

COPY

TRAIL ACCESS EASEMENT, COVENANTS AND RESTRICTIONS

This agreement is hereby made and entered into this 15th day of October, 2018, by and between Daryle Dennis and Mary Dennis, husband and wife, (hereinafter "Grantors"), of 7006 138th Avenue SW, Amidon, North Dakota 58620, who, for themselves, their heirs, successors, and assigns, in consideration of one dollar (\$1.00) and other good and valuable consideration, receipt and sufficiency of which is acknowledged by execution of this Easement, do freely give, grant, sell, convey and confirm unto the Highpointers Foundation, Inc., a not-for-profit corporation, with IRS 501 (C)(3) status, located at 31644 Ponderosa Way, Evergreen, CO 80439, with a mailing address of P.O. Box 2092, Evergreen, CO 80439, and its successors and assigns (hereinafter "Grantee"), for a period of ninety-nine (99) years from and after the date hereof, a perpetual trail access easement over, on and through a certain tract of land (hereinafter "Easement Area"), located in Slope County, North Dakota, more particularly described as:

TOWNSHIP 134 NORTH, RANGE 101 WEST of the 5th P.M.

Section 25: A tract of land located in the E1/2NE1/4 and the NE1/4SE1/4 more particularly described as follows: Commencing at the Northeast section corner, this being the point of beginning: thence South along the East side of said section, a distance of 3400.0 feet; thence west parallel to the North section line a distance of 750.0 feet; thence North parallel to the east section line, a distance of 400.0 feet; thence east parallel to said north side, a distance of 200.0 feet; thence North parallel to said East side, a distance of 600.0 feet; thence West parallel to said North side, a distance of 200.0 feet; thence North parallel to said East side, a distance of 2400.0 feet to the North side of said section; thence east along the North side of said section, a distance of 750.0 feet to the point of beginning.

I. PURPOSES OF THIS GRANT

Grantors and Grantee acknowledge that the primary purpose of this Grant is to establish, maintain and provide for general public use and enjoyment a permanent and perpetual recreational trail across the easement area for the purpose of accessing White Butte, the point with the highest elevation in North Dakota, in a manner that enhances the outdoor recreation experience. The secondary purpose is to preserve the scenic and natural qualities of the Easement Area.

II. USES AND OBLIGATIONS

A. Public Access: The Grantors covenant and agree that the Easement Area shall be available to the general public with thirty-three feet (33') on either side of the section line between sections 19 - T134N - R100W and 24 - T134N - R101W allowed for the use of motorized vehicle access and all property in the Easement Area not within thirty-three feet (33') feet of the section line shall be strictly limited to a recreational hiking trail for walking access only.

The Grantors and Grantee agree jointly to limit the use of motorized vehicles not within thirty-three feet (33') feet of the section line yet within the Easement Area only as necessary for a medical emergency or construction and maintenance purposes.

B. Camping and Fires: Overnight camping and fires shall be prohibited within the Easement Area.

C. Trail Construction and Maintenance: Grantee shall have the right to construct, reconstruct, repair, maintain, replace, and/or monitor the trail, performing such clearing of trees and vegetation as is reasonably necessary for said purposes. Grantee shall not unreasonably cut or remove additional vegetation, except for dead, dying or diseased vegetation that poses a risk to trail users or to the condition of the trail. Grantee shall not use herbicides, pesticides, growth inhibitors or other toxic substances within the Easement Area. Grantee shall stack, pile or otherwise remove all slash or debris from the traveled trail. Grantee also shall have the right to construct erosion control structures necessary to maintain a clear, dry passage through the Easement Area including the right to install, maintain, repair and replace waterbars, steps, and other trail surface structures. Grantee shall provide Grantors with thirty (30) days' prior written notice of any such construction plans by first class mail to the address of the Grantors.

Grantee shall maintain the Easement Area as part of the trail in a safe condition. If the Easement Area is not maintained in a safe condition, Grantors shall have the right to temporarily close the Easement Area until such time as the condition of the Easement Area is brought back to acceptable condition.

D. Fencing, Barriers and Signs: Grantee, with Grantors' prior written consent, may erect and maintain fencing and barriers within the Easement Area as may be reasonably necessary to prevent access to the trail by motor vehicles and/or to discourage pets from straying from the trail onto Grantors' or other adjacent landowners' properties. Grantee, with Grantors' prior written consent, shall have the right to erect reasonable signs, blazing or other markings within the Easement Area to inform the public of the trail location or other trail features. Grantors shall not erect fences, barriers or signs that impede access to or use of the trail.

