties will be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination will be sent by registered mail or certified mail, or, if personally delivered, when received by such party. The parties may establish, in writing, processes for the Sub-Recipient to submit reports, notices and communications by electronic mail or other electronic means.

4. CONTROLLING LAW

This Agreement will be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit enforcing the terms of this Agreement between the Sub-Recipient and the State will be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

5. SEVERABILITY

If any court of competent jurisdiction holds any provision of this Agreement unenforceable or invalid, such holding will not invalidate or render unenforceable any other provision.

6. SUPERCESSION

All other prior discussions, communications, and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided in this Agreement, this Agreement constitutes the entire agreement with respect to its subject matter.

C. GRANT SPECIFIC PROVISIONS

1. PROGRESS REPORTING

- a. Quarterly Progress Reports. On or before the 10th day of the first month of each calendar year quarter and until Project Closeout, the Sub-Recipient will submit to the State a Quarterly Project Report that contains a quarterly cost, schedule, and status report. If this Agreement is fully executed in the final month of a calendar year, then the Sub-Recipient will submit the first Quarterly Progress Report in the second calendar year quarter beginning after execution. The Sub-Recipient will immediately communicate significant issues occurring between quarterly report submittals without waiting for the next Quarterly Progress Report submittal. The Quarterly Progress Report will consist of the following sections:
- i. Project Overall Status. This section provides an overall status of the Project's scope, schedule, and budget. The Sub-Recipient will note and explain any deviations from the scope of work described in **Attachment 2**, the schedule described in **Attachment 3**, or the budget described in **Attachment 4**.
 - ii. Project Significant Activities and Issues. This section provides highlights of key activities, accomplishments, and issues occurring on the Project during the previous quarter. Activities and deliverables to be reported on should include meetings, audits, and other reviews, design packages submitted, advertisements, awards, construction submittals, construction completion milestones, submittals related to any applicable requirements, media or Congressional inquiries, value engineering/constructability reviews, and other items of significance.
 - iii. Action Items/Outstanding Issues. This section should draw attention to, and track the progress of, highly significant or sensitive issues requiring action and direction in order to resolve. In general, issues and administrative requirements that could have a significant or adverse impact to the project's scope, budget, schedule, quality, safety, or compliance with federal requirements should be included. Status, responsible person(s), and due dates should be included for each action item and outstanding issue. Action items requiring action or direction should be included in the quarterly status meeting agenda. The action items and outstanding issues may be dropped from this section upon full implementation of the remedial action, and upon no further monitoring anticipated.
 - iv. Project Scope Overview. This section provides a further update regarding the Project scope. If the original scope contained in this Agreement is still accurate, this section can simply state that the scope is unchanged.
 - v. Project Schedule. An updated master program schedule reflecting the current status of the program activities should be included in this section. A Gantt (bar) type chart is probably the most appropriate for quarterly reporting purposes, with the ultimate format to be agreed upon between the State and the Sub-Recipient. It is imperative that the master program schedule be integrated, i.e., the individual contract milestones tied to each other, such that any delays occurring in one activity will be reflected throughout the entire program schedule, with a realistic completion date being reported. Narratives, tables, and graphs should accompany the updated master program schedule, detailing the current schedule status, delays and potential exposures, and recovery efforts. The following information should also be included:
 - Current overall project completion percentage vs. latest plan percentage.
 - Completion percentages vs. latest plan percentages for major activities such as right-of-way, major or critical design contracts, major or critical construction contracts, and significant force accounts or task orders. A schedule status description should also be included for each of these major or critical elements.
 - Any delays or potential exposures to milestone and final completion dates. The delays and exposures should be quantified and overall schedule impacts assessed. The reasons for the delays and exposures should be explained, and initiatives being analyzed or implemented in order to recover the schedule should be detailed.

vi. Project Cost. An updated cost spreadsheet reflecting the current forecasted cost vs. the latest approved budget vs. the baseline budget should be included in this section. One way to track project cost is to show: (1) baseline budget, (2) latest approved budget, (3) current forecasted cost estimate, (4) expenditures or commitments to date, and (5) variance between current forecasted cost and latest approved budget. Line items should include all significant cost centers, such as prior costs, right-of-way, preliminary engineering, environmental mitigation, general engineering consultant, section design contracts, construction administration, utilities, construction packages, force accounts and task orders, wrap-up insurance, construction contingencies, management contingencies, and other contingencies. The line items can be broken-up in enough detail such that specific areas of cost change can be sufficiently tracked and future improvements made to the overall cost estimating methodology. A Program Total line should be included at the bottom of the spreadsheet. Narratives, tables, and graphs should accompany the updated cost spreadsheet, detailing the current cost status, reasons for cost deviations, impacts of cost overruns, and efforts to mitigate cost overruns. The following information should be provided:

- Reasons for each line item deviation from the approved budget, impacts resulting from the deviations, and initiatives being analyzed or implemented in order to recover any cost overruns.
- Transfer of costs to and from contingency line items, and reasons supporting the transfers.
- Speculative cost changes that potentially may develop in the future, a quantified dollar range for each potential cost change, and the current status of the speculative change. Also, a comparison analysis to the available contingency amounts should be included, showing that reasonable and sufficient amounts of contingency remain to keep the Project within the latest approved budget.
- Detailed cost breakdown of the general engineering consultant (GEC) services (if applicable), including such line items as contract amounts, task orders issued (amounts), balance remaining for tasks, and accrued (billable) costs.
- Federal obligations and disbursements for the Project, compared to planned obligations and disbursements.

b. Federal Financial Reports (SF-425).

- i. Quarterly Financial Reports. On or before the 10th day of each calendar year quarter and until the period of performance end date that is listed in **Attachment 3**, the Sub-Recipient will submit a Federal Financial Report (SF-425) covering the previous calendar year quarter.
- ii. Final Financial Report. The Sub-Recipient will submit a final Federal Financial Report (SF-425) no later than 90 days after the period of performance end date.
- iii. Financial Reporting Instructions. The Sub-Recipient will submit the reports required by this section in accordance with the SF-425 instructions, which require reporting of all transactions, including federal cash, federal expenditures and unobligated balance, receipt share, and program income. The Sub-Recipient will not submit a report unless the information is accurate, consistent, and supportable by the Sub-Recipient.

c. Annual Budget Review and Program Plan.

