

Prepared by:
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Doc #: 2016-01972
Date: 05/04/2016 10:24:00
Sheree L. Green
Register of Deeds
Lawrence Co. - Fee \$30.00

EASEMENT

This Easement is made and entered into this 2nd day of MAY, 2016, by and between the City of Lead, South Dakota, a South Dakota municipal corporation, 801 W. Main Street, Lead, South Dakota, 57754 ("Grantor") and the South Dakota Science and Technology Authority, 630 East Summit Street, Lead, South Dakota, 57754 ("Grantee"). For and in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Subject to the terms and conditions hereof, Grantor hereby donates and grants to Grantee a permanent easement for, over and upon the real estate described on the attached Exhibit "A", as further described on the attached Exhibit "A," for the permitted uses described herein (the "Easement").

2. Permitted Uses. Grantee may only use the Easement for the purpose of the construction, maintenance and operation of an overhead conveyor system to be used to dispose of waste rock excavated from the former Homestake gold mine located in and near Lead, South Dakota for the purposes of the construction, enlargement, modification or maintenance of underground laboratory facilities and related support and infrastructure facilities (the "Permitted Use").

3. Further Conditions of the Easements. The Easement is subject to the following further terms and conditions:

(a). The overhead rock conveyor system shall be designed and constructed generally as shown on the attached Exhibit "B," which is incorporated herein by this reference. The overhead rock conveyor system shall be designed by reputable design professionals and constructed by a reputable contractor or contractors. The design and construction shall conform to current industry standards relating to such systems.

(b). When the overhead rock conveyor system is placed in operation, Grantee shall maintain all required environmental and safety features, such as dust suppression, noise suppression and lighting, in good working order and in accordance with industry standards.

(c). Grantee shall maintain the overhead rock conveyor system in good working order such that it will not pose a danger to the general public while in operation, and will maintain its appearance and keep it and the surrounding real estate covered by the Easement free of debris.

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(d) In the event Grantee or anyone entering the Easement under the authority of Grantee damages or destroys any existing improvements or facilities located upon the Easement, Grantee shall promptly repair or replace any such improvements or facilities at Grantee's expense.

(e) The Easement granted herein is non-exclusive, and Grantor reserves the right to enter the Easement. However, Grantor may not unreasonably interfere with the Grantee's Permitted Use under this Easement.

(f) Grantee shall secure general liability insurance naming Grantor as an additional insured that provides coverage for contractual liability, as well as the indemnity agreement set forth in this Agreement with limits of not less than \$2,000,000 and not more than \$5,000,000 applicable to bodily injury, sickness or death in any one occurrence; and not less than \$2,000,000 and not more than \$5,000,000 for loss of or damage to property in any one occurrence.

4. Indemnification by Grantee. To the fullest extent allowed by applicable law, including SDCL 1-16H-15(18), Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, causes, actions or causes of action (and including related costs of litigation and a reasonable attorney fee) directly arising from Grantee's activities on and directly related to the Easement; provided, however, that nothing herein shall require Grantee to indemnify Grantor for any claims, causes, actions or causes of action to the extent they arise out of any negligent or intentional act or omission of Grantor.

5. Term of Easement. The Easement provided for herein shall be perpetual and run with the land and be binding upon, and inure to the benefit of, the parties and their successors and assigns; *provided, however*, that if Grantee does not construct and begin operation of the conveyor system described herein within twenty (20) years of the date of recording of this Easement, Grantee's rights hereunder shall cease and no longer have any force or effect. And further provided, that in the event Grantee is no longer in need of the overhead conveyor system and it is reasonably likely Grantee will have no such need within the following ten years, Grantee shall dismantle and remove the overhead conveyor system and restore the Easement to its original condition or better, upon the completion of which the Easement provided for herein shall be deemed terminated. Grantee may utilize the Easement for the purpose of dismantling and removing the overhead conveyor system and related reclamation activities.

6. Miscellaneous. The terms of this Easement shall be construed under and governed by the laws of the State of South Dakota without the application of the conflicts of law principles thereof and any applicable federal law. Any lawsuit arising out of related to this Agreement shall be brought in a court of the South Dakota Unified Judicial System.

[SIGNATURES ON FOLLOWING PAGES]

Dated this 2nd day of May, 2016.

City of Lead, South Dakota

By: Gerald F. Apa
Gerald F. Apa
Mayor



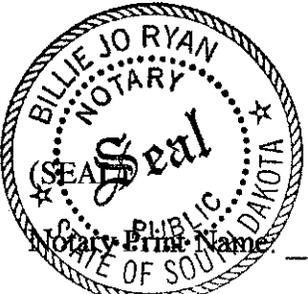
ATTEST:

By: Mike Stahl
Mike Stahl
City Administrator

On this 2nd day of May, 2016, before me, the undersigned officer, personally appeared GERALD F. APA and MIKE STAHL, known to me to be the Mayor and City Administrator, respectively of the City of Lead, a South Dakota municipal corporation, that is described in and that executed the within instrument, having authority to execute such instrument, and acknowledged to me that such municipal corporation executed the same.

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

Billie Jo Ryan
Notary Public



Notary Print Name: Billie Jo Ryan

My Commission Expires: 7-7-2020

Dated this 3rd day of May, 2016.

