

EASEMENT FOR USE OF
COUNTY ROAD RIGHT-OF-WAY

THIS EASEMENT AGREEMENT is made and entered into between BROOKINGS COUNTY, SOUTH DAKOTA, a South Dakota public corporation (hereinafter "County") and GOLDEN DAKOTA FARMS LLC (hereinafter "Easement Tenant").
Company Name

Name: NICO COETZEE Address: 48188 221 STREET City: ELKTON
Landline: 605-997-5059 Mobil: 620-451-1892 Email: KSDAIRY@PLD.COM

RECITALS:

WHEREAS, Easement Tenant, operates a Concentrated Animal Feeding Operation, located in Section 3, Township SPRING CREEK Range 10848, ~~Brookings County,~~ Moody County South Dakota; and

WHEREAS, as part of its manure disposal system, Easement Tenant uses hoses or pipe to transport manure to other locations for purposes of treatment or disposal; and

WHEREAS, Easement Tenant desires to place one of its manure hoses or pipes across the right-of-way and under the road surface of Brookings County Road 486 AVE/33 at the location as shown in Exhibit "A", attached hereto and by this reference incorporated herein; and

WHEREAS, County is willing to grant to Easement Tenant an Easement for the use of such right-of-way for such purposes on the terms and conditions as hereafter set forth.

THEREFORE, in consideration of the mutual agreements herein set forth, the Parties agree as follows:

1. County does hereby grant to Easement Tenant the non-exclusive right to use the Brookings County Road 33/486 right-of-way for the purposes of placing a manure disposal hose or pipe at the location identified in Exhibit "A" under the following conditions:
 - a. The exact location and manner of placing the culvert for such manure hose or pipe shall be as approved by the Brookings County Highway Superintendent;
 - b. The culvert shall be a minimum size of N.A;
 - c. The culvert shall be bored under the road surface;
 - d. The Easement Tenant shall pay all costs for the installation of such culvert and manure hose or pipe;
 - e. The culvert and manure hose or pipe shall be placed so as to prevent the manure from entering areas of drainage and the culvert shall be sloped so that the manure will flow to one end in the event of a leak;
 - f. The Easement Tenant shall at all times at its sole cost properly maintain the manure hose of pipe and culvert so as to prevent leaks;
 - g. The Easement Tenant or agent acting on behalf of the Easement Tenant shall inspect the manure hoses or pipes and culvert on a daily basis while land application of wastewater or manure is occurring. This inspection is to ensure that the manure hoses or pipes are not leaking and runoff from the land application site and irrigation system is not

occurring. If a discharge or leaks are found where process wastewater or manure is reaching any surface waters of the state or flowing onto property not owned by the Easement Tenant or not included in the nutrient management plan, the Easement Tenant is responsible for taking immediate steps to stop the discharge or leaks and to immediately report such discharge to the County. The Easement Tenant shall maintain documentation of these inspections consistent with the requirements of the Department of Environment and Natural Resources, which documentation shall be available for inspection by County upon County's request.

- h. The Easement Tenant shall at its sole cost restore the road right-of-way and road surface to its condition prior to the installation to the satisfaction of the Brookings County Highway Superintendent; and
 - i. In the event the road right-of-way or road surface at any time thereafter collapses or deteriorates as a result of such culvert installation, Easement Tenant shall at its sole cost restore such road right-of-way or road surface.
 - j. In the event County determines it to be necessary to grade or otherwise improve such County Road which grading or improvement requires the temporary or permanent removal and/or relocation of such manure hose or pipe and culvert, Tenant shall promptly upon notice from County remove and/or relocate such manure hose or pipe and culvert as per the request of County at tenant's sole expense.
2. This easement shall be personal to Easement Tenant. In the event Easement Tenant sells the Concentrated Animal Feeding Operation which benefits from this easement, then this easement and all rights thereunder shall cease and Easement Tenant at its sole expense shall remove the manure hose or pipe and restore the road right-of-way to the satisfaction of the County Highway Superintendent, unless a new easement is entered with the purchaser of such operation,
 3. In the event at any time Easement Tenant fails to perform any of the obligations under #1 above, including the obligation to properly maintain the manure hose or pipe, then and in such event County may terminate this easement and Easement Tenant shall remove such manure hose or pipe and restore the road right-of-way. In the event Easement Tenant, upon demand of County, fails to remove such manure hose or pipe and restore the road right-of-way, County may do so and shall be entitled to recover from Easement Tenant all costs for such removal and restoration.
 4. In the event of a leak or spill of manure from the manure hose or pipe, Easement Tenant shall promptly clean up such leak or spill and shall be solely responsible for and shall pay all costs involved in such cleanups.
 5. In the event a civil lawsuit arising from the acts or omissions of the Easement Tenant, its officers, employees, agents, and representatives in the placing or maintain of such manure hose or pipe; and culvert under this Agreement or arising in any manner regarding the operation of the Concentrated Animal Feeding Operation of Easement Tenant, the Easement Tenant shall defend, indemnify, and hold harmless the County, its officers, employees, agents, and representatives from and against any and all liability, claims, damages, actions, judgment, losses, costs, and expenses, including costs of litigation and attorney's fees, whether at law, in equity before an administrative agency or otherwise.

Exhibit A.

Ahlers Farms Crop Map 2020
Brookings County / Elkton Township 109-47

Map 12