- i. From the date of this Agreement until Project Closeout, on or before the 60th day before the end of each Agreement Year, the Sub-Recipient will submit to the State an Annual Budget Review and Program Plan that contains:
 - (a) A detailed schedule of activities and milestones for the next Agreement Year.

- (b) An estimate of specific performance objectives, including forecasted expenditures, for the next Agreement Year.
- (c) A comparison of the approved Project budget with an updated estimate of the Project costs.

In this Agreement, "Agreement Year" means 12 months beginning on the date of this Agreement or an anniversary of the date of the Agreement.

- ii. If the Sub-Recipient's updated estimate of the total Project costs exceeds the total Project costs in the approved Project budget, then the Sub-Recipient will:
 - (a) Include in the Annual Budget Review and Program Plan either documentation of committed funds to cover the increased cost or a written plan describing how the Sub-Recipient will cover the increased costs.
 - (b) Meet with the State to discuss the Annual Budget Review and Program Plan.

2. PERFORMANCE REPORTING

- a. Performance Measure Data Collection. The Sub-Recipient will collect the data necessary to report on each performance measure that is identified in the Performance Measurement Table set out in **Attachment 5**. The Sub-Recipient will submit each of the following performance measurement reports via e-mail to the State's awarding official identified on page 1 of this Agreement. The e-mail shall reference and identify in the subject line the STC Grant Number and type of performance measurement report, *i.e.* Pre-project, Interim, or Project Outcome.
 - b. Pre-project Report. The Sub-Recipient will submit to the State, on or before the Pre-project Report Date set out in **Attachment 5**, a Pre-project Report that contains:
 - i. Baseline data for each performance measure that is identified in the Performance Measurement Table in **Attachment 5**, accurate as of the Pre-project Measurement Date that is stated in **Attachment 5**.
 - ii. A detailed description of the data sources, assumptions, variability, and estimated levels of precision for each measure.
 - c. Interim Performance Measurement Reports. If the Project is completed, the Sub-Recipient will submit to the State on or before each of the periodic reporting dates specified in the Performance Measurement Table in **Attachment 5**, an Interim Performance Measurement Report containing data for each performance measure that is identified in that table, accurate as of the final date of the measurement period specified in that table. The report will include a discussion of the influence of external factors on Project expectations, if applicable. The Sub-Recipient shall represent that the data in each Interim Performance Measurement Report is current as of the final date of the reporting interval.
3. The Sub-Recipient will ensure that the Project is financed, constructed, operated, and maintained in accordance with this Agreement, and all applicable federal laws, regulations, and policies of the Federal Railroad Administration will apply to the Project.
4. The Sub-Recipient will notify the State within thirty (30) calendar days of any change in circumstances or commitments that adversely affect the Sub-Recipient's plan to complete the project as described in this Agreement. In its notification, the Sub-Recipient will advise the State of what actions the Sub-Recipient has taken or plans to take to ensure completion of the Project and will reaffirm its commitment to the State as set forth in this Agreement. The Sub-Recipient is solely liable for any funding shortfalls pertaining to the Project as agreed to in this Agreement. The maximum Grant amount of \$1,560,000.00 and the State fund amount of \$640,000.00 will remain unchanged.

5. The Sub-Recipient will carry out and complete the Project without undue delays and in accordance with the terms of this Agreement, including the Project Schedule set out in **Attachment 3**, and will comply with such regulations and procedures as the State may prescribe.
6. The Sub-Recipient's progress will be monitored periodically by the State, both programmatically and financially, to ensure that the Project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met.
7. The Sub-Recipient will take all steps, including initiating litigation, if necessary, to recover federal funds if the FRA or the State determines that such funds have been spent fraudulently, wastefully, or in violation of federal laws, or misused in any manner in undertaking the Project.
8. The Sub-Recipient acknowledges and agrees that the State is subject to the open records laws of this State and may release all information received or generated in connection with the administration of this Agreement.
9. The State will not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, the Sub-Recipient's performance of this Agreement or the design, construction, and maintenance of the Project.
10. The Sub-Recipient will: 1) provide maximum practicable opportunities for small business, including veteran-owned small business and service disabled veteran-owned small businesses, and 2) implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals regardless of race, gender, age, disability, and national origin have an opportunity to benefit from activities funded through this Agreement. In connection with the performance of this Agreement, the Sub-Recipient will cooperate with the State in meeting the State's commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises (DBE) and will use the Sub-Recipient's best efforts to ensure that DBEs have maximum practicable opportunities to compete for subcontract work under this Agreement. The Sub-Recipient will carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the Sub-Recipient to carry out these requirements is a material breach of this Agreement, which may result in termination of this Agreement or such other remedy as the State deems appropriate. The State's DBE program, as required by 49 CFR Part 26 and as approved by the USDOT, is incorporated in this Agreement by reference. The Sub-Recipient must provide the State with a plan for incorporating the State's DBE program into its implementation of the Project within twenty (20) days following execution of this Agreement.
11. This Project is subject to the Buy America requirements set forth in 49 USC 22905(a) with respect to the use of steel, iron, and manufactured goods produced in the United States. The Sub-Recipient warrants by signing this Agreement, the Sub-Recipient is in compliance with the requirements of said Federal Regulations and in the performance of this Agreement, for products where Buy America requirements apply, the Sub-Recipient will use only such products for which the Sub-Recipient has received a certification from the supplier or the provider of construction services procuring the product certifying compliance with all Buy America requirements.
12. The Sub-Recipient, its employees, agents, and subcontractors under this Agreement may not:
 - a. Engage in severe forms of trafficking in persons during the period of time this Agreement is in effect;
 - b. Procure a commercial sex act during the period of time this Agreement is in effect;
 - c. Use forced labor in the performance of the scope of services under this Agreement; or
 - d. Acts that directly support or advance trafficking in persons, as set forth in 22 U.S.C. § 7104(g)(4).

