

**BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA**

**RESOLUTION APPROVING GRANT OF EASEMENT BETWEEN
OFFUTT AIR FORCE BASE AND SARPY COUNTY FOR**

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

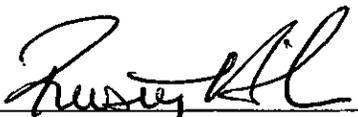
WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County of Sarpy desires to enter into a Grant of Easement with Offutt Air Force Base for the portion of Harlan Lewis Road located on Offutt Air Force Base property, as outlined in the easement agreement attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the Grant of Easement with Offutt Air Force Base for an easement over the portion of Harlan Lewis Road that is located on Offutt Air Force Base property, a copy of which is attached.

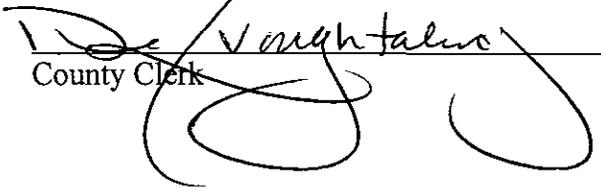
BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk, is hereby authorized to sign on behalf of this Board the Grant of Easement with Offutt Air Force Base, a copy of which is attached, and any other related documents, the same being approved by the Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 16th day of October, 2012.



Sarpy County Board Chairman

Attest:
SEAL



County Clerk



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 55TH WING (ACC)
OFFUTT AIR FORCE BASE NEBRASKA

1 October 2012

MEMORANDUM FOR Mr. Dennis Wilson, P.E., PhD
Sarpy County Engineer
15100 S. 84th Street
Papillion, NE 68046-4627

FROM: 55 CES/CEAOR
106 Peacekeeper Dr. Ste 2N3
Offutt AFB NE 68113-4019

SUBJECT: Easement USAF-ACC-SGBP-2-12-004

Attached is the proposed easement agreement between Offutt AFB (U.S. Government) and Sarpy County. This is a standard Air Force easement package that I obtain from the Air Force Real Property Agency used nation-wide. Please review and obtain proper Sarpy County signatures. Once you (Sarpy County) have signed the agreement, send it back to me (scan, U.S. Mail, or I'll pick up from you). Then, I'll obtain Air Forces signatures. Once both parties have signed the agreement, I'll provide you a copy for your records.

Take particular attention to pages 11 & 15.

On page 11, is the signature page. Hopefully, this will be sufficient from the Sarpy County side of the house. If not, please let me know.

On page 15, is the Physical Condition Report (Exhibit C). This states the easement area is in good acceptable condition. From an engineer's stand point, I used your name and job title in the signature block for you to sign. If you disagree, please provide me a person's name and job title description to be used on Exhibit C. I'll then make appropriate corrections.

A handwritten signature in black ink, appearing to read "Brian Wild".

BRIAN WILD
Real Property Specialist

The Sun Never Sets on the Fightin' Fifty-Fifth

DEPARTMENT OF THE AIR FORCE
GRANT OF EASEMENT
FOR
OFFUTT AIR FORCE BASE, NEBRASKA

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FOR
OFFUTT AIR FORCE BASE, NEBRASKA

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DEPARTMENT OF THE AIR FORCE**GRANT OF EASEMENT****I. PARTIES AND PURPOSE**

THE UNITED STATES OF AMERICA, acting by and through the Secretary of the Air Force (the "Grantor"), under and pursuant to the authority granted in 10 U.S.C. § 2668, the Secretary of the Air Force having determined that no more land than needed for the easement is included herein and the granting of this easement is not against the public interest, does hereby GRANT and CONVEY to SARPY COUNTY, NEBRASKA (Sarpy County Public Works) (Grantee), a nonexclusive easement to maintain a road or street over, under, and across the property on Offutt Air Force Base (AFB), Nebraska, as described in **Exhibit A** and depicted on **Exhibit B** (the "Easement Area"). The Grantor and Grantee may be referred to as Parties or separately as a Party.

