

SOUTH DAKOTA BOARD OF REGENTS

Committee on Budget and Finance

AGENDA ITEM: III – O

DATE: April 1-2, 2015

SUBJECT: Resolution requesting the termination of existing easements over portions of the campus of Black Hills State University for the use and benefit of the Montana-Dakota Utilities Company, 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 Montana-Dakota Utilities Company

Montana-Dakota Utilities Company has held a gas main easement through the grounds of Black Hills State University for nearly fifty years. Black Hills State University requests that the Board of Regents adopt the attached Resolution requesting the vacation of the original easement and the grant of a replacement easement in order to describe with greater precision the location of the easement and the gas main within it.

Background:

In 1967, the Board granted easements the Montana-Dakota Utilities Company (MDU) to permit the MDU to install a natural gas transmission main line that traversed the campus from east to west, albeit in a serpentine course that threaded its way along geographic features and then existing buildings. In the course of the years, sections of the original line were abandoned and the lines relocated to accommodate construction, most recently in connection with the 2014-2015

RECOMMENDED ACTION OF THE EXECUTIVE DIRECTOR

Adopt the proposed resolution requesting Commissioner of School and Public Lands to draw up all necessary documents and to forward them to the Governor to request their execution in order to terminate an easement over portions of the campus of Black Hills State University for the use and benefit of the Montana-Dakota Utilities Company, and filed recorded in the Office of Register of Deeds, Lawrence County, South Dakota, on September 18, 1967, and recorded in Book 379 on page 379; and, in order to grant an easement for a gas main as shown in Exhibit A, Pages 1-6, and attached hereto, includes a portion of the following properties: the SW1/4 of the NW1/4, Section 10; the SE1/4 of the NE1/4, Section 9; Lot 1 of BHSC Addition; Tract 1 of SE1/4 of the NE1/4 of Section 9; Lot 6, of the SW1/4 of the NE1/4, Section 9; Lot 1 of Lot 6B, of the SW1/4 of the NE1/4, Section 9; Lot 2 of Lot 6B, of the SW1/4 of the NE1/4, Section 9; collectively known as the College Addition to the City of Spearfish; and all located in T6N, R2E, B.H.M., City of Spearfish, Lawrence County, South Dakota, , as stated Exhibit 1, attached thereto, and shown in Exhibit "A," pages 1 through 5, attached thereto, and incorporated therein, as though fully set forth, and incorporated in the resolution.

construction of the newest BHSU residence hall, Crow Peak Hall, at a point where the line passed between Heidepriem and Thomas Halls.

BHSU and MDU have now reached agreement upon the course, dimensions and pipeline placement within an easement that reflects the current infrastructure. Accordingly, BHSU has requested that the Board adopt the attached resolution to initiate the process of terminating the 1967 easement and replacing it with an easement described in the resolution and its attachment.

RESOLUTION

Resolution requesting the termination of existing easements over portions of the campus of Black Hills State University for the use and benefit of the Montana-Dakota Utilities Company, 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 Montana-Dakota Utilities Company.

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 an easement over portions of the campus of Black Hills State University for the use and benefit of the Montana-Dakota Utilities Company, and filed recorded in the Office of Register of Deeds, Lawrence County, South Dakota, on September 18, 1967, and recorded in Book 379 on page 379; and, in order to grant an easement for a gas main as shown in Exhibit A, Pages 1-6, and attached hereto, includes a portion of the following properties: the SW1/4 of the NW1/4, Section 10; the SE1/4 of the NE1/4, Section 9; Lot 1 of BHSC Addition; Tract 1 of SE1/4 of the NE1/4 of Section 9; Lot 6, of the SW1/4 of the NE1/4, Section 9; Lot 1 of Lot 6B, of the SW1/4 of the NE1/4, Section 9; Lot 2 of Lot 6B, of the SW1/4 of the NE1/4, Section 9; collectively known as the College Addition to the City of Spearfish; and all located in T6N, R2E, B.H.M., City of Spearfish, Lawrence County, South Dakota, , as stated Exhibit 1, attached hereto, and shown in Exhibit "A," pages 1 through 5, inclusive, 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

**MONTANA-DAKOTA UTILITIES CO.
PIPELINE EASEMENT BY OWNER**

THIS INDENTURE, made this _____ day of _____, A.D., 20 _____, between MONTANA-DAKOTA UTILITIES CO., A DIVISION OF MDU RESOURCES GROUP, INC., a corporation, 400 North Fourth Street, Bismarck, North Dakota 58501, hereinafter called "COMPANY," its successors and assigns, and the following named persons, herein, whether singular or plural, called "OWNER," namely:

The State of South Dakota acting by and through The South Dakota Building Authority and the South Dakota Board of Regents

WITNESSETH, that for valuable considerations received, OWNER does hereby grant, bargain, sell and convey unto COMPANY, its successors and assigns, an easement 20 feet in width, being 10 feet left, and 10 feet right of the center line of pipeline(s) as laid out and/or surveyed, or as finally installed on the hereinafter described lands and as approximately shown on Exhibit A, together with the right to construct, operate, maintain, repair, increase the capacity of, remove, and replace a gas pipeline or lines, including necessary pipes, poles, and fixtures, through, over, under and across the following described real estate, situated in the County of Lawrence, State of South Dakota, namely:

The Easement for Gas Main as shown in Exhibit A, Pages 1-6, and attached hereto, includes a portion of the following properties:

- The SW1/4 of the NW1/4, Section 10,
- The SE1/4 of the NE1/4, Section 9,
- Lot 1 of BHSC Addition,
- Tract 1 of SE1/4 of the NE1/4 of Section 9,
- Lot 6, of the SW1/4 of the NE1/4, Section 9,
- Lot 1 of Lot 6B, of the SW1/4 of the NE1/4, Section 9,
- Lot 2 of Lot 6B, of the SW1/4 of the NE1/4, Section 9,

All located in T6N, R2E, B.H.M., City of Spearfish, Lawrence County, South Dakota.

Said land is also known collectively as the "College Addition to the City of Spearfish".

