

SOUTH DAKOTA BOARD OF REGENTS

Committee on Budget and Finance

AGENDA ITEM: III – N

DATE: April 1-2, 2015

SUBJECT: Resolution requesting the grant to the City of Spearfish a permanent easement to provide access to the municipal well house located on the campus of Black Hills State University.

Black Hills State University requests that the Board of Regents adopt the attached Resolution requesting the grant of a permanent easement to the city to provide better municipal access to the well and pump house, Attachment 1.

Background:

In 1988, the Board entered into an agreement with the City of Spearfish to permit the city to take water from a well that the institution had drilled for irrigation purposes and to incorporate that water into the municipal potable water system. Incorporated into this agreement was a platted easement and right of way, Attachment 2, Exhibit A, to City of Spearfish permitting it to construct a well house, to install water lines on, and to access such improvements over, portions of the Black Hills State University campus grounds for the purpose of providing a portion of the potable water needs to municipal customers.

In practice, the municipality has not employed the right of way granted in 1988 to reach the well house site. Instead, it accesses the site from the BHSU physical plant, driving over the turf. In order to provide for a more appropriate means of accessing the well house, BHSU and

RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR

Adopt the proposed resolution requesting the Commissioner of School and Public Lands to draw up all necessary documents and to forward them to the Governor to request their execution in order to erminate existing easements and rights of way on over and in portions of the campus of Black Hills State University for the use and benefit of the City of Spearfish, approving vacation of an existing plat and right of way declaring the same, and granting new easements on over and in portions of the campus of Black Hills State University for the use and benefit of the City of Spearfish, as shown SE ¼ of the NE ¼ of Section 9, T6N, R2E, B.H.M., Lawrence County, South Dakota, as stated Exhibit 1, attached thereto, and shown in Exhibit "A," attached thereto, and incorporated therein, as though fully set forth, and incorporated in the resolution.

BHSU Well Access Easement

April 1-2, 2015

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the City have agreed to reform the underlying documents to reflect the actual use of the improvements.

The attached resolution accomplishes three purposes: It terminates the existing easement and right of way; it vacates the existing plat and right of way; it replaces them with new easements that track the location of existing improvements, conform the access easement to actual use and expand the access easement to permit improvements to enhance site utilization.

RESOLUTION

Resolution requesting the termination of existing easements and right of way on over and in portions of the campus of Black Hills State University for the use and benefit of the City of Spearfish, the approval of vacation of an existing plat and right of way declaring the same, and the grant of new easements on over and in portions of the campus of Black Hills State University for the use and benefit of the City of Spearfish.

The South Dakota Board of Regents (hereinafter referred to as "Grantor"), on behalf of Black Hills State University, in order to conform documents creating interests in real property to the actual and projected uses of such property, and pursuant to the authority vested in Grantor under SDCL § 5-2-11, hereby requests the Commissioner of School and Public Lands to draw up all necessary documents and to forward them to the Governor to request their execution in order to Terminate existing easements and rights of way on over and in portions of the campus of Black Hills State University for the use and benefit of the City of Spearfish, approving vacation of an existing plat and right of way declaring the same, and granting new easements on over and in portions of the campus of Black Hills State University for the use and benefit of the City of Spearfish, as shown SE ¼ of the NE ¼ of Section 9, T6N, R2E, B.H.M., Lawrence County, South Dakota, as stated Exhibit 1, attached hereto, and shown in Exhibit "A," attached thereto, and incorporated herein, as though fully set forth.

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

Dated this second day of April 2015,

SOUTH DAKOTA BOARD OF REGENTS

By _____

Dean M. Krogman

President

Certification:

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

Dated this second day of April 2015,

SOUTH DAKOTA BOARD OF REGENTS

By _____

Bob Sutton

Secretary

Prepared By:
Roger Tellinghuisen
DeMersseman Jensen
Tellinghuisen & Huffman, LLP
PO Box 1820
Rapid City, SD 57709

STATE OF SOUTH DAKOTA)
) SS. **EASEMENT AND RIGHT-OF-WAY**
COUNTY OF LAWRENCE)

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BLACK HILLS STATE UNIVERSITY, located in Spearfish, SD, "Grantor", hereby grants and conveys to the CITY OF SPEARFISH, a municipal corporation, "Grantee", an easement and right-of-way for a water transmission line and pump house as hereinafter described, subject to the conditions hereinafter set forth.

The property which is the subject of this permanent easement and right-of-way is legally described as:

SE¼NE¼, Section 9, T6N, R2E, B.H.M., Lawrence County, South Dakota as shown in Exhibit "A".