II. CONSIDERATION

The sum of \$1.00 and the provision of maintenance repair, and security of the Easement Area, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

III. TERM

"This Grant shall be for a term of 25 years," or "through 17 September 2037."

IV. GRANTEE ACCESS

Grantee is granted the nonexclusive right to use the walkways, streets, and roads on Offutt AFB Nebraska in common with the Grantor and its lessees and licensees for access to and from the Easement Area and the nearest public street or highway.

V. GRANTOR'S RIGHT OF ACCESS AND INSPECTION

Grantor shall have the right to enter the Easement Area at any time and shall have the right to reasonably inspect Grantee's use of it and any of Grantee's improvements or property placed thereon, without notice.

VI. GRANTOR'S RIGHT OF ACCESS FOR ENVIRONMENTAL PURPOSES

Grantor reserves for itself and for the benefit of those local, state and federal governmental agencies that have responsibility for environmental regulatory compliance (the "Environmental Agencies") and their respective officials, agents, employees, and contractors, and subcontractors, the right of access to the Easement Area for the following purposes, either on the Easement Area or on other lands, and for such other purposes,

A. to conduct site investigations and surveys, including, where necessary, drilling, soil and water sampling, test-pitting, testing soil borings, and other activities related to the base Environmental Restoration Program (ERP);

B. to inspect field activities of the Grantor and its contractors and subcontractors in implementing the ERP;

C. to conduct any test or survey required by the Environmental Agencies relating to the implementation of the ERP, or environmental conditions on the Easement Area, or to verify any data submitted to the Environmental Agencies by the Grantor relating to such conditions;

D. to conduct, operate, maintain, or undertake any other response, corrective, or remedial action as required or necessary under the ERP, including, but not limited to, the installation of monitoring wells, pumping wells, and treatment facilities; and

E. to monitor any environmental restrictive use covenants and the effectiveness of any other land use or institutional control established by the Grantor on the Easement Area, either by itself, by its contractor, by any public entity, including the state, or by a private entity registered in the state to monitor environmental covenants.

VII. GRANTOR'S REASONABLE REGULATION

The use and occupation of the Easement Area and the exercise of the rights herein granted shall be subject to Grantor's reasonable restrictions and regulations regarding ingress, egress, safety, sanitation, and security, as Grantor, or its duly authorized representatives, may from time to time impose.

VIII. CONDITION OF EASEMENT AREA

The Grantee has inspected and knows the condition of the Easement Area. It is understood that the Easement is granted "as is, where is" without any warranty, representation, or obligation on the part of the Grantor to make any alterations, repairs, improvements, or corrections to conditions or to defects whether patent or latent. The Parties shall jointly perform and sign or otherwise authenticate a Physical Condition Report at the beginning of the Easement term to document the condition of the Easement Area. This report will be made a part of this Grant as **EXHIBIT C**.

IX. OTHER GRANTS OF ACCESS

This Grant is subject to all outstanding easements, rights-of-way, rights in the nature of an easement, leases, permits, licenses, and uses (collectively, "Outgrants") for any purpose affecting the Easement Area. The Air Force may make additional Outgrants and make additional uses that may affect the Easement Area. However, any such additional Outgrants shall not be inconsistent with the use of the Easement Area by the Grantee under this Easement.

X. GRANTEE'S IMPROVEMENTS

At least 30 days before doing any work to repair, build, alter, modify, or demolish any improvements in the Easement Area, Grantee shall give written notice of its plans to the Base Commander through the Base Civil Engineer, who shall have the right to review and approve or reasonably modify the plans and to place reasonable restrictions on Grantee's access, equipment, methods, materials, and manpower related to accomplishing the work, in order to ensure it is done consistent with Grantor's use of the Easement Area and the operation of the base.

XI. NO OBSTRUCTIONS

Neither party shall use the property nor construct, erect, or place any objects, buildings, structures, signs, or wells of a permanent nature on, under or over the Easement Area that will unreasonably interfere with the other Party's use of the premises, as set out in this Grant or its reservations.