13. By entering into this Agreement for a FY2020 STC Discretionary Grant, the Sub-Recipient assures and certifies, with respect to this Grant, that it will comply with all applicable federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of federal funds for this Project. Performance under this Agreement will be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Sub-Recipient and any applicable contractors, sub-contractors or sub-sub-recipients. The applicable provisions to this Agreement include, but are not limited to, the following:

General Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. §§ 3141, et seq., as applicable under 23 U.S.C. 113
- b. Federal Fair Labor Standards Act - 29 U.S.C. §§ 201, et seq.
- c. Hatch Act - 5 U.S.C. §§ 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. §§ 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. § 470f
- f. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. §§ 312501-312508
- g. Native American Graves Protection and Repatriation Act - 25 U.S.C. §§ 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended 42 U.S.C. 7401 et. seq.
- i. Section 404 of the Clean Water Act, as amended 33 U.S.C. §§ 1251, et seq.
- j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended.
- k. Coastal Zone Management Act, P.L. 92-583, as amended.
- l. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. § 4012a
- m. Age Discrimination Act of 1975 - 42 U.S.C. §§ 6101, et seq.
- n. American Indian Religious Freedom Act, P.L. 95-341, as amended
- o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101, et seq.
- p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended - 42 U.S.C. §§ 4541, et seq.
- q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
- r. Architectural Barriers Act of 1968 - 42 U.S.C. § 4151, et seq.
- s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 - Section 403 - 42 U.S.C. § 8373
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.
- u. Copeland Anti-kickback Act, as amended - 18 U.S.C. § 874 and 40 U.S.C. § 3145
- v. National Environmental Policy Act of 1969 - 42 U.S.C. §§ 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. §§ 1271, et seq.
- x. Federal Water Pollution Control Act, as amended - 33 U.S.C. §§ 1251-1376
- y. Single Audit Act of 1984 - 31 U.S.C. §§ 7501, et seq.
- z. Americans with Disabilities Act of 1990 - 42 U.S.C. § 12101, et seq.
- aa. Title IX of the Education Amendments of 1972, as amended - 20 U.S.C. § 1681 through § 1683, and § 1685 through § 1687
- bb. Section 504 of the Rehabilitation Act of 1973, as amended - 29 U.S.C. § 794
- cc. Title VI of the Civil Rights Act of 1964 - 42 U.S.C. §§ 2000d et seq.
- dd. Title IX of the Federal Property and Administrative Services Act of 1949 - 40 U.S.C. §§1101 - 1104 541, et seq.
- ee. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
- ff. Freedom of Information Act - 5 U.S.C. § 552, as amended
- gg. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1855
- hh. Farmland Protection Policy Act of 1981 – 7 U.S.C. § 4201
- ii. Noise Control Act of 1972 – 42 U.S.C. § 4901, et seq.
- jj. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. § 661
- kk. Section 9 of the Rivers and Harbors Act and General Bridge Act of 1946 - 33 U.S.C. § 401
- ll. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. § 138
- mm. Resource Conservation and Recovery Act of 1976 (RCRA), as amended -- 42 U.S.C. §§ 6901, et seq.

- nn. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended --42 U.S.C. §§ 9601-9657
- oo. Safe Drinking Water Act -- 42 U.S.C. §§ 300F-300J-6
- pp. Wilderness Act -- 16 U.S.C. §§ 1131-1136
- qq. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 -- 42 U.S.C. § 6901, et seq.
- rr. Migratory Bird Treaty Act 16 U.S.C. § 760c-760g
- ss. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- tt. Cargo Preference Act of 1954 – 46 U.S.C. § 55305
- uu. Trafficking Victims Protection Act of 2000 – 22 U.S.C. § 7104(g)

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency
- h. Executive Order 13513 – Federal Leadership on Reducing Text Messaging While Driving

General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures - 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates - 29 C.F.R. Part 1
- e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States - 29 C.F.R. Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) - 29 C.F.R. Part 5
- g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) - 41 C.F.R. Parts 60, et seq.
- h. Contractor Qualifications - 48 C.F.R. Part 9
- i. New Restrictions on Lobbying – 49 C.F.R. Part 20
- j. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
- k. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs - 49 C.F.R. Part 24
- l. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance - 49 C.F.R. Part 25
- m. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance - 49 C.F.R. Part 27
- n. DOT's oversight of DOJ's ADA regulations for non-transit programs, including the ADA Accessibility Guidelines, required by the DOJ regulations at 28 C.F.R. Part 35
- o. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- p. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors - 49 C.F.R. Part 30
- q. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32

- r. DOT's implementing ADA regulations for transit, including the ADA Accessibility Guidelines in Part 37, Appendix A - 49 C.F.R. Parts 37 and 38
- s. Procedures for Transportation Workplace Drug and Alcohol Testing Programs – 49 C.F.R. Part 40

Office of Management and Budget Circulars

Any applicable OMB Circular based upon the specific FY2020 STC Discretionary Grant.

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference into this Agreement.

14. REIMBURSEMENT OF PROJECT COSTS

- a. The Sub-Recipient has entered into obligations for services and goods associated with the Project prior to seeking reimbursement from the State. The State will provide reimbursement only for costs incurred after the Project Performance Period set out on page 1 of this Agreement, except to the extent an earlier date is specified in the Statement of Work attached as **Attachment 2** to this Agreement.
- b. The Sub-Recipient will ensure that the funds provided by the State are not misappropriated or misdirected to any other account, need, project, line-item, or unrelated activity.
- c. Any federal funds not expended in conjunction with the Project will remain the property of the FRA.
- d. Financial Management System: By signing this Agreement, the Sub-Recipient verifies that it has, or will implement, a financial management system adequate for monitoring the accumulation of costs and that it complies with the financial management system requirements of 2 CFR 200.302 and Title 23 USC. The Sub-Recipient's failure to comply with these requirements may result in agreement termination.
- e. Allowable Costs: Reimbursement of costs incurred pursuant to this Agreement will be made in accordance with 2 C.F.R. Part 200 and the provisions of such regulations and procedures as the FRA may prescribe. Determination of allowable costs incurred by the Sub-Recipient under the Grant shall be made in accordance with applicable government-wide costs principles under 2 C.F.R. Part 200, Subpart E. Closeout of the Grant will be based upon the State's and FRA's determination that all applicable administrative actions and all required work of the Grant and State funds have been completed in accordance with 2 C.F.R. 200.343-345. Upon the State's and FRA's review of all financial, performance, and other reports required as a condition of the Grant and State funds, the State may make any upward or downward adjustments to the allowable costs in accordance with 2 C.F.R. 200.344. Disallowed costs are those charges determined to not be allowed in accordance with the applicable federal cost principles or other conditions contained in this Agreement.