OWNER, its successors and assigns, agrees not to build, create or construct or permit to be built, created, or constructed, any obstruction, building, engineering works or other structures upon, over, or under the strip of land herein described or that would interfere with said pipeline or lines or COMPANY'S rights hereunder. Owner may build overtop of gas line a path, a trail, or driveway not to effect cover over (depth of) gas line. However, in the event the OWNER decides future growth of campus necessitates building on or above described strip of land, the two parties will meet to negotiate the terms necessary to relocate the pipeline and easement.

OWNER, its successors and assigns, hereby grants to COMPANY, its successors and assigns, the right at all reasonable times to enter upon said premises for the purpose of laying, constructing, maintaining, operating, replacing, increasing the capacity of, repairing or removing said gas pipeline or lines and for the purpose of doing all necessary work in connection therewith.

COMPANY hereby agrees that it will pay any and all damages that may result to the crops, fences, buildings and improvements on said premises caused by constructing, reconstructing, maintaining, repairing, increasing the capacity of, operating or removing said pipeline or lines.

OWNER and COMPANY hereby agree that the easement granted herein shall replace the easement previously granted by OWNER to COMPANY on _____, 19__ and recorded in the Lawrence County Register of Deeds Office on _____, 19__ as Doc. No. __-__ (Prior Easement) and that upon COMPANY'S installation of a gas line in the easement granted herein and COMPANY'S discontinued use of the Prior Easement, such Prior Easement shall be extinguished without the necessity of filing further documentation by either party.

IN WITNESS WHEREOF, OWNER has executed these presents as of the day and year first above written.

By: _____
Title

By: _____
Title

STATE OF _____
COUNTY OF _____ :ss

On this _____ day of _____, 20 _____, before me personally appeared _____

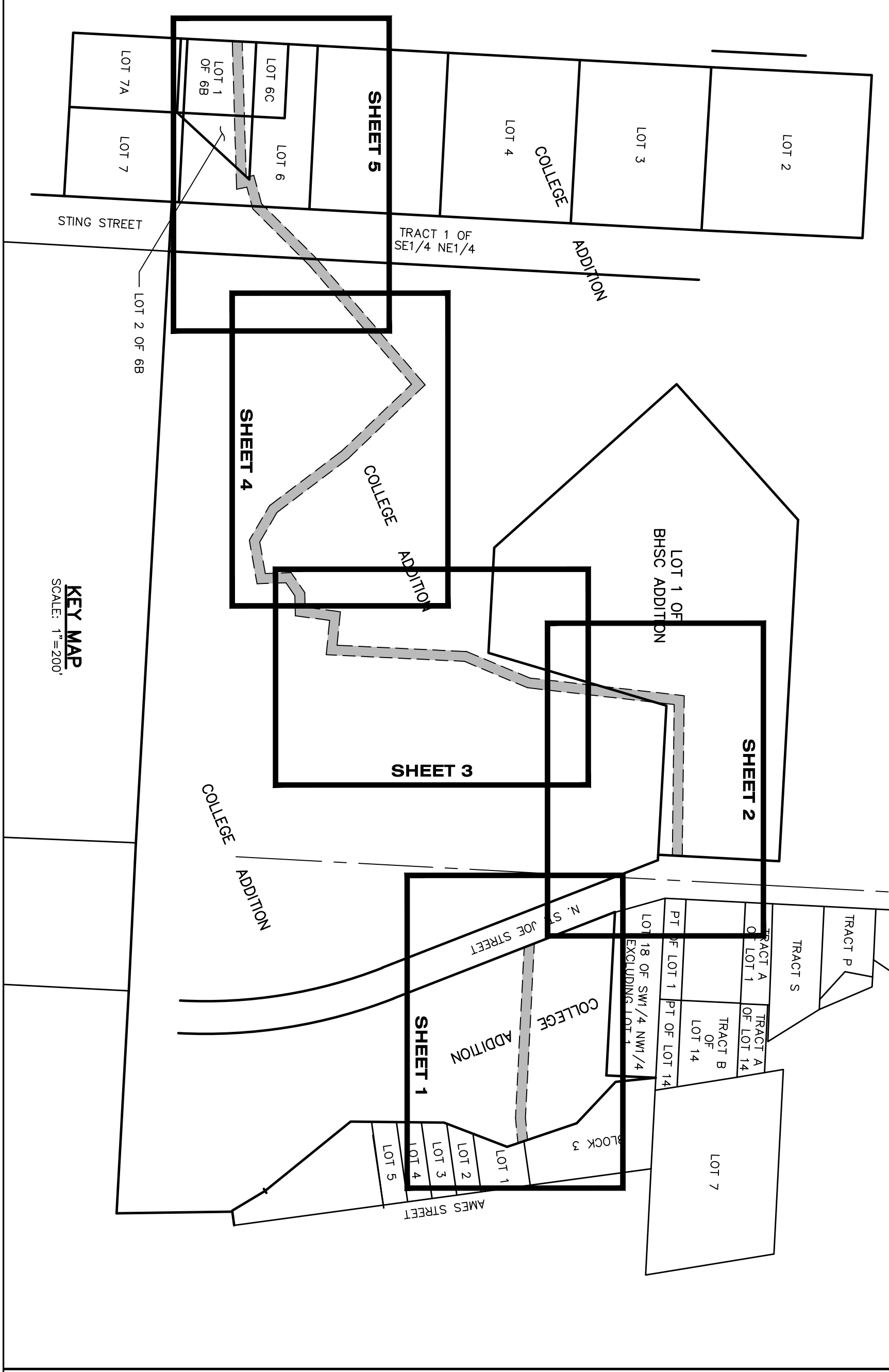
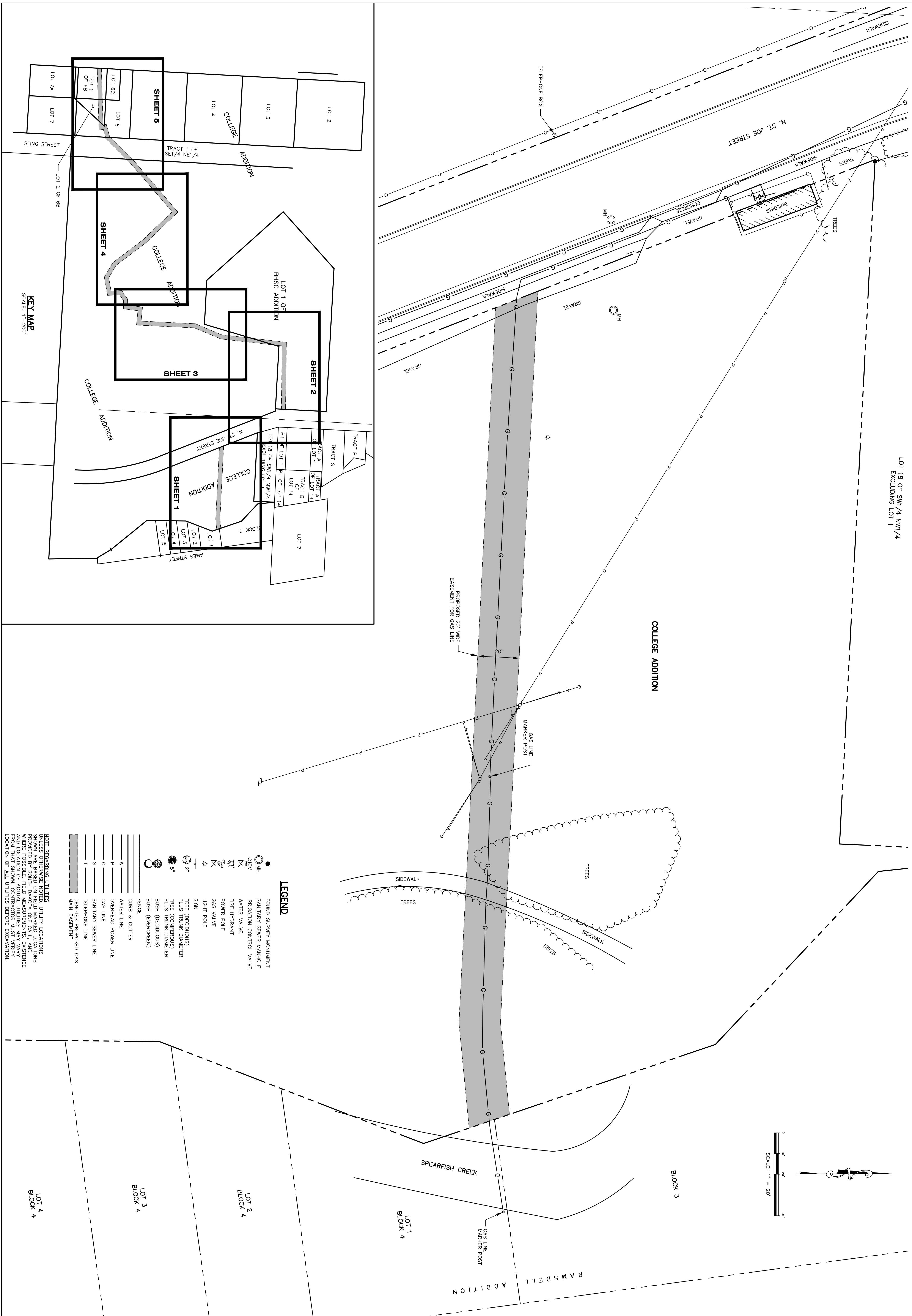
known to me to be the same person described in and who executed the above and foregoing instrument and acknowledged to me that ___he___she executed the same, (known to me to be the _____ and _____ respectively, of the corporation that is described in and that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.)