XII. GENERAL INDEMNITY

The Grantee shall, to the extent permitted by law, indemnify the Grantor, its agents and employees, from and against any loss, damage, claim, or liability whatsoever resulting in personal injury or death, or damage of property of the Grantor and others, directly or indirectly due to the negligent exercise by the Grantee of any of the rights granted by the Grant, or any other negligent act or omission of the Grantee, including failure to comply with the obligations of this Grant or of any applicable laws that may be in effect from time to time.

XIII. LIMITATION OF GRANTEE RIGHTS

Except as is reasonably required to effect the purpose of this Grant, the Grantee has no right of use, license, easement, servitude, or usufruct, for any purpose, by necessity or otherwise, express or implied, on, over, across, or under any of the real property of the Grantor, and the Grantee agrees not to assert any such right or interest by reason of this Grant.

XIV. INSURANCE

Grantee shall maintain the following insurance coverage on which the Government shall be an Additional Named Insured

A. Property insurance coverage against loss or damage by perils covered by Insurance Services Office ("ISO") special cause of loss form or its equivalent in an amount not less than One Hundred Percent (100%) of the full replacement cost of Grantor's buildings and other improvements on the premises. The policies of insurance carried in accordance with this Condition shall contain a "Replacement Cost Endorsement."

B. Commercial general liability insurance using the most recent occurrence form or its equivalent, covering personal injury, bodily injury, premises, operations, products, completed operations, and independent contractors. That insurance shall provide coverage for the contractual liability assumed by the Grantee and shall afford immediate protection at the time of the Term Beginning Date, and at all times with single limit coverage of \$5 million each occurrence and \$10 million aggregate.

C. An ISO business auto policy or its equivalent, covering bodily injury and property damage arising from covered auto Symbol 1 ("any auto") or its equivalent, with limits of at least \$5 million each occurrence.

D. All policies of insurance which this grant requires the Grantee or any contractor to purchase and maintain, or cause to be purchased and maintained, shall be underwritten by insurers authorized to underwrite insurance in the state where the Easement Area are located, and which have a rating of at least B+ by the most recent edition of *Best's Key Rating Guide*. In all policies, Grantor shall be named as additional insured for its interest in, but not limited to, the Easement Area and any personal property included thereon (under ISO forms CG 2011 and CG 2028 or their equivalents). Grantor shall appear in all policies as "United States of America, c/o Air Force Real Property Agency." All policies shall provide (a) that no cancellation, reduction in amount, or material change in coverage shall be effective until at least sixty (60) days after receipt by the Government of written notice; (b) that the insurer shall have no right of subrogation against the Government; and (c) shall be reasonably satisfactory to Grantor in all other respects, including, without limitation, the amounts of coverages and deductibles from time to time. In no circumstances will Grantee be entitled to assign to any third party rights of action that the Grantee may have against Grantor. Notwithstanding the foregoing, any cancellation of insurance coverage based on nonpayment of the premium shall be effective upon thirty (30) days' written notice to Grantor. Grantee understands and agrees that cancellation of any insurance coverage required to be carried and maintained by Grantee or contractor under this grant will constitute a failure to comply with its terms, and Grantor shall have the right to terminate the easement upon receipt of any such cancellation notice, if Grantee fails to cure such noncompliance promptly.

XV. AIRFIELD CONSTRUCTION

Any new construction or alteration at the end of the runway, or within lateral clear zones for the runway, shall comply with any applicable Air Force requirements, such as those contained in Air Force Manual 32-1123(1) entitled "Airfield and Heliport Planning and Design," dated May 1, 1999.

XVI. PRESERVATION OF CULTURAL AND NATURAL RESOURCES

A. The Grantee shall comply with the base Cultural Resource Management Plan which calls for preservation of cultural resources, if any, on the installation.

B. The Grantee shall comply with the base Integrated Natural Resources Management Plan which calls for protection of natural resources or endangered species, if any, on the installation.