15. RESPONSIBILITY AND AUTHORITY OF THE SUB-RECIPIENT

- a. Legal Authority. The Sub-Recipient affirms that the Sub-Recipient has the legal authority to enter into this Agreement and to finance and carry out the Project.
- b. Funds Availability. The Sub-Recipient affirms that the Sub-Recipient has sufficient funds available for that portion of the Project costs that are not to be paid by the Grant or State funds. The Sub-Recipient also affirms that it has funds available to assure operation and maintenance of items funded under this Agreement that the Sub-Recipient will own or control.

- c. Preserving Rights and Powers. The Sub-Recipient will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Agreement without the State's prior written approval, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the Sub-Recipient. The Sub-Recipient agrees that this will be done in a manner acceptable to the State.
- d. Minimum Wage Rates. The Sub-Recipient will pay and will include, in all contracts in excess of \$2,000.00, for work on any projects funded under this Agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 USC § 3141 et. seq.) or 23 USC 113 as applicable, which contractors must pay to skilled and unskilled labor, and such minimum rates will be stated in all invitations for bids and will be included in proposals or bids for the work.
- e. Engineering and Design Services. The Sub-Recipient will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the Project in the same manner as a contract for architectural and engineering services is negotiated under the Brooks Act (40 USC §§ 1101-1104) as implemented in 23 USC 112(b)(2) (as applicable) or an equivalent qualifications-based requirement prescribed for or by the Sub-Recipient as approved by the State.
- f. Foreign Market Restrictions. The Sub-Recipient will not allow funds provided under this Grant to be used to fund any project that uses any product or service of a foreign country during the period in which said foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
- g. Relocation and Real Property Acquisition. The Sub-Recipient (1) will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B; (2) will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24; and (3) will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
- h. Reporting of Total Compensation of Sub-Recipient Executives. By January 1, 2021, the Sub-Recipient will report to the State the names and total compensation of each of the Sub-Recipient's five most highly compensated executives for the Sub-Recipient's preceding completed fiscal year, if:
 - i. In the Sub-Recipient's preceding fiscal year, the Sub-Recipient received:
 - (a) 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. 170.320 (and subawards); and
 - (b) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards).
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986). (To determine if the public has access to the compensation information, see the U.S.

16. MAINTENANCE OF PROJECT PROPERTY

Except as otherwise provided in this Agreement, the Sub-Recipient will ensure the maintenance of Project property to the level of utility (including applicable FRA track safety standard) which exists when the Project improvements are placed in service, as set forth in the Statement of Work (Attachment 2), for a period of 20 years from the date such Project property was placed in service. In the event the Sub-Recipient fails to maintain Project property as required by this section for a period of time in excess of six (6) months, the Sub-Recipient will refund to the State a prorated share of the federal and State contribution, based upon the percentage of the 20-year period remaining at the time of such original default.

17. UNIQUE ENTITY IDENTIFIER

No entity may receive a sub-award from the State unless the entity provides the State with its unique entity identifier. Unique entity identifier means the identifier for the System for Award Management (SAM) registration to uniquely identify business entities. The Sub-Recipient will provide its unique entity identifier to the State immediately upon execution of this Agreement.

18. SUB-RECIPIENT INTEGRITY AND PERFORMANCE MATTERS

Reporting of Matters Related to Sub-Recipient Integrity and Performance

a. General Reporting Requirement

If the total value of the Sub-Recipient's currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000.00 for any period of time during the period of performance of this federal award, then the Sub-Recipient will maintain, during that period of time, the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph C.17.b.iii below. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 USC 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for federal procurement contracts, will be publicly available.

b. Proceedings About Which Sub-Recipient Must Report

The Sub-Recipient must submit information required about each proceeding that:

- i. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the federal government.
- ii. Reached its final disposition during the most recent five year period.
- iii. Is one of the following:
 - (a) A criminal proceeding that resulted in a conviction, as defined in paragraph C.17.e;
 - (b) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000.00 or more;

- (c) An administrative proceeding, as defined in paragraph C.17.e. below, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000.00 or more or reimbursement, restitution, or damages in excess of \$100,000.00; or
- (d) Any other criminal, civil, or administrative proceeding if:
 - (1) It could have led to an outcome described in paragraph C.17.b.iii.(a), (b), or (c);
 - (2) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the Sub-Recipient's part; and
 - (3) The requirement to disclose information about the proceeding does not conflict with applicable laws and regulations.

c. Reporting Procedures

The Sub-Recipient will enter in the SAM the information that SAM requires about each proceeding described in paragraph C.17.b. The Sub-Recipient does not need to submit the information a second time under the assistance awards that the Sub-Recipient received if the Sub-Recipient already provided the information through SAM because the Sub-Recipient was required to do so under federal procurement contracts that the Sub-Recipient was awarded.

d. Reporting Frequency

During any period of time when the Sub-Recipient is subject to the requirement in paragraph C.17.a, the Sub-Recipient must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that the Sub-Recipient has not reported previously or affirm that there is no new information to report. Sub-Recipients that have federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000.00 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

e. Definitions

For purposes of this Agreement:

- i. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault of liability (such as Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the federal and state level but only in connection with performance of a federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- ii. Conviction, for purposes of this Agreement, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes:
 - (a) Only the federal share of the funding under any federal award with a recipient cost share or match; and

- (b) The value of all expected funding increments under a federal award and options, even if not yet exercised.

19. ASSURANCES AND CERTIFICATIONS

The Sub-Recipient will ensure compliance with the standard FY2020 STC grant program assurances and certifications, attached to this Agreement as **Attachment 6** and made a part of this Agreement.

20. CONSTRUCTION

If the constituent portions of this Agreement conflict with one or another, the order of precedence in determining which provisions prevail will be: (1) sections A, B.1., and C.15; (2) **Attachments 2-5**; and (3) the remaining provisions of this Agreement and **Attachment 6**.