(THIS SPACE FOR RECORDING DATA ONLY)

Notary Public, _____ County,
State of _____
Residing at _____

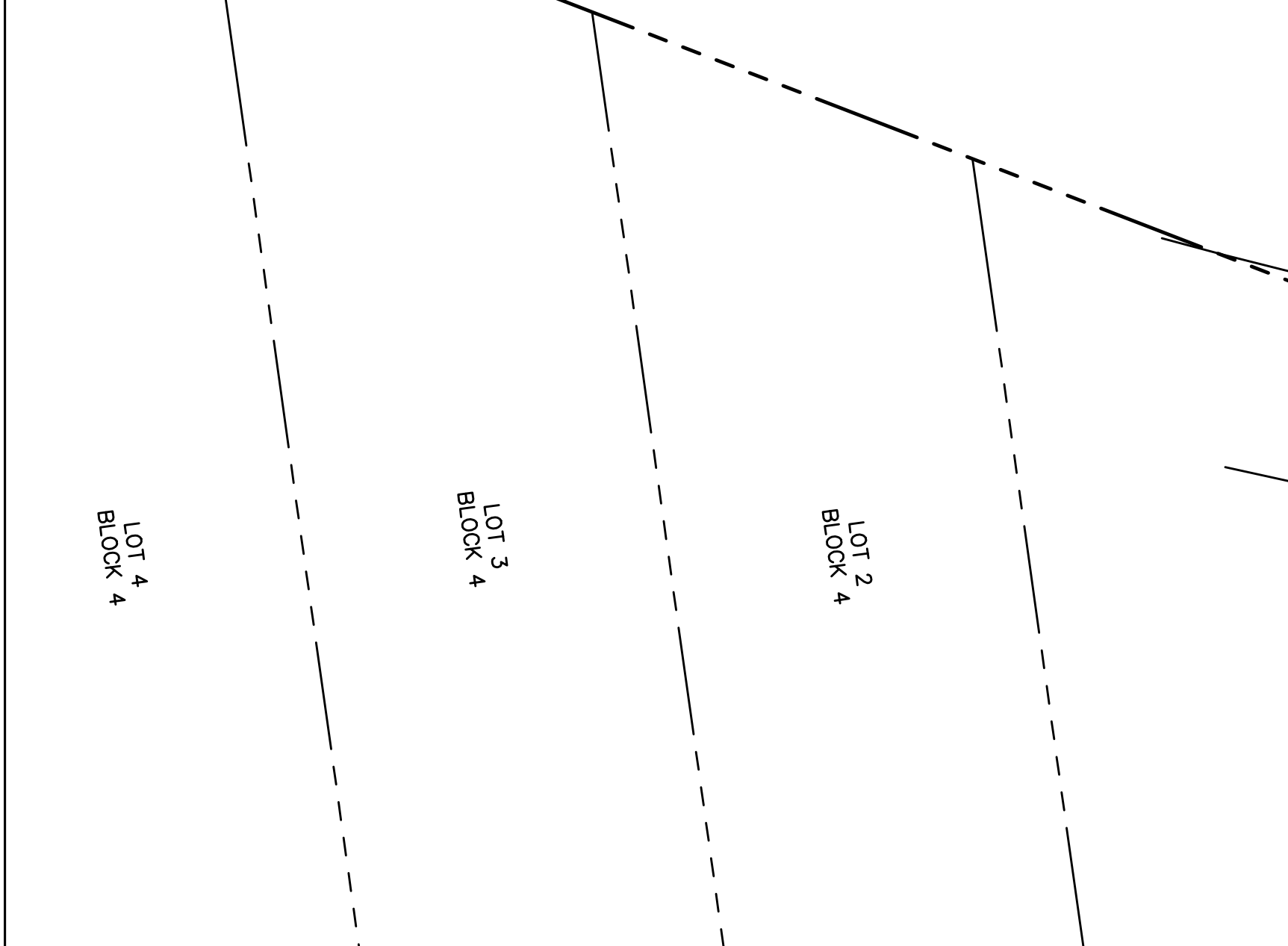
(SEAL)