XVII. GRANTEE PERMITS

Grantee shall be responsible for and obtain, at its sole expense, any approvals, permits, or licenses which may be necessary to the construction and operation of improvements within the Easement Area, in compliance with applicable law.

XVIII. ENVIRONMENTAL CONDITIONS

The Grantor discloses to the Grantee the information described in the attached **EXHIBIT D**. The Grantee acknowledges that it has reviewed, or has been afforded the opportunity to review, these documents and any other representations of the Grantor contained in exhibits attached to this Grant.

XIX. ENVIRONMENTAL COMPLIANCE

Grantee shall comply with all applicable federal, state, and local laws, regulations, and standards for environmental protection, including flood plains, wetlands, and pollution control and abatement, as well as for payment of all fines and assessments by regulators for the failure to comply with such standards. Grantee shall also indemnify the Grantor to the full extent permitted by law for any violation of such law, regulation, or standard and shall also reimburse the Grantor for any civil or criminal fines or penalties levied against the Grantor for any environmental, safety, occupational health, or other infractions caused by or resulting from Grantee's action or inaction or that of its officers, agents, employees, contractors, subcontractors, sub-grantees, licensees, or the invitees of any of them. In the event that any actions by Grantee including those of its officers, agents, employees, contractors, subcontractors, sub-grantees, licensees, or invitees cause or contribute to a spill or other release of a substance or material, Grantee shall conduct any required cleanup, abatement, or response action in accordance with all applicable federal, state and local laws and regulations or, at the discretion of Grantor, indemnify Grantor for all costs of completing such cleanup, abatement, or response action.

XX. ENVIRONMENTAL USE RESTRICTIONS

Grantee will also comply with the terms of the "Environmental Use Restrictions" set out in the attached **Exhibit E**.

XXI. HAZARDOUS MATERIALS AND HAZARDOUS WASTE

Grantee shall not bring toxic or hazardous material, hazardous wastes, or hazardous substances upon the Easement Area. The Grantee shall be responsible for the cost of proper disposal of hazardous substances, or solid and hazardous wastes generated by its activities under this Grant. The Grantor may require the Grantee to utilize its on-base centralized systems for the handling, treatment, storage, and disposal of solid and hazardous wastes. Grantee will comply with any applicable Offutt AFB Nebraska spill prevention control and countermeasure plan, and any applicable hazardous materials or hazardous wastes management plan.

XXII. GRANTOR ENVIRONMENTAL REMEDIATION

In the exercise of any rights under this Grant, the Grantee will not conduct, or permit to be conducted, any activities, or allow any condition, that disrupts any environmental remediation activities of the Grantor on the Easement Area, or on any premises adjacent or contiguous to the Easement Area, or that would adversely affect the effectiveness of those remediation activities, including, without limitation,

A. It shall not apply water upon the surface of the Easement Area in any amount or manner that could impact the migration of contaminated ground water;

B. It shall not drill below the surface or use ground water drawn from the upper-most aquifer, unless the Grantor first determines that there will be no adverse impacts on its cleanup process; and

C. It shall not conduct any construction work that would interfere with, negatively impact, or restrict access to, any cleanup work.

XXIII. ENVIRONMENTAL INDEMNIFICATION

The Grantee, to the extent permitted by law, will indemnify the Grantor, and its employees, and agents against, and hold them harmless from, all debts, obligations, liabilities, suits, claims, demands, causes of action, damages, losses, costs, and expenses (including without limitation, costs associated with any remedial action or corrective action, costs associated with any investigation, monitoring, sampling, testing, or removal of hazardous substance(s), costs of attorney and expert fees and expenses, and court costs) in any way relating to, connected with, or

arising out of, the discovery of any hazardous substance(s) introduced by the Grantee that may contaminate, or contribute to any existing contamination of, the Easement Area and contiguous or adjoining premises, after the date of this Grant.