21. PROPERTY, EQUIPMENT, AND SUPPLIES

Unless otherwise approved by the State, the following terms and conditions apply to property, equipment, and supplies funded under this Agreement:

- a. **General Federal Requirements.** The Sub-Recipient will comply with the property management standards of 2 C.F.R. §§ 200.310 through 200.316, including any amendments, and other applicable guidelines or regulations. Exceptions to the requirements must be specifically approved by the State in writing. The Sub-Recipient will use Project real property, as defined by 2 C.F.R. § 200.85, in accordance with the property standards of 2 C.F.R. § 200.211. Notwithstanding 2 C.F.R. § 200.313, the Sub-Recipient will comply with 2 C.F.R. § 1201.313 with respect to the use, management, and disposal of equipment acquired under this Agreement.
- b. **Maintenance.** The Sub-Recipient will maintain the Project property and equipment in good operating order, and in accordance with any guidelines, directives, or regulations the State may issue.
- c. **Records.** The Sub-Recipient will keep satisfactory records with regard to the use of the property, equipment, and supplies and submit to the State, upon request, such information as may be required to assure compliance with this section of the Agreement.
- d. **Transfer of Project Property, Equipment, or Supplies.** The Sub-Recipient agrees the State may require the Sub-Recipient to transfer title to, or direct the disposition of, any property, equipment, or supplies financed with FRA assistance made available by this Agreement as required by 2 C.F.R. §§ 200.311 – 200.316.
- e. **Encumbrance of Project Property or Equipment.** Unless expressly authorized in writing by the State, the Sub-Recipient agrees not to:
 - i. Execute any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienations, or other obligation that in any way would dispose of or encumber the Sub-Recipient's continuing control over the use of the Project property or equipment.
 - ii. Obligate itself in any manner to any third party with respect to the Project property or equipment. The Sub-Recipient will refrain from taking any action or acting in a manner that would adversely affect the State's interest or impair the Sub-Recipient's continuing control over the use of the Project property or equipment.

D. AUTHORIZATION

The South Dakota State Railroad Board (the "Board"), with the consent of the Governor, has authorized the Secretary of the Department of Transportation to execute this Agreement on behalf of the State. A copy of the fully executed resolution of the Board is attached to this Agreement as **Attachment 1**.

E. EXECUTION

1. Counterparts. This Agreement may be executed in counterparts, which constitute one document. The parties will execute this Agreement in triplicate and intend each countersigned original to have identical legal effect.
2. Effective Date. This Agreement is effective when fully executed by authorized representatives of the Sub-Recipient and the State. The Sub-Recipient will execute this Agreement and then submit three original signed copies of the Agreement to the State for execution.

The parties signify their agreement by signatures affixed below.

Ringneck & Western Railroad, L.L.C.

By: _____

Its: _____

Date: _____

(Corporate Seal)

State of South Dakota
Department of Transportation

By: _____

Its: Interim Secretary

Date: _____

Approved as to Form:

Special Assistant Attorney General

ATTACHMENT 1

RESOLUTION NO. 2020-B06

BE IT RESOLVED BY THE

SOUTH DAKOTA STATE RAILROAD BOARD

Whereas, SDCL 1-44-20 states in relevant part: "The Department of Transportation, with the approval of the South Dakota State Railroad Board and the written consent of the Governor, may enter into agreements, contracts, leases (as lessor or lessee), or other arrangements with any corporation, partnership, individual, agency, or authority, on such terms and conditions as the department shall determine, including providing for the acquisition, operation, maintenance, and improvement of public rail lines determined by the department to be necessary or appropriate."

Whereas, a proposal was presented to the South Dakota State Railroad Board (the "Board") for consideration of a project to be submitted for an application of a Special Transportation Circumstances (STC) Grant. The proposed project is to construct a new 10,000-foot meet and pass siding located on south side of mainline and east of Highway 45 on the State-owned MRC rail line. The project would ease traffic congestion of rail traffic from three grain shuttle facilities located on the MRC line. The total estimated project cost is \$2,500,000;

Whereas, the funding package would consist of federal STC grant funds in the amount of \$1,560,000.00; match in the amount of \$300,000.00 from Dakota Southern Railroad Company (SDRC), and State funds from the State Railroad Trust Fund in the amount of \$640,000.00;

Now, Therefore, the South Dakota State Railroad Board, subject to the approval of the Governor, authorizes and directs the Secretary of the South Dakota Department of Transportation, or his designee, to execute all documents necessary to submit an STC grant fund application for the proposed project based on the following project funding and contingencies:

- \$1,560,000.00 STC federal grant funds
- \$300,000.00 DSRC matching funds
- \$640,000.00 State Railroad Trust Funds
- Any real property acquisition necessary for the project will be acquired in the name of South Dakota Department of Transportation
- The purpose of the new meet and pass siding will be limited to meet and pass operations and will not be used for storage.

SOUTH DAKOTA STATE RAILROAD BOARD

By: 

Jerry Cope, Chair

Approved this 21st day of July, 2020.

By: 

Kristi Noem, Governor

ATTACHMENT 2

STATEMENT OF WORK

South Dakota Department of Transportation MRC Meet and Pass Siding Project Special Transportation Circumstances

The project will construct a new a 10,000 ft siding that includes applicable infrastructure components located in the attached Preliminary Plan.

Total project cost is \$2,500,000.00. A STC grant of \$1,560,000.00 has been awarded by the FRA with a non-Federal share match of \$940,000.00 provided by Ringneck & Western Railroad, L.L.C. (“Sub-Recipient”) and the State of South Dakota. The project funding breakdown is 62.4% percent federal grant and 37.6% percent non-Federal match. The South Dakota Department of Transportation (the “State”) is the applicant for the grant and will administer the grant funding with the Sub-Recipient. Completion of this project will provide significant long-term economic benefits to a very rural area of South Dakota. These benefits will not only help current freight shippers using the line but will enhance the ability to attract additional economic development to the MRC.

I. OBJECTIVE

This project will construct a new 10,000-foot siding east of South Dakota Highway 45 near the Gavilon Elevator. The siding will be located south of the track on extra width property half which is currently owned by the Sub-Recipient. The other half of the project right of way will need to be acquired.

II. PROJECT LOCATION

This project is located in rural Brule County, SD on the Sub-Recipient’s mainline 5 miles east of Kimball SD.