My Commission Expires: _____
W.O. _____ TRACT NO. _____ L.R.R NO. _____



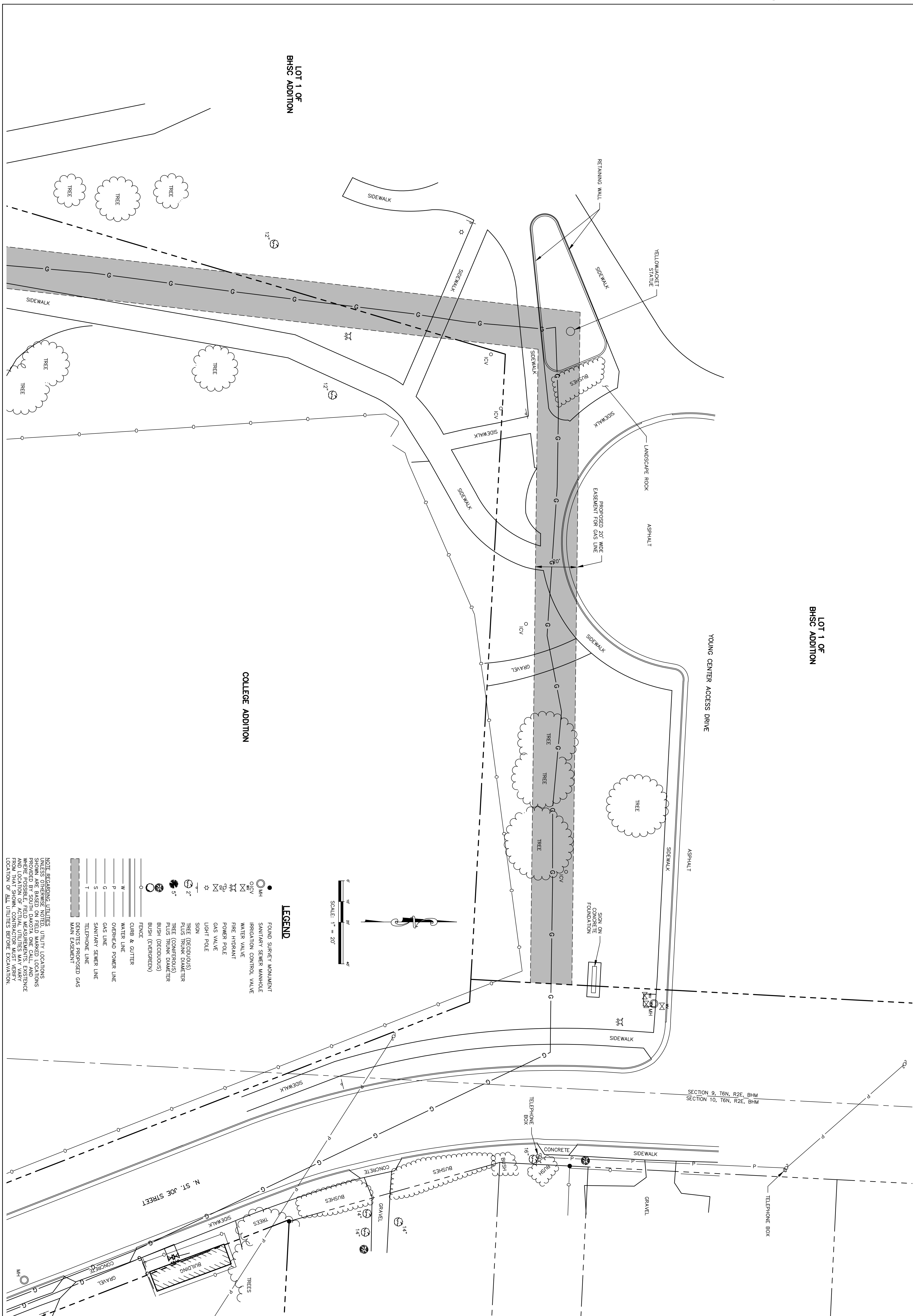
- LEGEND**
- MH FOUND SURVEY MONUMENT
 - MH SANITARY SEWER MANHOLE
 - MH IRRIGATION CONTROL VALVE
 - MH WATER VALVE
 - MH FIRE HYDRANT
 - MH POWER POLE
 - MH GAS VALVE
 - MH LIGHT POLE
 - MH SIGN
 - MH TREE (DECIDUOUS) PLUS TRUNK DIAMETER
 - MH TREE (CONIFEROUS) PLUS TRUNK DIAMETER
 - MH BUSH (DECIDUOUS)
 - MH BUSH (EVERGREEN)
 - MH FENCE
 - MH CURB & GUTTER
 - MH WATER LINE
 - MH OVERHEAD POWER LINE
 - MH GAS LINE
 - MH SANITARY SEWER LINE
 - MH TELEPHONE LINE
 - MH DENOTES PROPOSED GAS MAIN EASEMENT

NOTE REGARDING UTILITIES
 UNLESS OTHERWISE NOTED, UTILITY LOCATIONS SHOWN ARE BASED ON FIELD MARKED LOCATIONS. FIELD MEASUREMENTS, EXISTENCE AND LOCATION OF ACTUAL UTILITIES MAY VARY FROM THAT SHOWN. CONTRACTOR MUST VERIFY LOCATION OF ALL UTILITIES BEFORE EXCAVATION.