XXIX. ENVIRONMENTAL LIABILITY OF THE GRANTOR

Grantee does not assume any of Grantor's liability or responsibility for environmental impacts and damage resulting from Grantor's activities; however this provision does not relieve Grantee of any obligation or liability it might have or acquire with regard to third parties or regulatory authorities by operation of law.

XXV. ABANDONMENT OR TERMINATION OF EASEMENT

This Grant may be terminated in whole or in part by the Grantor for Grantee's failure to comply with the terms of this grant and Grantor may terminate it for any part of the Easement Area that is abandoned or not used by the Grantee for 24 consecutive months. The Grantor shall give written notice of any termination, which shall be effective as of the date of the notice.

XXVI. DAMAGE TO OR REMOVAL OF GOVERNMENT PROPERTY

If Grantee or any other person acting in its place causes any disturbance or damage to any Government property or improvements in the Easement Area or Grantor's adjacent property, Grantee, its successors and assigns shall promptly restore them as nearly as may be reasonably possible to the same condition as existed prior to such disturbance or damage to the satisfaction of the Grantor; provided, however, that if Grantor confirms in writing that it no longer needs the improvements and Grantee provides for their complete demolition, removal, and restoration of the easement area satisfactory to Grantor, they need not be restored or replaced. If any Air Force property or improvements in the easement area will be removed to accommodate Grantee's use of the easement and Grantor does not waive their replacement, Grantee shall replace them in locations approved by Grantor with facilities having substantially similar design characteristics, being of the same category, construction, size, and capacity as those replaced, located on an appropriately restored site. Grantee shall not remove or excavate soil or paved surfaces without prior written approval of the Grantor and the Grantee shall promptly restore the Easement Area to substantially the same condition that existed immediately before the removal or excavation.

XXVII. REMOVAL OF GRANTEE IMPROVEMENTS

Upon the expiration, abandonment, or termination of the easement, Grantor may elect, in its sole discretion, to require Grantee to remove all its improvements and other property from the premises and restore the Easement Area at Grantee's sole expense to substantially the same condition that existed immediately before the grant, all to Grantor's satisfaction. Grantor shall give notice to Grantee of such election within a reasonable time after learning of Grantee's abandonment, or together with Grantor's notice of termination. Alternatively, at those same times, Grantor may elect and give written notice to Grantee that some or all of Grantee's easement improvements and any other property Grantee may leave on the Easement Area will

revert or be transferred to Grantor. Such reversion or transfer in lieu of Grantee's removal and restoration obligation shall be automatic and at no cost to Grantor and shall be effective on the easement term expiration date or the effective date of any abandonment or termination, without additional consideration therefore. Grantee shall execute any documentation reasonably requested by the Grantor to confirm any transfer or conveyance.

If Grantee fails to timely satisfy its removal and restoration obligations, then at Grantor's option, Grantee's improvements and personal property located on the Easement Area shall either become Grantor's property without compensation therefore or the Government may cause them to be removed or destroyed and the Easement Area to be so restored at the expense of Grantee; and no claim for damages against Grantor, its officers, employees, agents, or contractors shall be created by or made on account of such removal or destruction and restoration work. Grantee shall reimburse Grantor for any expenses it incurs to restore the Easement Area to the condition required by this grant within thirty (30) days after the Government provides written notice to Grantee of the reimbursement amount together with reasonable documentary support of the reimbursement amount.

XXVIII. REMEDIES FOR NON-COMPLIANCE

In the event the Grantee fails to comply with any obligation under this Grant, the Grantor may pursue monetary damages, equitable relief, or both, and the Grantee shall reimburse the Grantor for its attorney fees and costs.

XXIX. ASSIGNMENT

The Grantee may not assign this Grant without the prior written consent of the Grantor.

XXX. AUTHORIZED REPRESENTATIVES AND NOTICES

Any written notices under this instrument shall be made by mailing or hand delivering such notice to the parties at the following addresses.