III. DESCRIPTION OF WORK

All tasks under this section will be completed by the Sub-Recipient utilizing a hired consultant from the State’s retainer consultant list.

1. Task 1: Completion of Detailed Project Work Plan, NEPA Analysis, Budget, and Schedule

The State will act as the grant recipient and will supervise the preparation of the Detailed Project Work Plan, Budget, and Schedule by the Sub-Recipient for the following tasks, which may result in a revised statement of work.

A detailed environmental assessment of the project scope of work will be the responsibility of a professional third party. The extent of environmental work required will not be known until additional information is found during the preliminary design phase. The results from that work will include documents that will be submitted for review and approval by the Federal Railroad Administration (FRA).

The State and the Sub-Recipient acknowledge that work on subsequent tasks will not commence until the Detailed Project Work Plan, Budget, Schedule, and NEPA requirements have been completed, submitted to FRA, and the State has received approval in writing from FRA. The FRA will not reimburse the State for costs incurred completing this requirement, unless other authorization is made in writing by FRA. All this work will allow for preparation and execution of appropriate FRA –

State and State – Sub-Recipient grant agreements, to the extent they are required for this STC grant project.

2. Task 1 Deliverables:

- Detailed Project Work Plan, Budget, and Schedule
- Complete NEPA Assessment for this project
- Project Agreements (if applicable)

3. Task 2: Pre-construction Notice of Bidding, Bidding and Vendor / Contractor Selection

Based on the approved Project Work Plan, Budget and Schedule, the Sub-Recipient, with the oversight of the State, will create a detailed process to properly develop bid packages, advertise the bid opportunities, hold pre-bid meetings, and to select the contractor(s) required to complete the project. All federal requirements for this work will be followed.

4. Task 2 Deliverables:

- Detailed plan for bidding installation and materials necessary for completion of this project.
- All public notices and meetings will be conducted as required.

5. Task 3: Project Construction

Based on the approved Project Work Plan, Budget and Schedule, the Sub-Recipient, with the oversight of State, will undertake the actual construction phase of the project. This involves the implementation of the project as described in the Contract Documents.

6. Task 3 Deliverables:

- Construction Work Start - This is the date when work actually starts on building the project and activity might be seen on the site.
- Physical Completion - The Physical Completion date is the day all of the Work is physically completed on the project.

7. Task 4: Project Completion

The State and the Sub-Recipient will work closely with FRA to ensure a complete and thorough close out of the project.

8. Task 4 Deliverables:

- Contract Completion - The Completion date is the day all the Work specified in the Contract is completed and all the obligations of the Contractor under the Contract are fulfilled to the satisfaction of FRA, the State, and the Sub-Recipient.
- Final Performance Reporting - This report will be submitted within 90 days of the end of the grant's period of performance and will describe the cumulative activities of the project, including a complete description of the Sub-Recipient achievements with respect to the project objectives and milestones.

IV. PROJECT SCHEDULE AND DELIVERABLES

The period of performance for all work will be divided into two related and sequential steps “pre-agreement work” and “post-agreement work”:

1. Pre-agreement work includes all work associated with Task No. 1 and will be completed with executions (as required) of FRA – State and State – Sub-Recipient grant agreements.
2. Post-agreement work includes all arrangements needed to secure materials and contracting

3. services for the project, the actual construction of the project, and the final close out of the project.

The schedule of deliverables associated with this project is below. The Sub-Recipient working under the supervision of the State, will complete these deliverables to the satisfaction of FRA staff in order to be authorized for funding reimbursement and for the project to be considered complete.

| <u>Task #</u> | <u>Deliverable Name</u> | <u>Related Task</u> | <u>Due Date</u> |
|----------------------|---|---|------------------------|
| | STC Award Announcement | | Sept. 28, 2020 |
| 1 | Completion of Detailed Project Work Plan, NEPA Analysis, Budget and Schedule | Completion of Grant Agreements, Necessary Public Meetings | _____ |
| 2 | Design, Pre-construction Notice of Bidding, Bidding and Vendor / Contractor Selection | Necessary Public Meetings | _____ |
| 3 | Project Construction | | _____ |
| 4 | Project Closeout | Contract Completion | _____ |

V. PROJECT ESTIMATE/BUDGET

The total estimated cost of the project is \$2,500,000.00 for which the FRA will contribute up to 62.4% percent of the total cost, not to exceed \$1,560,000.00. Any additional expense required beyond that provided in this grant to complete the project will be borne by the Sub-Recipient and the State.

9. **Project Estimate by Task**

| Task # | Task Name | Total STC Project Cost |
|---------------------------|--|-------------------------------|
| 1&2 | Design Engineering and Construction Administration | \$155,291.00 |
| 3 & 4 | Project Construction and Completion | \$2,344,709.00 |
| Total Project Cost | | \$2,500,000.00 |

Project Estimate Contributions

| Funding Source | Project Contribution Amount | Percentage of Total Project Cost |
|-------------------------------------|------------------------------------|---|
| FRA Grant | \$1,560,000.00 | 62.4% |
| South Dakota DOT | \$ 640,000.00 | 25.6% |
| Ringneck & Western Railroad, L.L.C. | \$ 300,000.00 | 12.0% |
| Total Project Cost | \$2,500,000.00 | 100.0% |

VI. PROJECT COORDINATION

The State will supervise the Sub-Recipient in the performance of all tasks required for the project through a coordinated process. This will be an interactive process between:

- Ringneck & Western Railroad, L.L.C.
- South Dakota Department of Transportation
- FRA

VII. PROJECT MANAGEMENT

The State and the Sub-Recipient will be responsible for facilitating the coordination of all activities necessary for implementation of the project. Upon award of the project, the Sub-Recipient, with the guidance of the State, will actively monitor and evaluate progress on the project through regular meetings scheduled throughout the period of performance. The Sub-Recipient, with appropriate support and participation by the State, will:

- Participate in a project kickoff meeting with FRA
- Complete necessary steps to hire a qualified consultant/contractor to perform required Project work
- Hold regularly scheduled project meetings with FRA
- Inspect and approve work as it is completed
- Review and approve invoices as appropriate for completed work
- Perform project close-out audit to ensure contractual compliance and issue close-out report
- Submit to FRA all required project deliverables and documentation on-time and according to schedule, including periodic receipts and invoices
- Comply with all FRA project reporting requirements, including, but not limited to:
 - a. Status of project by task breakdown and percent complete
 - b. Changes and reason for change in project’s scope, schedule and/or budget
 - c. Description of unanticipated problems and any resolution since the immediately preceding progress report
 - d. Summary of work scheduled for the next progress period
 - e. Updated project schedule
- Institute a thorough process to address any exceptions to ensure full compliance with the expectations and requirements of the State and FRA.