<p>PROPOSED GAS MAIN EASEMENT COLLEGE ADDITION AND LOT 1 OF BHSC ADDITION BLACK HILLS STATE UNIVERSITY SPEARFISH, SD</p>	<p>File Number: 150356 Location: NE 1/4, 9, T8N, R2E, BHM NW 1/4, 10, T8N, R2E, BHM Surveyed By: B. ALFER Date: JANUARY 2015 Designed By: KJS Drawn By: JDF Checked By: JDF</p>	<p>Revision / Date Sheet Name: LIMITED TOPOGRAPHIC MAP Sheet Number: 1 of 5</p>
---	--	--

FMG, Inc.
 3700 Sturgis Road
 Rapid City, SD 57702-0317
 (605) 342-4105 FAX (605) 342-4222



LOT 1 OF
BHSC ADDITION

LOT 1 OF
BHSC ADDITION

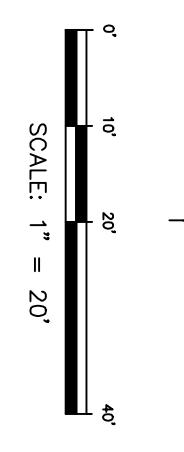
COLLEGE ADDITION

YOUNG CENTER ACCESS DRIVE

N. ST. JOE STREET

SECTION 9, T6N, R2E, BHM
SECTION 10, T6N, R2E, BHM

- LEGEND**
- FOUND SURVEY MONUMENT
 - SANITARY SEWER MANHOLE
 - IRRIGATION CONTROL VALVE
 - WATER VALVE
 - FIRE HYDRANT
 - POWER POLE
 - GAS VALVE
 - LIGHT POLE
 - SIGN
 - TREE (DECIDUOUS)
 - PLUS TRUNK DIAMETER
 - TREE (CONIFEROUS)
 - PLUS TRUNK DIAMETER
 - BUSH (DECIDUOUS)
 - BUSH (EVERGREEN)
 - FENCE
 - CURB & CUTTER
 - WATER LINE
 - OVERHEAD POWER LINE
 - GAS LINE
 - SANITARY SEWER LINE
 - TELEPHONE LINE
 - DASHES PROPOSED GAS MAIN EASEMENT



NOTE REGARDING UTILITIES
UNLESS OTHERWISE NOTED, UTILITY LOCATIONS SHOWN ARE BASED ON FIELD MARKED LOCATIONS AND FIELD MEASUREMENTS. EXISTENCE AND LOCATION OF ACTUAL UTILITIES MAY VARY FROM THAT SHOWN. CONTRACTOR MUST VERIFY LOCATION OF ALL UTILITIES BEFORE EXCAVATION.