GRANTOR:

John T. Rauch, Colonel, USAF
Commander
106 Peacekeeper Drive St 2N3
Offutt AFB NE 68113-4019

GRANTEE:

Sarpy County Nebraska
Sarpy County Public Works
15100 South 84th Street
Papillion, NE 68046

IN WITNESS WHEREOF, I have hereunto set my hand at the direction of the Secretary of the Air Force, the ____ day of _____, 20__.

THE UNITED STATES OF AMERICA
by its Secretary of the Air Force

ACCEPTANCE

The Grantee hereby accepts this Grant of Easement and agrees to be bound by its terms.

DATED: 16th day of October, 2012.

GRANTEE:

ATTEST:



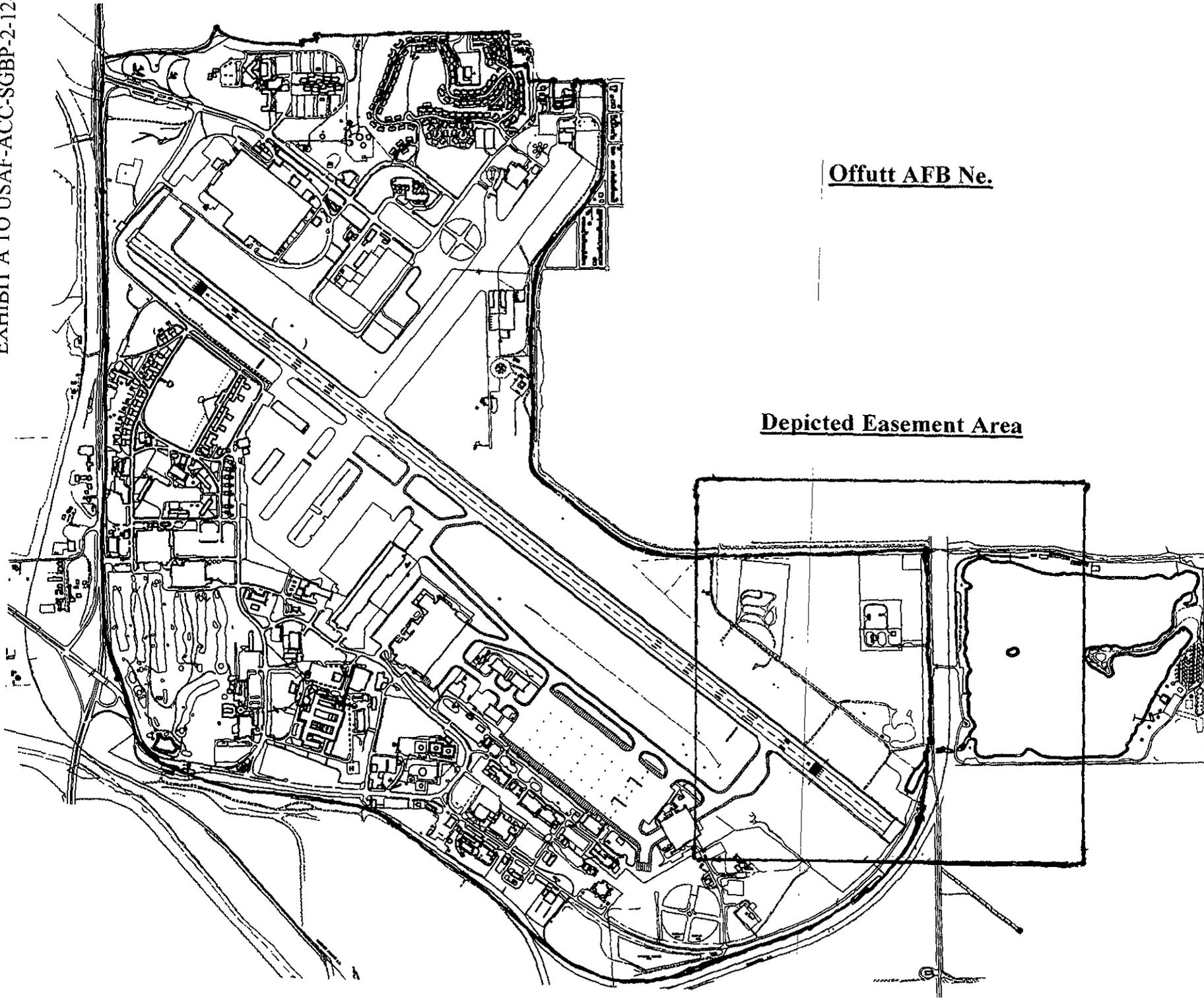
[Handwritten signature]