E. Buildings and Non-recreational Uses: Grantors shall not place structures, landscaping, or other improvements within Easement Area that may prevent or interfere with the ability of Grantee and the public to use the trail for the purposes stated in this Grant.

F. Excavation and Trash: Except as provided in Section II C, there shall be no disturbance of the surface of the Easement Area, including but not limited to filling, excavation, removal of top soil, sand, gravel, rocks or minerals, or change of the topography of the Easement Area in any manner. Further, there shall be no placement, collection, or storage of trash, human waste, ashes, chemicals, hazardous or toxic substances, or any other unsightly materials within the Easement Area.

G. Liability: Grantee hereby agrees to hold harmless Grantors from any liability arising from this Easement. Grantee also agrees to acquire liability insurance for this easement and provide proof to Grantors.

H. Miscellaneous: Grantee shall have the right to limit or restrict public use and access to the Easement Area as necessary and appropriate for the safety of the trail users, including but not limited to extremely dry, wet or snow conditions. Grantor may elect to close the 19-24 section line access to vehicular traffic as necessary, however hiking access shall be maintained at all times.

III. MANAGEMENT OF TRAIL

Grantee may assign its rights and obligations under this instrument with regard to construction, relocation, and/or management of the trail to an entity or individual (the "Manager") provided that Manager is qualified and has the capacity to perform the trail management functions and Grantee first provides notice to the Grantors of the name, address and other means of contacting the Manager, unless conditions warrant a closure.

IV. COMPLIANCE WITH EASEMENT AND BINDING ARBITRATION

Grantee shall consult with the Grantors from time to time, or at Grantors' request, about the public use of, and access to, the Easement Area and the trail, and Grantee shall take reasonable steps to correct any problems caused by public use of the Trail and to minimize any adverse impact on the Grantors' use and enjoyment of the Easement Area and any adjoining property owned by Grantors.

Grantors and Grantee shall take reasonable steps to periodically inspect the Easement Area to ensure compliance with this Easement. In the event that Grantors or Grantee become aware of an event or circumstance of non-compliance with this Grant, that party shall give notice to the other via certified mail, return receipt requested to the other party's most recent address, and demand corrective action sufficient to abate such non-compliance and return trail to its previous condition. Any event or circumstance of non-compliance with this Grant not corrected voluntarily may be submitted to binding arbitration, if agreed to by all parties. The arbitrator shall be selected by the parties, or by the American Arbitration Association if parties cannot agree, with costs shared equally unless otherwise determined by the arbitrator due to one party being unreasonable or otherwise dilatory. If the parties agree to submit to binding arbitration, the arbitrator's authority shall include the right to determine whether a violation of this Grant by either Grantors or Grantee has occurred or continues to occur, and what corrective action is appropriate. The arbitrator's authority shall include the ability to grant equitable relief as appropriate.

Notwithstanding the foregoing, Grantee and Grantor reserve the right to bring an action in a North Dakota court of competent jurisdiction if the parties do not agree to submit to binding arbitration. The prevailing party shall be reimbursed the reasonable costs of enforcement,

including staff time, court costs and reasonable attorneys' fees, in addition to any other payments ordered by such Court.

V. MISCELLANEOUS PROVISIONS

A. All references herein to the Grantors and Grantee shall include their heirs, successors and assigns.

B. The Grantee shall transfer this Easement only to a State or Federal agency, or qualified 501(c)(3) organization, in accordance with the regulations established by the Internal Revenue Service governing such transfers. By acceptance and recording of an assignment conveying Grantee's interests, any transferee affirmatively agrees to be bound by the conditions of this grant.

C. In any deed or assignment conveying an interest in all or part of the Easement Area, Grantors shall make reference to this Grant and shall indicate that this Grant is binding upon all successors in interest in the Easement Area for the term of this easement. Grantors shall also notify the Grantee of the name(s) and address(es) of Owner's successor(s) in interest.

D. In the event that the interests conveyed hereby are abandoned by the Grantee or its successor, title to the easement area shall automatically revert to the Grantor. Abandonment shall be conclusively established at such time as Grantee or its successor ceases to maintain the trail following damage or destruction, for a period of eighteen months. Abandonment shall also be established at such time as Grantee, or its successor, fails to maintain its legal existence without first having conveyed its interest to another qualified holder.

E. Grantee will record this Easement in the office of the Slope County Recorder located in Amidon, North Dakota.

F. The invalidation of any portion of this Easement, Covenants and Restrictions shall not affect the validity of any other provision of this Easement.

TO HAVE AND TO HOLD said Trail Access Easement, Covenants and Restrictions, with all the privileges and appurtenances thereof, to the said Grantees, and their respective successors and assigns, to their own use forever, and the said Grantor, for itself and its successors and assigns, does covenant with the said Grantees, their successors and assigns, that Grantor is the sole owner of the property in which the Easement Area is located, and has good right and marketable title to the same.