**PROPOSED GAS MAIN EASEMENT
COLLEGE ADDITION AND LOT 1 OF BHSC ADDITION
BLACK HILLS STATE UNIVERSITY
SPEARFISH, SD**

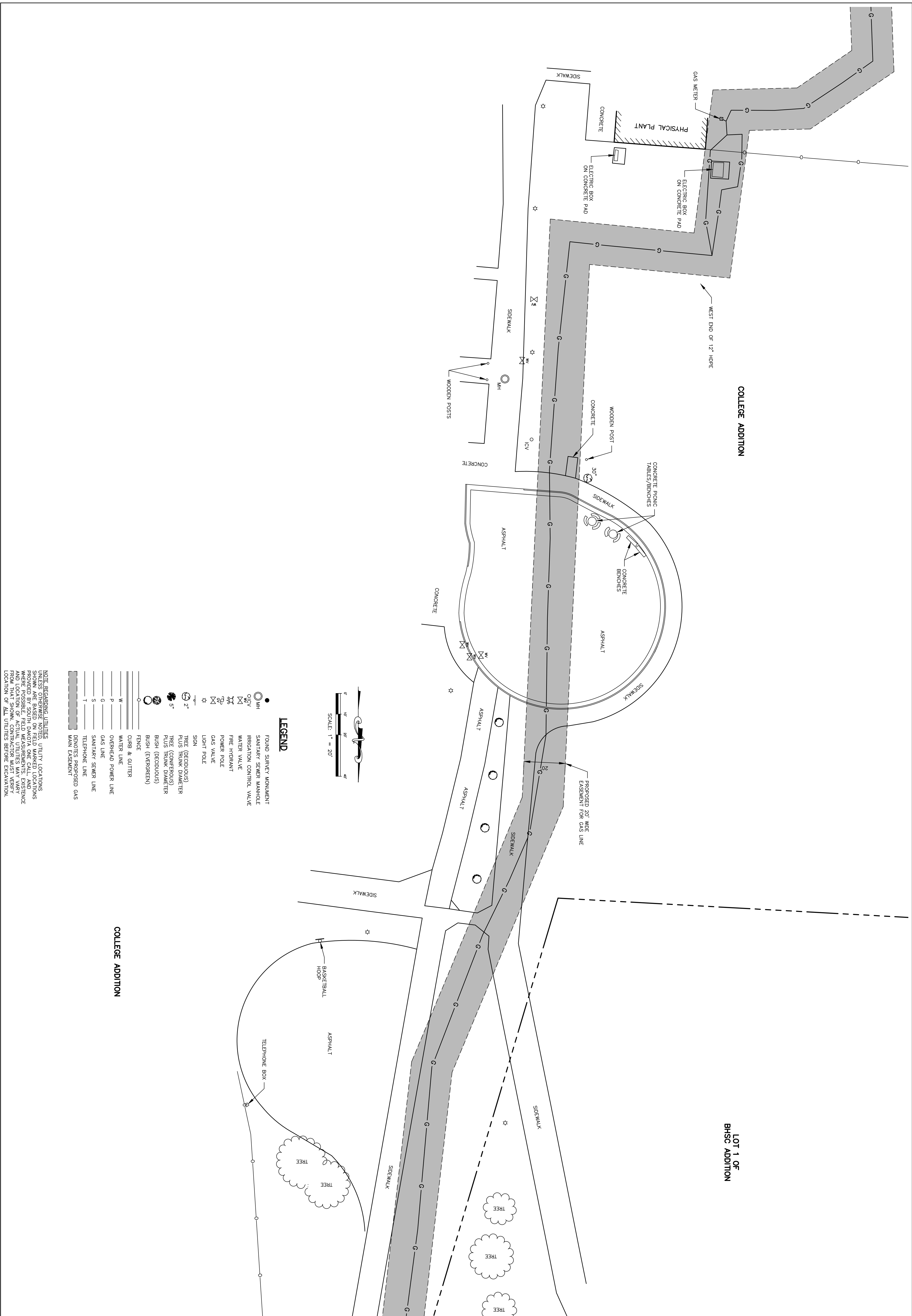
FEBRUARY 2015

Designed By: KJS
Drawn By: JDF
Checked By: JDF

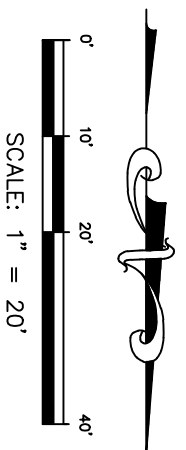
File Number: 150356
Location: NE 1/4, 9, T6N, R2E, BHM
NW 1/4, 10, T6N, R2E, BHM
Surveyed By: B. ALFER
Date: JANUARY 2015

FMG, Inc.
3700 Sturgis Road
Rapid City, SD 57702-0317
(605) 342-4105 FAX (605) 342-4222

Sheet Name:
Revision / Date
LIMITED TOPOGRAPHIC MAP
Sheet Number:
2 of 5



- LEGEND**
- FOUND SURVEY MONUMENT
 - SANITARY SEWER MANHOLE
 - O.G.V.
 - ⊗ IRRIGATION CONTROL VALVE
 - ⊗ WATER VALVE
 - ⊗ FIRE HYDRANT
 - ⊗ POWER POLE
 - ⊗ GAS VALVE
 - ☆ LIGHT POLE
 - SIGN
 - TREE (DECIDUOUS)
 - PLUS TRUNK DIAMETER
 - TREE (CONIFEROUS)
 - PLUS TRUNK DIAMETER
 - BUSH (DECIDUOUS)
 - BUSH (EVERGREEN)
 - FENCE
 - CURB & CUTTER
 - WATER LINE
 - OVERHEAD POWER LINE
 - P GAS LINE
 - S SANITARY SEWER LINE
 - T TELEPHONE LINE
 - DENOTES PROPOSED GAS MAIN EASEMENT