Deb Houghtaling
Sarpy County Clerk

By *[Handwritten signature]* 10-16-12

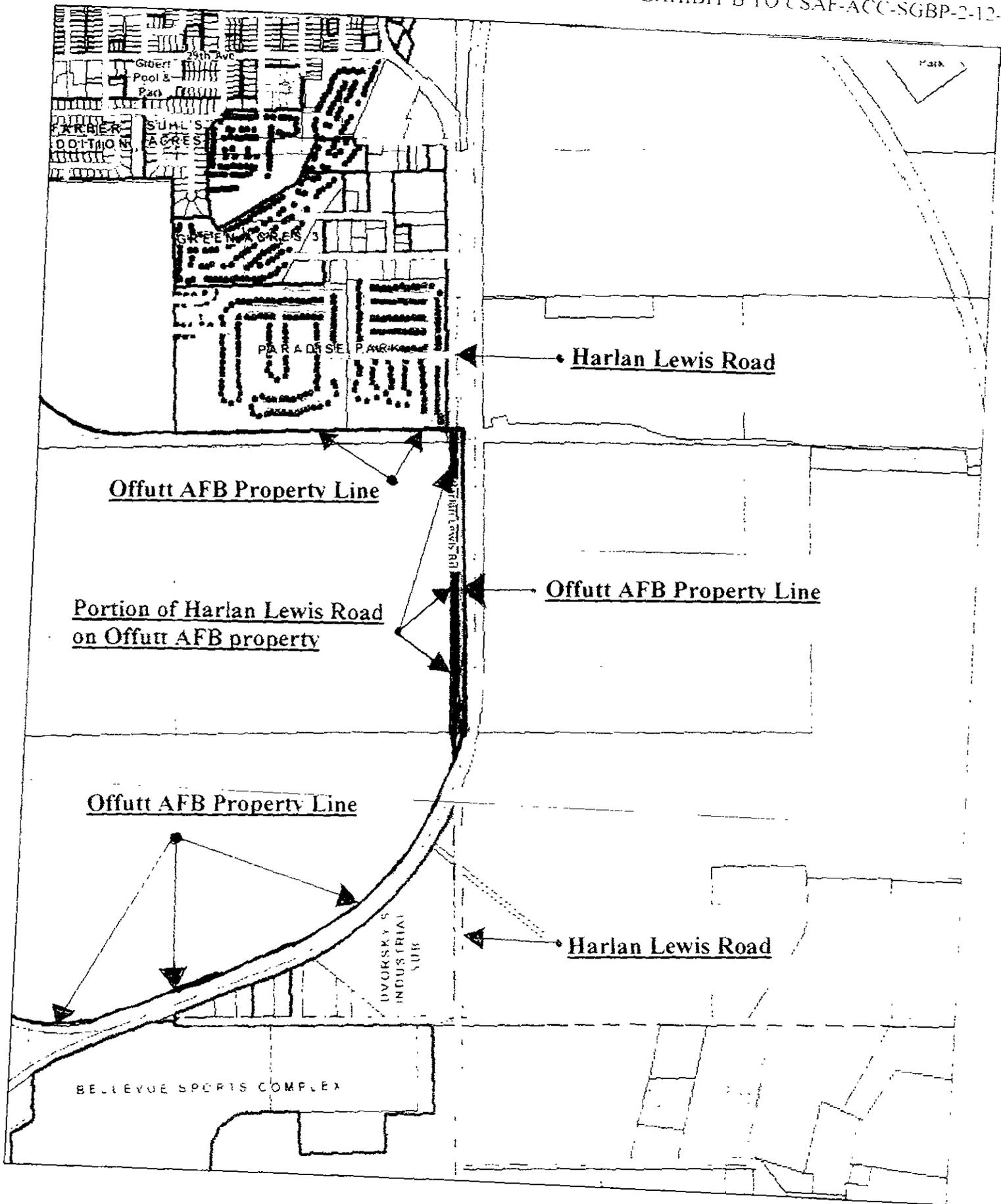
Rusty Hike
Chair, Board of Commissioners