ATTACHMENT 3

ESTIMATED PROJECT SCHEDULE

ATTACHMENT 4
ESTIMATED PROJECT BUDGET

ATTACHMENT 5

PERFORMANCE MEASUREMENT TABLE

ATTACHMENT 6

TITLE VI ASSURANCE

[This Assurance Includes Appendices A-E]

(Implementing Title VI of the Civil Rights Act of 1964, as amended)

ASSURANCE CONCERNING NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

(Implementing the Rehabilitation Act of 1973, as amended, and the Americans With Disabilities Act, as amended)

49 CFR Parts 21, 25, 27, 37, and 38

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

By signing this Agreement, the Sub-Recipient agrees that, as a condition to receiving any federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Railroad Administration (FRA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (entitled *Non-discrimination In Federally-Assisted Programs Of The Department of Transportation – Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 CFR section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites in this Attachment are referred to as the “Acts” and “Regulation,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Sub-Recipient gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Sub-Recipient receives Federal financial assistance from DOT, including the FRA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Sub-Recipient, so long as any portion of the program is federally assisted.

Specific Assurances

More specifically, and without limiting the above General Assurance, the Sub-Recipient agrees with and gives the following assurances with respect to its federally assisted FY2019 STC Discretionary Grants program:

1. The Sub-Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Sub-Recipient will insert the following notifications in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with the FY 2019 STC Discretionary Grant and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The Sub-Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”
3. The Sub-Recipient will insert the clauses of Appendix A and Appendix E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Sub-Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States affecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Sub-Recipient.
5. That where the Sub-Recipient receives federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Sub-Recipient receives federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Sub-Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Sub-Recipient with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

8. This Assurance obligates the Sub-Recipient for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Sub-Recipient, or any transferee for the longer of the following periods:
 - a. The period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. The period during which the Sub-Recipient retains ownership or possession of the property.
9. The Sub-Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Sub-Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this Assurance, the Sub-Recipient also agrees to comply (and require any sub-recipients, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FRA's access to records, accounts, documents, information, facilities, and staff. The Sub-Recipient also recognizes that they must comply with any program or compliance reviews, and/or complaint investigations conducted by the FRA. The Sub-Recipient must keep records, reports, and submit the material for review upon request to FRA, or its designee in a timely, complete, and accurate way. Additionally, the Sub-Recipient must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Sub-Recipient gives this ASSURANCE in consideration of and for obtaining any federal grants, loans, contracts, agreements, property, and/or discounts, or other federal-aid and federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FY2019 STC Discretionary Grants Program. This ASSURANCE is binding on the Sub-Recipient, other recipients, sub-recipients, contractors, subcontractors and their sub-contractors, transferees, successors in interest, and any other participants in the FY2019 STC Discretionary Grants Program.

11. The Sub-Recipient gives assurance regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations resulting from the Project; an assurance by the owner that collective bargaining agreements with railroad employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by such employees on the railroad transportation corridor; and an assurance of compliance with liability requirements consistent with 49 U.S.C. § 28103.

APPENDIX A

During the performance of this Agreement, the Sub-Recipient, for itself, its assignees, and successors in interest (referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Railroad Administration (FRA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-Discrimination:** The contractor, which regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FRA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FRA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FRA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FRA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Specific Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Sub-Recipient will accept title to the lands and maintain the project constructed thereon in accordance with The Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235, December 16, 2014) the Regulations for the Administration of FY 2019 STC Discretionary Grants Program, and the policies and procedures prescribed by the Federal Railroad Administration (FRA) of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Sub-Recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Sub-Recipient, its successors and assigns.

The Sub-Recipient, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Sub-Recipient will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED
UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sub-Recipient pursuant to the provisions of Specific Assurance 7(a):

- A. The (Sub-Recipient, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (Sub-Recipient, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Sub-Recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Sub-Recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Sub-Recipient and its assigns.*
(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE
ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the Sub-Recipient pursuant to the provisions of Specific Assurance 7(b):

- A. The (Sub-Recipient, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (Sub-Recipient, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the Sub-Recipient will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the Sub-Recipient will there upon revert to and vest in and become the absolute property of Recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this Agreement, the Sub-Recipient, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Potentially Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, (42 U.S.C. § 4601 *et seq.*), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects) and the U.S. DOT implementing regulations, 49 C.F.R. Part 24;
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

DISCLOSURE OF LOBBYING ACTIVITIES

Certification for Contracts, Grants, Loans, and Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 grant agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or grant agreement.

If any funds other than Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or grant agreement, the undersigned shall complete and submit Standard Form-LLL (Rev. 7-97), "Disclosure of Lobbying Activities," in accordance with its instructions.

The undersigned shall require that 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 grant agreements) and that all subrecipients shall 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 31 U.S.C. § 1352, title. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS IN THE
PERFORMANCE OF THE FY2019 DISCRETIONARY GRANT PROGRAM**

The Sub-Recipient certifies that it will, or will continue, to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sub-Recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an ongoing drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The Sub-Recipient's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and,
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph 1.
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment supported by the grant award, the employee will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
5. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the State. Notice shall include the order number of the grant award.
6. Taking one of the following actions, within 30 days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
8. The Sub-Recipient may, but is not required to, provide the site for the performance of work done in connection with the specific grant. For the provision of services pursuant to the agreement, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award. If the Sub-Recipient does so, please insert in section 17 of Attachment 1 the following information from subsection (a) below:
 - (a) Identify the Places of Performance by listing the street address, city, county, state, zip code. Also identify if there are workplaces on file that are not identified in this section of the agreement.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS -- PRIMARY COVERED TRANSACTIONS
2 C.F.R. Parts 180 and 1200 and 48 C.F.R. Part 9**

These assurances and certifications are applicable to all federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FRA approval or that is estimated to cost \$25,000.00 or more – as defined in 2 C.F.R. Parts 180 and 1200.