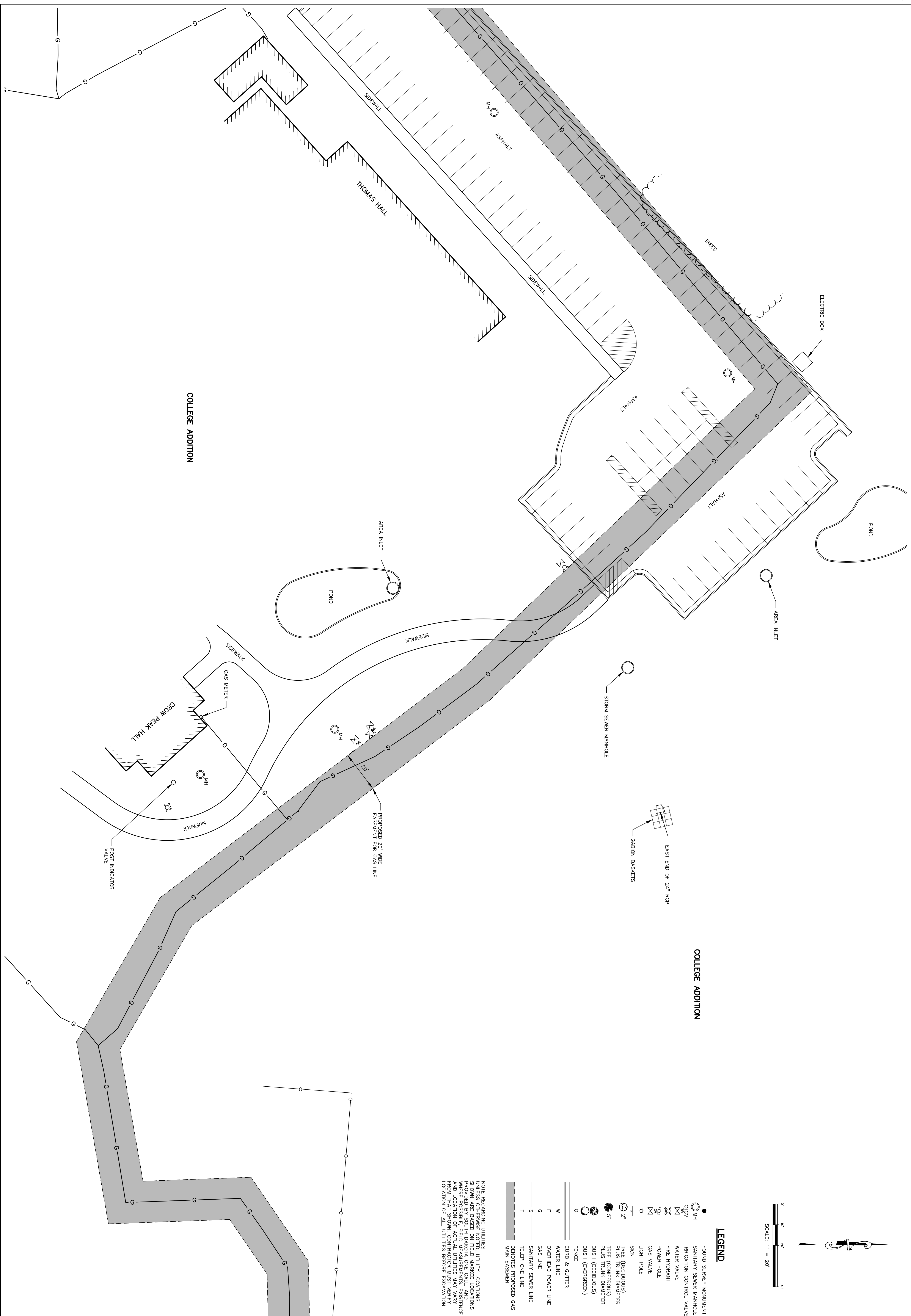


NOTE REGARDING UTILITIES
UNLESS OTHERWISE NOTED, UTILITY LOCATIONS
SHOWN ARE BASED ON FIELD MARKED LOCATIONS
AND FIELD MEASUREMENTS. THE EXISTENCE
AND LOCATION OF ACTUAL UTILITIES MAY VARY
FROM THAT SHOWN. CONTRACTOR MUST VERIFY
LOCATION OF ALL UTILITIES BEFORE EXCAVATION.

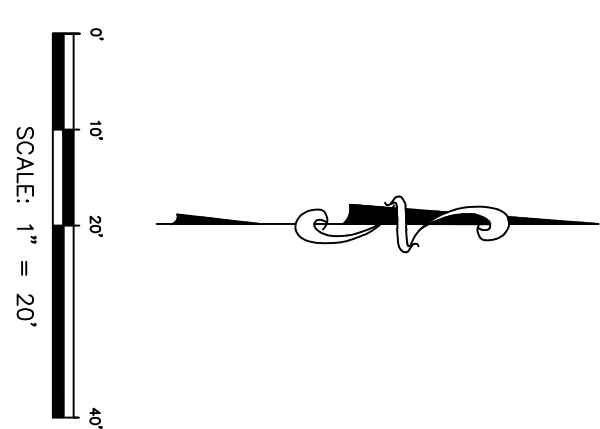
COLLEGE ADDITION

LOT 1 OF
BHSC ADDITION

<p>PROPOSED GAS MAIN EASEMENT COLLEGE ADDITION AND LOT 1 OF BHSC ADDITION BLACK HILLS STATE UNIVERSITY SPEARFISH, SD</p>	<p>DESIGNED BY: KJS DRAWN BY: JDF CHECKED BY: JDF</p>	<p>DATE: JANUARY 2015</p>	<p>FILE NUMBER: 150356</p>	<p>LOCATION: NE 1/4, 9, 16N, R2E, BHM NW 1/4, 10, 16N, R2E, BHM</p>	<p>FMG, Inc. 3700 Sturgis Road Rapid City, SD 57702-0317 (605) 342-4105 FAX (605) 342-4222</p>
<p>REVISION / DATE</p>	<p>SHEET NAME:</p>	<p>SHEET NUMBER: 3 of 5</p>	<p>FEBRUARY 2015</p>		



COLLEGE ADDITION

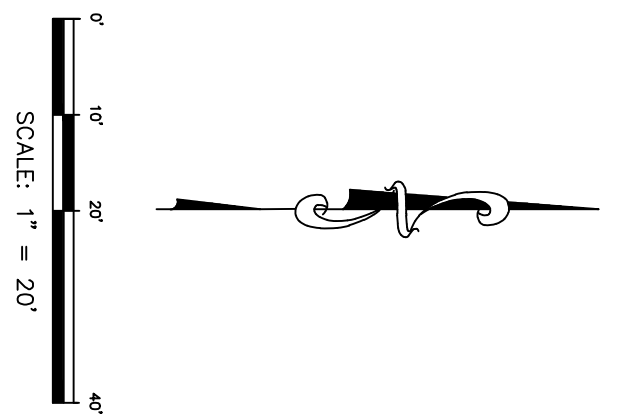
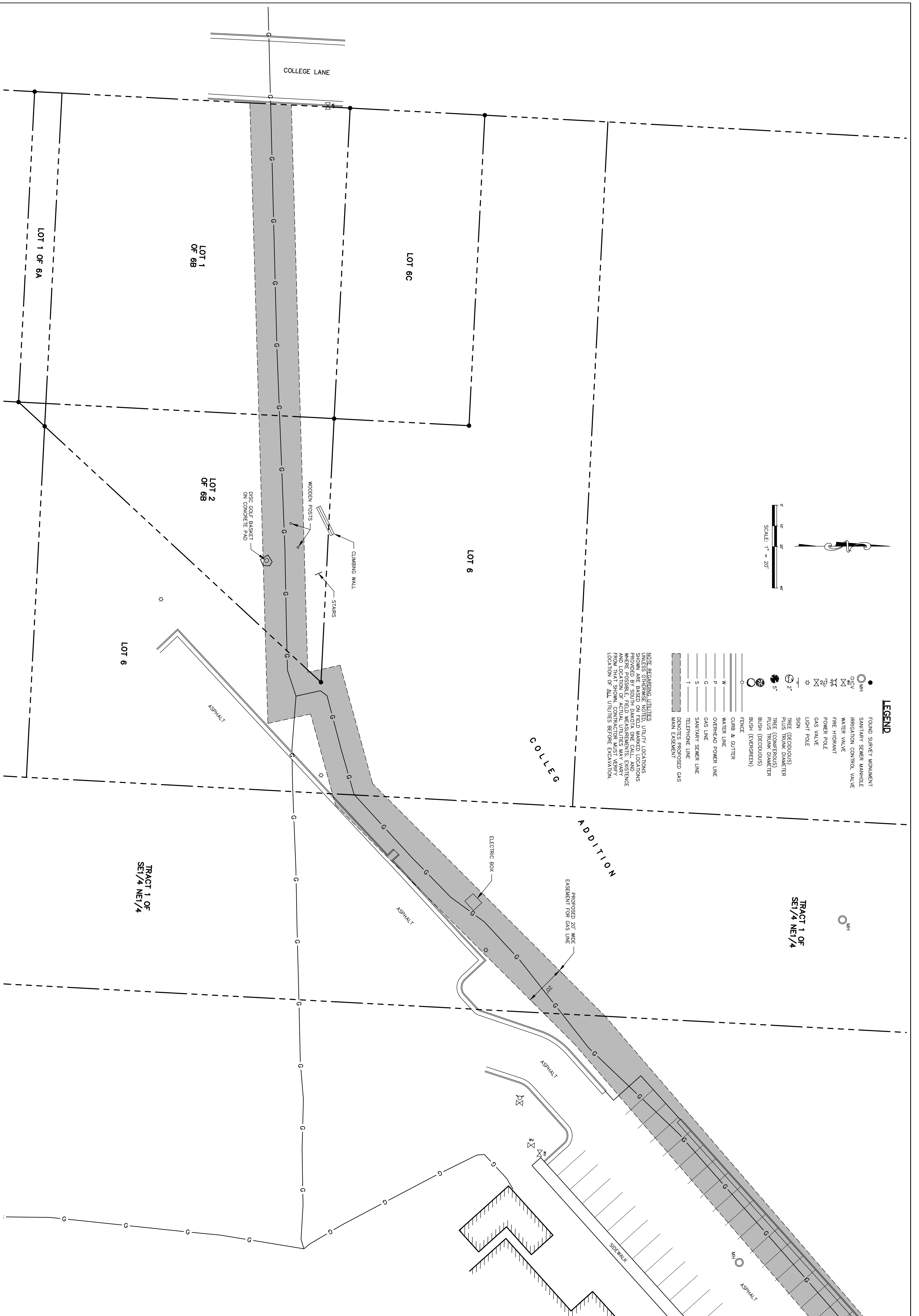