Such easement and right-of-way shall include the right to enter upon the easement property to construct, install, operate, inspect, maintain, and repair the pump house, transmission line and related appurtenant facilities upon said property.

The area which is the subject of this easement and right-of-way shall be kept free of all obstacles, including fences, shrubs, walls, or other items which obstruct the usefulness of the easement.

he/she, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of City of Spearfish, South Dakota by him/herself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My Commission Expires: _____

(SEAL)

State of South Dakota)
) ss.
County of Lawrence)

On this the _____ day of _____, 2014, before me, the undersigned officer, personally appeared _____, who acknowledged him/herself to be _____ of Black Hills State University, and that he/she, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of Black Hills State University by him/herself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public
My Commission Expires: _____

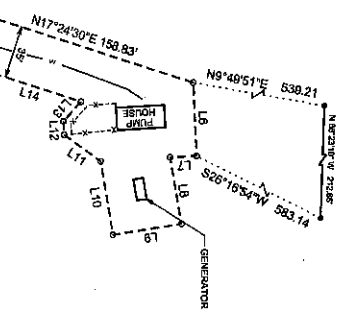
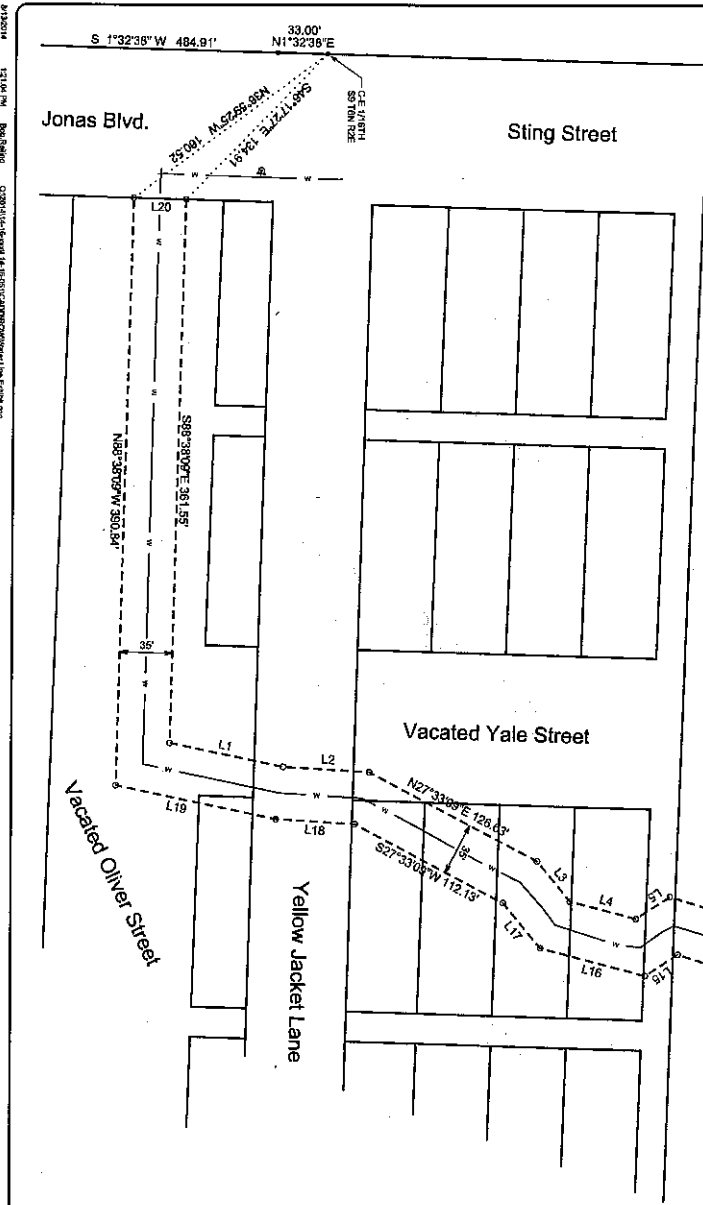
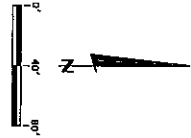
(SEAL)

EXHIBIT "A"

MAP OF A WELL USE AND WATER LINE EASEMENT OVER A PORTION OF THE WEST ADDITION AND THE COLLEGE ADDITION TO THE CITY OF SPEARFISH, LAWRENCE COUNTY, SOUTH DAKOTA, LOCATED IN THE NE 1/4 SE 1/4 AND THE SE 1/4 NE 1/4 S9, 16N, R2E, B1M.