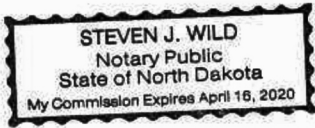
Highpointers Foundation, Inc.
By: Dave Covill
Its: President



Daryle Dennis

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BOWMAN)

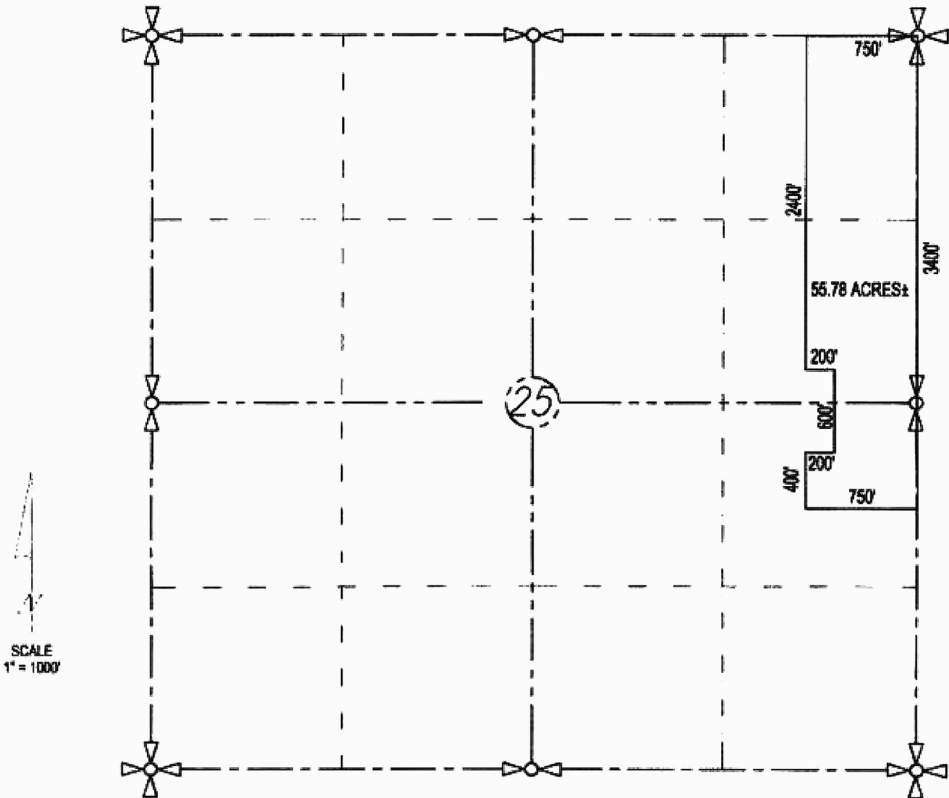
On this 15th day of October, 2018, before me personally appeared Daryle Dennis and Mary Dennis, husband and wife, known to me to be the persons who are described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same.





Notary Public

LEASE TRACT PLAT
 TRACT IN E1/2NE1/4 NE1/4SE1/4 SECTION 25
 TOWNSHIP 134 NORTH - RANGE 101 WEST
 SLOPE COUNTY, NORTH DAKOTA



TRACT

A TRACT OF LAND LOCATED IN E1/2NE1/4 NE1/4SE1/4, SECTION 25, T134N, R101W, SLOPE COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST SECTION CORNER, THIS BEING THE POINT OF BEGINNING; THENCE SOUTH ALONG THE EAST SIDE OF SAID SECTION, A DISTANCE OF 3400.0 FEET; THENCE WEST PARALLEL TO THE NORTH SECTION LINE, A DISTANCE OF 750.0 FEET; THENCE NORTH PARALLEL TO THE EAST SECTION LINE, A DISTANCE OF 400.0 FEET; THENCE EAST PARALLEL TO SAID NORTH SIDE, A DISTANCE OF 200.0 FEET; THENCE NORTH PARALLEL TO SAID EAST SIDE, A DISTANCE OF 800.0 FEET; THENCE WEST PARALLEL TO SAID NORTH SIDE, A DISTANCE OF 200.0 FEET; THENCE NORTH PARALLEL TO SAID EAST SIDE, A DISTANCE OF 2400.0 FEET TO THE NORTH SIDE OF SAID SECTION; THENCE EAST ALONG THE NORTH SIDE OF SAID SECTION, A DISTANCE OF 750.0 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 55.78 ACRES MORE OR LESS.