By signing and submitting this Agreement and by entering into the agreement under the FY 2019 STC Discretionary Grant program, the Sub-Recipient is providing the assurances and certifications for First Tier Participants and Lower Tier Participants in the FY 2019 STC Discretionary Project, as set out below.

1. Instructions for Certification – First Tier Participants:

- a. The prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "civil judgment," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a Recipient or subrecipient of federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000.00 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or

otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.

- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment, including a civil settlement, rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000.00 or more - 2 C.F.R. Parts 180 and 1200)

- a. The prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms “covered transaction,” “civil settlement,” “debarred,” “suspended,” “ineligible,” “participant,” “person,” “principal,” and “voluntarily excluded,” as used in this clause, are defined in 2 C.F.R. Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a Recipient or subrecipient of federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a

covered transaction with a Recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000.00 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

REQUIREMENTS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW

As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions in subsequent appropriations acts, the funds provided under this award shall not be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that:

- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the State and FRA; or
- (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the State and FRA.

The Sub-Recipient therefore agrees:

1. **Definitions.** For the purposes of this exhibit, the following definitions apply:
 - “**Covered Transaction**” means a transaction that uses any funds under this award and that is a contract, memorandum of understanding, cooperative agreement, grant, loan, or loan guarantee.
 - “**Felony Conviction**” means a conviction within the preceding 24 months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the United States Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. 3559.
 - “**Participant**” means the Sub-Recipient, an entity who submits a proposal for a Covered Transaction, or an entity who enters into a Covered Transaction.
 - “**Tax Delinquency**” means an unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
2. **Mandatory Check in the System for Award Management.** Before entering a Covered Transaction with another entity, a Participant shall check the System for Award Management (the “SAM”) at <http://www.sam.gov/> for an entry describing that entity.
3. **Mandatory Certifications.** Before entering a Covered Transaction with another entity, a Participant shall require that entity to:
 - (1) Certify whether the entity has a Tax Delinquency; and
 - (2) Certify whether the entity has a Felony Conviction.
4. **Prohibition.** If
 - (1) the SAM entry for an entity indicates that the entity has a Tax Delinquency or a Federal Conviction;
 - (2) an entity provides an affirmative response to either certification in section 3; or
 - (3) an entity’s certification under section 3 was inaccurate when made or became inaccurate after being made then a Participant shall not enter or continue a Covered Transaction with that entity unless the State and FRA have determined in writing that suspension or debarment of that entity are not necessary to protect the interests of the State and FRA.
5. **Mandatory Notice to the USDOT.**
 - (1) If the SAM entry for a Participant indicates that the Participant has a Tax Delinquency or a Felony Conviction, the Sub-Recipient shall notify the State in writing of that entry.
 - (2) If a Participant provides an affirmative response to either certification in section 1, the Sub-Recipient shall notify the State in writing of that affirmative response.
 - (3) If the Sub-Recipient knows that a Participant’s certification under section 1 was inaccurate when made or became inaccurate after being made, the Sub-Recipient shall notify the State in writing of that inaccuracy.

6. **Flow Down.** For all Covered Transactions, including all tiers of subcontracts and subawards, the Sub-Recipient shall:
- (1) require the SAM check in section 2;
 - (2) require the certifications in section 3;
 - (3) include the prohibition in section 4; and
 - (4) require all Participants to notify the Sub-Recipient in writing of any information that would require the Sub-Recipient to notify the State under section 5.

RAILROAD AGREEMENTS

In accordance with 49 U.S.C. § 22905(c)(1):

(1) If Grantee owns the rights-of-way used by the Project funded by this Agreement, then Grantee agrees that: the infrastructure capacity is adequate to accommodate both existing and future freight and passenger rail operations resulting from the Project, as applicable; railroad collective bargaining agreements with railroad employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed on the railroad transportation corridor; and the Grantee assures compliance with liability requirements consistent with 49 U.S.C. § 28103.

(2) If Grantee does not own all of the rights-of-way used by the Project funded by this Agreement, then Grantee represents that it has entered into a written agreement with the owner of rights-of-way used by the Project funded by this Agreement, which includes: compensation for such use; assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations resulting from the Project; an assurance by the owner that collective bargaining agreements with railroad employees (including terms regulating the contracting of work) will remain in full force and effect according to their terms for work performed by such employees on the railroad transportation corridor; and an assurance of compliance with liability requirements consistent with 49 U.S.C. § 28103.

[END OF ASSURANCES AND CERTIFICATIONS

**EXHIBIT N – FORM OF CERTIFICATE OF MAJORITY CONTROLLING
INTEREST**

CORPORATE SECRETARY’S CERTIFICATE

[REDACTED] | [XX], 2021

The undersigned, Craig R. Richey, the Executive Vice President, General Counsel and Secretary of Watco Companies, L.L.C., a Delaware limited liability company (the “**Company**”), in the above capacity and not individually, does hereby deliver this certificate in connection with and pursuant to Section 5.1(j) of a purchase agreement, dated as of [REDACTED], 2021, by and between The State of South Dakota, acting by and through its Department of Transportation (the “**Seller**”) and Ringneck & Western Railroad, L.L.C. (the “**Buyer**”) (the “**Purchase Agreement**”). Capitalized terms used herein without definition have the meanings assigned to them in the Purchase Agreement. In connection with the foregoing, in his capacity as an officer of the Company and not in his individual capacity, the undersigned hereby certifies, as of the date hereof, that:

- (1) As of the Closing Date, Craig R. Richey is the Executive Vice President, General Counsel and Secretary of the Company and is familiar with the corporate structure and ownership of Company, Buyer and their affiliates.
- (2) As of the Closing Date, Company owns one hundred (100%) percent of the currently issued and outstanding membership interests in Watco Transportation Services, L.L.C., a Kansas limited liability company (“**WTS**”).
- (3) As of the Closing Date, WTS owns a controlling majority interest in Buyer and is the Managing Member in charge of the Buyer.

This certificate is being furnished to the Seller solely for the benefit of the Seller in connection with the transactions contemplated by the Purchase Agreement.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate as of the date first written above.

By: _____
Name: Craig R. Richey
Title: Executive Vice President,
General Counsel,
and Secretary