APPROVAL AS TO FORM _____
Deputy County Attorney



Offutt AFB Ne.

Depicted Easement Area



Map Scale
1 inch = 1159 feet

8/14/2012

PHYSICAL CONDITION REPORT

The easement area is located on Offutt Base property and well maintained. The easement is of the purpose to maintain Harlan Lewis Road for an approximate distance of 2,667 feet. All surface ground contained in the easement area are in good condition.

Offutt AFB Real Estate Management
Brian Wild

Date



Sarpy County Engineer
Dennis Wilson

10/9/12
Date

DISCLOSURE OF ENVIRONMENTAL CONDITIONS

1. ENVIRONMENTAL IMPACT ANALYSIS AF FORM 813 Completed 8 May 2012
 2. ENVIRONMENTAL BASELINE SURVEY (EBS) Completed 30 July 2012
-



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 55TH WING (ACC)
OFFUTT AIR FORCE BASE NEBRASKA

1. Per paragraph XX. of Easement USAF-ACC-SGBP-2-12-004, grantee is subject to "NO" Environmental Use Restrictions.

A handwritten signature in black ink, appearing to read "Chris Frantz".

CHRISTOPHER T. FRANTZ
Chief, Environmental Compliance

The Sun Never Sets on the Fightin' Fifty-Fifth



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 55TH WING (ACC)
OFFUTT AIR FORCE BASE NEBRASKA

1 October 2012

MEMORANDUM FOR Mr. Dennis Wilson, P.E., PhD
Sarpy County Engineer
15100 S. 84th Street
Papillion, NE 68046-4627

FROM: 55 CES/CEAOR
106 Peacekeeper Dr. Ste 2N3
Offutt AFB NE 68113-4019

SUBJECT: Easement USAF-ACC-SGBP-2-12-004

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BRIAN WILD
Real Property Specialist

The Sun Never Sets on the Fightin' Fifty-Fifth

Deb Houghtaling Sarpy County Clerk

Renee Lansman
Chief Deputy

1210 Golden Gate Drive • Papillion, Nebraska 68046-2895
Phone: 402-593-2105 • Fax: 402-593-4471 • Website www.Sarpy.com • Email: Clerk@sarpy.com

October 19, 2012

Brian Wild
55 CES/CEAOR
106 Peacekeeper Dr. Ste. 2N3
Offutt AFB NE 68113-4019

RE: Easement Agreement

Action by the Sarpy County Board of Commissioners, at the meeting of October 16, 2012, is as follows:

Resolution 2012-331: Authorize Chairman to sign the grant of easement between Offutt Air Force Base and Sarpy County for a portion of Harlan Lewis Road. Denny Wilson, Engineer

MOTION: Warren resolved, seconded by Richards, to approve the resolution for the easement by which the Department of the Air Force grants to Sarpy County a nonexclusive easement to maintain a portion of Harlan Lewis Road for a term through September 17, 2037. Ayes: Hike, Thompson, Richards, Nekuda & Warren. Nays: None.

Enclosed are **two originals** of the contract agreement. Please have them **signed** and **return one** to this office.

Mail or return to:

Sarpy County Clerk
Attn: Chris Vance
1210 Golden Gate Drive
Papillion, NE 68046-2895

Sincerely,



Deb Houghtaling
Sarpy County Clerk

Enclosures (2)
DH/cv