LEGEND

- FOUND SURVEY MONUMENT
- MH SANITARY SEWER MANHOLE
- OGV IRRIGATION CONTROL VALVE
- W VALVE WATER VALVE
- F FIRE HYDRANT
- P POWER POLE
- G GAS VALVE
- L LIGHT POLE
- S SON
- (2' TREE (DECIDUOUS) PLUS TRUNK DIAMETER
- (2\"/>

NOTE REGARDING UTILITIES
 UNLESS OTHERWISE NOTED, UTILITY LOCATIONS, DEPTHS, AND PROFILES ARE BASED ON RECORD DRAWINGS PROVIDED BY SOUTH DAKOTA ONE CALL, AND WHERE POSSIBLE, FIELD MEASUREMENTS. EXISTENCE OF UTILITIES IS NOT GUARANTEED. CONTRACTOR SHALL VERIFY LOCATION OF ALL UTILITIES BEFORE EXCAVATION.

<p>4 of 5</p>	<p>SHEET NUMBER:</p>	<p>LIMITED TOPOGRAPHIC MAP</p>	<p>REVISION / DATE</p>	<p>PROPOSED GAS MAIN EASEMENT COLLEGE ADDITION AND LOT 1 OF BHSC ADDITION BLACK HILLS STATE UNIVERSITY SPEARFISH, SD</p>	<p>DESIGNED BY: KJS DRAWN BY: JDF CHECKED BY: JDF</p>	<p>DATE: JANUARY 2015</p>	<p>SURVEYED BY: B. ALFER</p>	<p>LOCATION: NE 1/4, 9, 16N, R2E, B1W NW 1/4, 10, 16N, R2E, B1W</p>	<p>FILE NUMBER: 150356</p>	<p>FMG, Inc. 3700 Sturgis Road Rapid City, SD 57702-0317 (605) 342-4105 FAX (605) 342-4222</p>
----------------------	----------------------	--------------------------------	------------------------	---	---	---------------------------	------------------------------	--	----------------------------	--



NOTE REGARDING UTILITIES
UNLESS OTHERWISE NOTED, UTILITY LOCATIONS SHOWN ARE BASED ON FIELD MARKED LOCATIONS PROVIDED BY SOUTH DAKOTA ONE CALL AND FIELD SURVEY. CONTRACTOR SHALL VERIFY LOCATION AND LOCATION OF ACTUAL UTILITIES MAY VARY FROM THAT SHOWN. CONTRACTOR MUST VERIFY LOCATION OF ALL UTILITIES BEFORE EXCAVATION.

- LEGEND**
- FOUND SURVEY MONUMENT
 - SANITARY SEWER MANHOLE
 - IRRIGATION CONTROL VALVE
 - WATER VALVE
 - FIRE HYDRANT
 - POWER POLE
 - GAS VALVE
 - LIGHT POLE
 - SIGN
 - TREE (DECIDUOUS)
 - PLUS TRUNK DIAMETER
 - TREE (CONIFEROUS)
 - PLUS TRUNK DIAMETER
 - BUSH (DECIDUOUS)
 - BUSH (EVERGREEN)
 - FENCE
 - CURB & GUTTER
 - WATER LINE
 - OVERHEAD POWER LINE
 - GAS LINE
 - SANITARY SEWER LINE
 - TELEPHONE LINE
 - DENOTES PROPOSED GAS MAIN EASEMENT

<p>5 of 5</p>	<p>LIMITED TOPOGRAPHIC MAP</p>	<p>Revision / Date</p> <p>Sheet Name:</p>	<p>PROPOSED GAS MAIN EASEMENT COLLEGE ADDITION AND LOT 1 OF BHSC ADDITION BLACK HILLS STATE UNIVERSITY SPEARFISH, SD</p>	<p>File Number: 150356</p> <p>Location: NE 1/4, 9, 16N, R2E, BHM NW 1/4, 10, 16N, R2E, BHM</p> <p>Surveyed By: BJ ALFER</p> <p>Date: JANUARY 2015</p> <p>Designed By: KJS</p> <p>Drawn By: KJS</p> <p>Checked By: JDF</p>	<p>FMG, Inc.</p> <p>3700 Sturgis Road Rapid City, SD 57702-0317 (605) 342-4105 FAX (605) 342-4222</p>
----------------------	--------------------------------	---	---	---	--