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May 29, 2020

MICHAEL V. WHEELER
GREGORY G. STROMMEN
NATHAN R. CHICOINE

Brenda McGruder
Lawrence County Auditor
PO Box F
Deadwood, SD 57732

Re: Black Hills Forest Acres, LLC
Petition for Improvement of Section Line Highway

Dear Brenda:

On behalf of Black Hills Forest Acres, LLC, enclosed please find a Petition for Improvement of Section Line Highway which we would like to have submitted to the Lawrence County Commission at its next available opportunity.

It would be appreciated if you would advise as to when this matter will be submitted to the Lawrence County Commission for consideration. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger A. Tellinghuisen".

Roger A. Tellinghuisen roger@demjen.com
DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP

RT:ca
Enclosure
Cc: Client
Bruce Outka, Deputy States Attorney
Randy Deibert

**PETITION FOR IMPROVEMENT OF
SECTION LINE HIGHWAY**

Comes now Black Hills Forest Acres, LLC, a South Dakota limited liability company, and hereby petitions the Lawrence County Commission for permission to improve 288.4 feet, more or less, of section line highway within Lawrence County, South Dakota.

The portion of the section line highway Petitioner seeks permission to improve is described as:

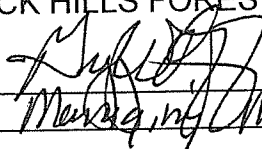
Commencing at the point on the south boundary of Aspen Way which is the northeast corner of Lot 1 Block 1 of Whitewood Forest Addition as shown on the plat of record Plat Document 78-4400 and is common to the northwest corner of Tract A of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21 as shown on the plat of record Plat Document 81-3166, which is the TRUE POINT OF BEGINNING; thence along the center line of the section line right-of-way, being 33 feet each side of the section line between Sections 20 and 21 and along the lot line common to said Lot 1 Block 1 and said Tract A S 00.02'18"W a distance of 188.84 feet to the southeast corner of said Lot 1 Block 1; thence continuing along said section line and said Tract A S 00.01'18"W a distance of 100.00 feet to the Point of Ending. (See attached map of section line improvement attached hereto as Exhibit A.)

Petitioner believes the improvement of this portion of the section line is in the interest of Petitioner and in the public's interest as it will, when constructed, provide access to property owned by Petitioner by which there is no other access available. The granting of this Petition will address the otherwise "isolated tract" nature of the property to which this stretch of section line highway will provide access.

In consideration of the County authorizing the improvement of the described section line highway, Petitioner proposes to enter into an agreement with the County pursuant to the attached proposal.

Dated this 29 day of May, 2020.