South Dakota Science and Technology Authority

By: Casey C. Peterson
Casey C. Peterson
Its: Chairman of the Board

On this 3rd day of May, 2016, before me, the undersigned officer, personally appeared Casey C. Peterson, known to me to be the Chairman of the Board of the South Dakota Science and Technology Authority, a body corporate and politic created under the laws of South Dakota, that is described in and that executed the within instrument, having authority to execute such instrument, and acknowledged to me that such body corporate and politic executed the same.

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

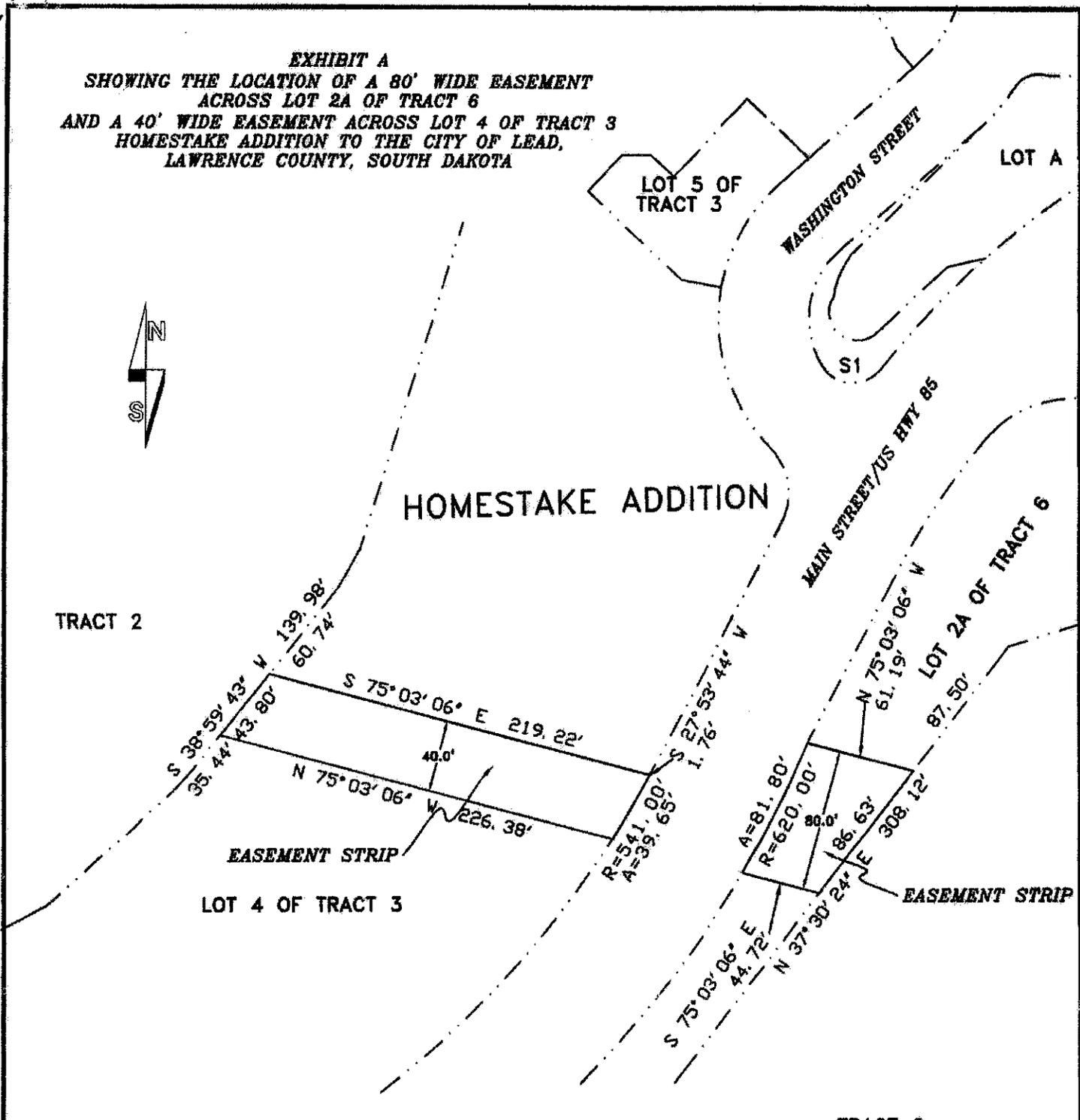


[Signature]
Notary Public

Notary Public Name: Nanette Oukrop

My Commission Expires: 12-11-2020

EXHIBIT A
SHOWING THE LOCATION OF A 80' WIDE EASEMENT
ACROSS LOT 2A OF TRACT 6
AND A 40' WIDE EASEMENT ACROSS LOT 4 OF TRACT 3
HOMESTAKE ADDITION TO THE CITY OF LEAD,
LAWRENCE COUNTY, SOUTH DAKOTA



TRACT 2

HOMESTAKE ADDITION

WASHINGTON STREET

LOT A

LOT 5 OF TRACT 3

MAIN STREET/US HWY 85

LOT 2A OF TRACT 6

EASEMENT STRIP

LOT 4 OF TRACT 3

EASEMENT STRIP

TRACT 6



Prepared By:
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 LEAD, SD 57784
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Date:	3/30/2016
Drawn By:	L. D. Vrem
Project No.:	16-85
Dwg. No.:	16-85.dwg

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