Name	Length	Direction
L1	76.88	N 11°43'52" E
L2	57.22	N 3°26'01" E
L3	34.48	N 50°14'36" E
L4	45.47	N 14°33'55" E
L5	26.94	N 33°10'13" W
L6	48.70	N 87°07'47" E
L7	17.88	S 3°28'13" E
L8	44.84	N 79°44'33" E
L9	46.88	S 9°18'08" E
L10	49.63	S 79°35'46" W
L11	30.23	S 35°28'45" W
L12	8.91	S 89°54'51" W
L13	17.66	N 48°07'12" W
L14	74.03	S 17°24'30" W
L15	23.89	S 33°10'13" E
L16	72.22	S 14°33'55" W
L17	38.72	S 50°14'36" W
L18	52.28	S 3°23'01" W
L19	108.80	S 11°43'53" W
L20	35.00	N 1°32'38" E

NOTE: THIS DOCUMENT VACATES THE PLAT OF EASEMENT AND RIGHT OF WAY FOR TRANSMISSION LINE AND PUMP HOUSE



EASEMENT DESCRIPTION:
A meter and bounds description of an easement, granted to the City of Spearfish for purpose of operating and maintaining a well, a generator and a waterline.

From the Point of Beginning on the east line of Jonas Street said point being S 46° 17' 27" E a distance of 134.91 feet from the C-E 1/16th corner of Section 9 T6N R2E B1M., From Said Point of Beginning,
Thence S 88°39'08.5" E for 381.55 feet to a point on the boundary, thence N 11°43'52.6" E a distance of 76.88 feet to a point on the boundary, thence N 3°26'01.8" E a distance of 57.22 feet to a point on the boundary, thence N 27°33'09.1" E a distance of 128.83 feet to a point on the boundary, thence N 50°14'36.3" E a distance of 34.48 feet to a point on the boundary, thence N 14°33'55.3" E a distance of 45.47 feet to a point on the boundary, thence N 33°10'13.1" W a distance of 26.94 feet to a point on the boundary, thence N 17°24'29.5" E a distance of 48.70 feet to a point on the boundary, thence N 87°07'46.5" E a distance of 48.70 feet to a point on the boundary, thence S 3°28'13.5" E a distance of 17.88 feet to a point on the boundary, thence N 79°44'37.9" E a distance of 44.84 feet to a point on the boundary, thence S 9°18'07.7" E a distance of 46.88 feet to a point on the boundary, thence S 79°35'46.3" W a distance of 49.63 feet to a point on the boundary, thence S 35°28'45.3" W a distance of 30.23 feet to a point on the boundary, thence S 85°54'53.9" W a distance of 17.66 feet to a point on the boundary, thence N 48°07'12.4" W a distance of 17.66 feet to a point on the boundary, thence S 17°24'29.5" W a distance of 74.03 feet to a point on the boundary, thence S 33°10'13.1" E a distance of 23.89 feet to a point on the boundary, thence S 14°33'55.3" W a distance of 72.22 feet to a point on the boundary, thence S 50°14'36.3" W a distance of 38.72 feet to a point on the boundary, thence S 27°33'09.1" W a distance of 112.13 feet to a point on the boundary, thence S 3°26'01.8" W a distance of 52.28 feet to a point on the boundary, thence S 11°43'52.6" W a distance of 108.80 feet to a point on the boundary, thence N 88°38'08.5" W a distance of 390.84 feet to a point on the boundary and also on the east line of Jonas Street, thence N 1°32'38.0" E a distance of 35.00 feet to the Point of Beginning. Containing 0.8411 acres more or less.

SURVEYOR'S CERTIFICATE

I, Robert A. Reiling, a Registered Land Surveyor in the State of South Dakota, on the basis of my knowledge, information and belief, certify that the survey represented by this map was made under my supervision and belief, to the normal standard of care of Professional Land Surveyors practicing in the State of South Dakota. This survey does not constitute a title search to determine ownership or easements of record as performed by myself or by Interstate Engineering.

Robert A. Reiling RLS #63117 Date

Surveyed By: _____ Date: _____
 Drawn By: _____ Date: _____
 Checked By: _____ Date: _____
 Project Number: 1340001

INTERSTATE ENGINEERING
 Registered Professional Surveyors
 202 West 28th Street
 Spearfish, S.D. 57783
 Phone: 605/424-4777
 Fax: 605/424-4777
 www.interstateeng.com

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