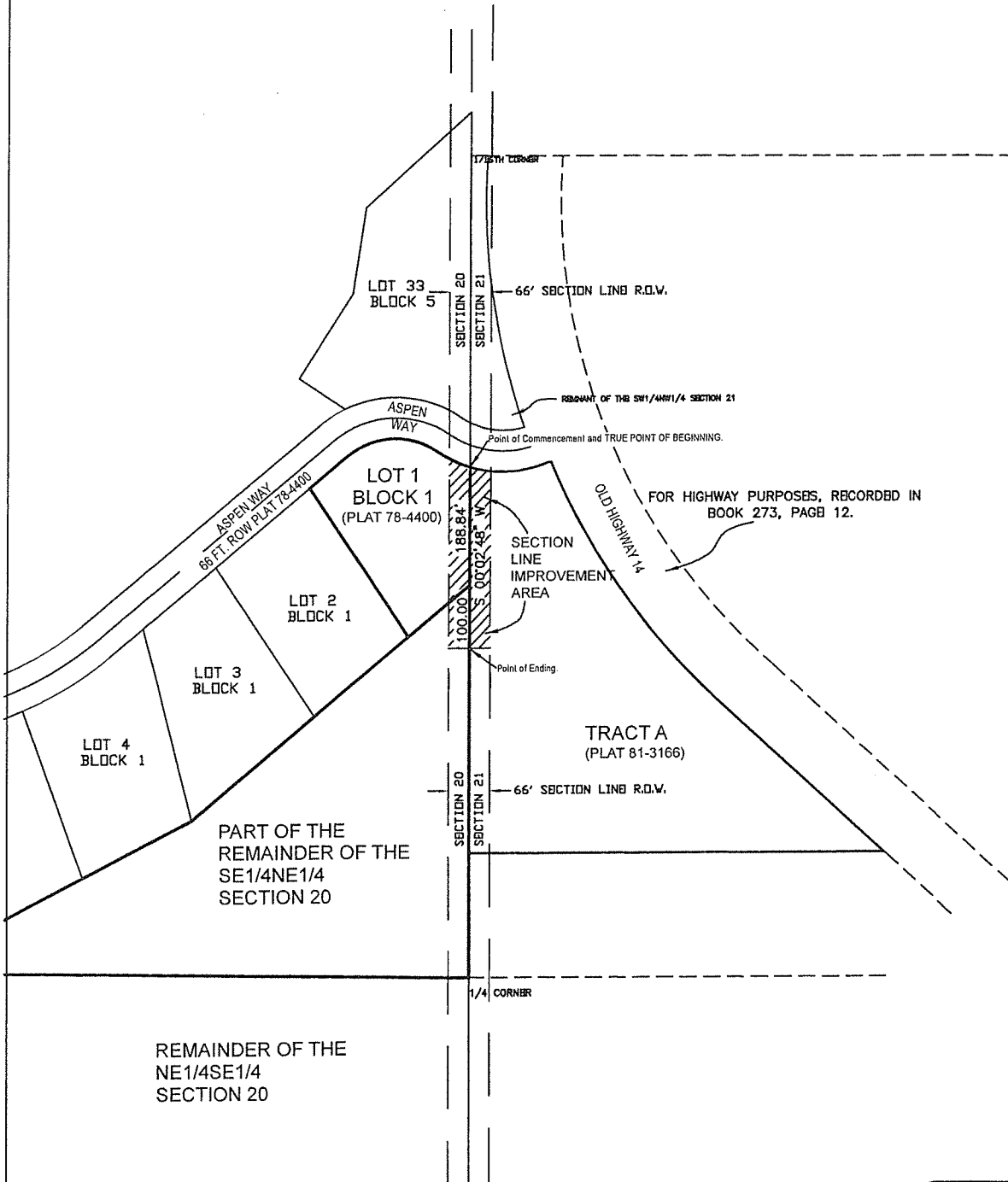
BLACK HILLS FOREST ACRES, LLC

By 
Its Managing Member

MAP OF SECTION LINE IMPROVEMENT

LEGAL DESCRIPTION: THAT PORTION OF SECTION LINE RIGHT WAY LOCATED IN THE SW1/4NW1/4 OF SECTION 21 AND THE SE1/4NE1/4 OF SECTION 20 AND LOCATED IN LOT 1 BLOCK 1 OF WHITEWOOD FOREST ADDITION AND TRACT A OF THE SW1/4NW1/4 OF SECTION 21, ALL LOCATED IN TOWNSHIP 6 NORTH, RANGE 4 EAST OF THE BLACK HILLS MERIDIAN, LAWRENCE COUNTY, SOUTH DAKOTA.

More particularly described as: Commencing at the a point on the South Boundary of Aspen Way which is the Northeast Corner of Lot 1 Block 1 of Whitewood Forest Addition as shown on the plat of record Plat Document 78-4400 and is common to the Northwest Corner of Tract A of the SW1/4NW1/4 of Section 21 as shown on the plat of record Plat Document 81-3166 which is the TRUE POINT OF BEGINNING; Thence along the centerline of the Section Line Right of Way being 33 feet each side of the Section Line between Sections 20 and 21 and along the Lot Line common to said Lot 1 Block 1 and said Tract A S 00°02'18"W a distance of 188.84 feet to the Southeast Corner of said Lot 1 Block 1; thence continuing along said Section Line and said Tract A S 00°02'18"W a distance of 100.00 feet to the Point of Ending.



THAT PORTION OF SECTION LINE RIGHT WAY LOCATED IN THE SW1/4NW1/4 OF SECTION 21 AND THE SE1/4NE1/4 OF SECTION 20 AND LOCATED IN LOT 1 BLOCK 1 OF WHITEWOOD FOREST ADDITION AND TRACT A OF THE SW1/4NW1/4 OF SECTION 21, ALL LOCATED IN TOWNSHIP 6 NORTH, RANGE 4 EAST OF THE BLACK HILLS MERIDIAN, LAWRENCE COUNTY, SOUTH DAKOTA.

More particularly described as: Commencing at a point on the South Boundary of Aspen Way which is the Northeast Corner of Lot 1 Block 1 of Whitewood Forest Addition as shown on the plat of record Plat Document 78-4400 and is common to the Northwest Corner of Tract A of the SW1/4NW1/4 of Section 21 as shown on the plat of record Plat Document 81-3166 which is the TRUE POINT OF BEGINNING; Thence along the centerline of the Section Line Right of Way being 33 feet each side of the Section Line between Sections 20 and 21 and along the Lot Line common to said Lot 1 Block 1 and said Tract A S 00°02'18"W a distance of 188.84 feet to the Southeast Corner of said Lot 1 Block 1; thence continuing along said Section Line and said Tract A S 00°02'18"W a distance of 100.00 feet to the Point of Ending.

