

AGREEMENT GRANTING SHERIDAN COUNTY

A PERPETUAL RIGHT-OF-WAY

AND

CONVEYING PROPERTY TO GARBER AGRI-BUSINESS, INC.

The County of Sheridan, a political subdivision of the State of Wyoming, ("Grantee") and Garber Agri-Business, Inc., ("Grantor") enter into this agreement.

In exchange for the mutual covenants herein, the parties agree as follows:

1. **OBLIGATIONS OF GRANTOR.**

- a. Grantor grants a right-of-way ("ROW") to Grantee over and through real property located in the SE1/4 SW1/4 and SW1/4 SE1/4 Section 3, T54N, R84W, 6th P.M., Sheridan County, Wyoming, as specifically shown on the attached Exhibit A and Exhibit B. The ROW runs along County Road No. 28, Bird Farm Road and is approximately 38,090 square feet.
- b. The ROW includes the right of public ingress and egress.
- c. The ROW shall be used for an in conjunction with realignment of County Road No. 28.

2. **OBLICATIONS OF GRANTEE.**

- a. Grantee shall install new fence matching the existing fence along easement area between Garber Agri-Business's property and the ROW. Grantee shall complete the fence no later than summer 2004. After Grantee has completed the fence, Grantor shall be responsible for any maintenance and repairs.
- b. Grantee will convey to the Grantor, a parcel of land that is 39,788 square feet. This parcel is no longer needed by Grantee due to a change in County road alignment. This parcel is specifically described in the attached Quitclaim Deed that is part of this Agreement.
- c. Grantee shall redesign ditches in the ROW damaged by construction to meet current standards and in accordance with plans and specifications of the Bird Farm Road Improvement Project. Grantee shall complete this no later than summer 2004, and after completion, Grantor shall be responsible for any maintenance and repairs.
- d. Grantee shall, after construction is complete, grade smooth and reseed with dry land pasture mix all areas outside of the ROW disturbed by Grantee's construction.
- e. Grantee shall have the ROW surveyed and monumented within one year from the execution of this Agreement.

3. **TERM.** The term of this Agreement is perpetual.

4. **GENERAL COVENANTS.**

- a. **NONWAIVER.** Any waiver by either party of any breach of any covenant herein to be kept and performed by the other party shall not be deemed as a continuing waiver and shall not operate to prevent a party from declaring a forfeiture for any succeeding breach, either of the same or other covenant.

- b. MODIFICATION. No modification of the terms of this Agreement shall be effective unless such modification is in writing and signed and dated by the parties.
- c. ASSIGNMENT. This Agreement is not assignable without the prior written consent of the parties which shall not be unreasonably withheld.
- d. NOTICES. Notices shall be sufficient if faxed, delivered in person or sent by United States Mail, postage prepaid, and addressed as follows:

If to Grantee:

Douglas G. Lofgren
Associate County Engineer
224 S Main ST, STE B-8E
Sheridan, WY 82801

If to Grantor:

Garber Agri-Business, Inc.
Roy Garber
218 McCormick Road
Sheridan, WY 82801

- e. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall in any way be deemed a waiver of any of the requirements or immunities provided by the Wyoming Governmental Claims Act.
- f. CHOICE OF LAW. The laws of the State of Wyoming govern this Agreement. Any litigation of this Agreement shall occur in a court located in Sheridan, Wyoming or a federal court located within Wyoming.
- g. INDEPENDENCE OF AGREEMENT. Grantor is independent and nothing herein is intended, or should be construed as creating a relationship of partners, agency, representative, or employee/employer for any purpose.
- h. PARAGRAPH HEADINGS. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.
- i. FORCE MAJEURE. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to acts of the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays.

5. ENTIRE AGREEMENT. This three page document and Exhibits A and B constitute the entire agreement of the parties, superseding all previous agreement between the parties.

By signing below, the parties agree to the above-terms. Additionally, any person signing certifies he or she has been properly authorized to enter into this Agreement by his or her respective party.

COUNTY OF SHERIDAN, WYOMING

Ky Dixon 3-16-04
Ky Dixon, Chairman Date

Lawrence A. Durante 3-16-04
Lawrence A. Durante, Commissioner Date

Charles L. Whiton 3-16-04
Charles L. Whiton, Commissioner Date

GARBER AGRI-BUSINESS, INC

Roy Garber 3-20-04
Roy Garber, Treas Date

Paul W. Garber 3/3/04
Attest: Date

ATTEST:

Andrew Kallala 3-16-04
County Clerk Date

STATE OF WYOMING)
) ss.
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by *Roy Garber* on
March 3, 2004.