Prepared by:
Roger A. Tellinghuisen
DEMERSSEMAN JENSEN
TELLINGHUISEN & HUFFMAN, LLP
516 5th Street, PO Box 1820
Rapid City, SD 57709-1820
(605) 342-2814

**AGREEMENT FOR IMPROVEMENT TO
SECTION LINE HIGHWAY**

THIS AGREEMENT is made and entered into this _____ day of _____, 2020, by and between BLACK HILLS FOREST ACRES, LLC, a South Dakota limited liability company with a principal address of 2113 Mustang Lane, Spearfish, South Dakota 57783 ("BHFA"), and LAWRENCE COUNTY, SOUTH DAKOTA, a political subdivision of the State of South Dakota with a principal address of 90 Sherman St., Deadwood, South Dakota 57732 ("County").

RECITALS

WHEREAS, BHFA has submitted a *Petition for Improvement of Section Line Highway* wherein it requests permission from County to improve 288.4 feet, more or less, of section line highway within Lawrence County; and

WHEREAS, pursuant to South Dakota law, County has jurisdiction over the section line highways located within Lawrence County and outside of municipalities and improved townships; and

WHEREAS, the parties intend to enter into an agreement which sets forth the conditions and agreements of the parties hereto with respect to the improvement of the subject section line highway.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereby agree as follows:

1. BHFA, its successors or assigns shall be allowed to improve, at no expense to County, a portion of the section line highway described as follows:

Commencing at the point on the south boundary of Aspen Way which is the northeast corner of Lot 1 Block 1 of Whitewood Forest Addition as shown on the plat of record Plat Document 78-4400 and is common to the northwest corner of Tract A of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21 as shown on the plat of record Plat Document 81-3166, which is the TRUE POINT OF BEGINNING; thence along the center line of the section line right-of-way, being 33 feet each side of the section line between Sections 20 and 21 and along the lot line common to said Lot 1 Block 1 and said Tract A S 00.02'18"W a distance of 188.84 feet to the southeast corner of said Lot 1 Block 1; thence continuing along said section line and said Tract A S 00.01'18"W a distance of 100.00 feet to the Point of Ending. (See attached map of section line improvement attached hereto as Exhibit A.)

subject to the following terms and conditions:

a. Any improvement to the section line described above shall be done at no cost to County; in accordance with Lawrence County highway specifications; and must be inspected and approved by the Lawrence County highway superintendent before it can be open to the public.

b. Prior to any improvement of the section line described above, the section line highway to be improved shall either be annexed into an existing county road district or a new county road district shall be established pursuant to the provisions of SDCL 31-12A, et seq. and the section line highway to be improved hereunder shall be under such road district's jurisdiction.

c. If an existing county road district referred to above refuses to allow the annexation of the section line described above or, after annexation, the county road district is ever dissolved, or a new county road district cannot be formed to include the section line described above, the County may designate the improved section line highway as a "minimum maintenance highway" pursuant to SDCL 31-12-46, or a "no maintenance highway" pursuant to SDCL 31-12-48.

2. Pursuant to the provisions of SDCL 11-3-12, it is acknowledged and agreed that the County's approval of a plat within the Whitewood Forest Acres

Development and the Black Hills Forest Acres properties or any properties described in the attached Exhibit A, shall not obligate the County to open, improve or maintain any streets which may be dedicated to public use within such approved plat or that portion of the section line that may be improved within an established road district.

3. In the event any person or entity in the future seeks to have the County add the portion of section line under consideration in this Agreement added to the County highway system, they shall follow the applicable statutory and/or County regulations at the time such application is presented.

4. This Agreement is for the benefit of BHFA’s property described on the attached Exhibit A.

5. It is acknowledged by the parties hereto that BHFA will rely on this Agreement as it markets its property described in the attached Exhibit A for development purposes.

6. The terms and conditions of this Agreement shall be binding on the successors and assigns of BHFA.

Dated this ____ day of _____, 2020.

BLACK HILLS FOREST ACRES, LLC

LAWRENCE COUNTY, SOUTH DAKOTA

By _____
Its _____

By _____
Its _____

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

On this ___ day of _____, 2020, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be a Member of Black Hills Forest Acres, LLC, a South Dakota limited liability company, and that he,

as such Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the South Dakota limited liability company by himself as Member.

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

Notary Public, South Dakota
My Comm. Expires: _____

(SEAL)

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

On this ___ day of _____, 2020, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be a _____ of Lawrence County, South Dakota, a political subdivision of the State of South Dakota, and that he, as such _____, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of Lawrence County, South Dakota himself as _____.

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

Notary Public, South Dakota
My Comm. Expires: _____

(SEAL)