WITNESS my hand and official seal.

Virgil G. Kinnaird
Notary Public

My Commission Expires: February 7, 2006

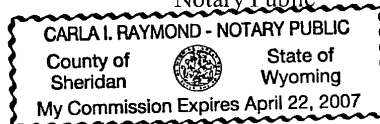
STATE OF WYOMING)
) ss.
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by *Ky Dixon* on
March 16, 2004.

WITNESS my hand and official seal.

My Commission Expires:

Carla I. Raymond
Notary Public



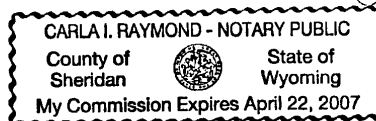
STATE OF WYOMING)
) ss.
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by *Lawrence A. Durante*
on March 16, 2004.

WITNESS my hand and official seal.

My Commission Expires:

Carla I. Raymond
Notary Public



STATE OF WYOMING)
) ss.
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by *Charles L. Whiton* on
March 16, 2004.

WITNESS my hand and official seal.

My Commission Expires:

Carla I. Raymond
Notary Public



Garber Right-of-Way Easement

EXHIBIT "A"

Record Owners: Garber Agri-Business, Inc.

Re: ACQUISITION; Right-of-Way Easement for Public Ingress and Egress

December 4, 2003

A right-of-way easement situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, Township 54 North, Range 84 West, 6th P.M., Sheridan County, Wyoming, as shown on **EXHIBIT "B"** attached hereto and by this reference made a part hereof; said easement being more particularly described as follows:

Commencing at the south quarter corner of said Section 3 (Monumented with a 1 $\frac{1}{2}$ " Aluminum Cap per PLS 102); thence N48°15'02"E, 605.94 feet to the **POINT OF BEGINNING** of said easement, said point lying on the existing southerly right-of-way line of Bird Farm Road (AKA County Road No. 28); thence, along said proposed southerly right-of-way line through a curve to the left, having a radius of 1370.00 feet, a central angle of 44°09'03", an arc length of 1055.69 feet, a chord bearing of N78°17'56"W, and a chord length 1029.77 feet to a point; thence S79°37'32"W, 278.58 feet along said proposed southerly right-of-way line to a point; thence, along said proposed southerly right-of-way through a curve to the right, having a radius of 1130.00 feet, a central angle of 10°19'24", an arc length of 203.60 feet, a chord bearing of S84°47'14"W, and a chord length 203.32 feet to a point, said point lying on said existing southerly right-of-way; thence, along said existing southerly right-of-way line through a curve to the left, having a radius of 867.09 feet, a central angle of 13°47'02", an arc length of 208.60 feet, a chord bearing of N83°03'24"E, and a chord length 208.10 feet to a point; thence N76°09'54"E, 366.85 feet along said existing southerly right-of-way line to a point; thence, along said existing southerly right-of-way line through a curve to the right, having a radius of 820.00 feet, a central angle of 29°01'54", an arc length of 415.49 feet, a chord bearing of S89°19'09"E, and a chord length 411.06 feet to a point; thence S74°48'13"E, 177.40 feet along said existing southerly right-of-way line to a point; thence, along said existing southerly right-of-way line through a curve to the right, having a radius of 545.00 feet, a central angle of 20°25'31", an arc length of 194.29 feet, a chord bearing of S64°35'27"E, and a chord length 193.26 feet to a point; thence S54°18'07"E, 203.55 feet along said existing southerly right-of-way line to the **POINT OF BEGINNING** of said easement.

Said easement contains 38,090 square feet of land more or less.
Basis of Bearings is Wyoming State Plane (East Central Zone).

Re: ABANDONMENT of the existing County Road Right-of-Way Easement

ABANDONMENT of that portion of the existing Bird Farm Road (AKA County Road No. 28) right-of-way, lying north of the proposed northerly right-of-way line of said Bird Farm Road (As shown on the HKM & EnTech Engineering, Plan and Profile sheets dated 10/30/2003), situated in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, Township 54 North, Range 84 West, 6th P.M., Sheridan County, Wyoming, as shown on **EXHIBIT "B"** attached hereto and by this reference made a part hereof.

Said Abandonment contains 39,788 square feet of land more or less.

EXHIBIT "B"

SE1/4SW1/4

ABANDONMENT
±39,788 S.F.

ACQUISITION
±38,090 S.F.

RECORD OWNER:
GARBER AGRI-BUSINESS, INC.
(BK 304, PG 522)

NOTE:
SEE HKM & ENTECH ENGINEERING, SHERIDAN COUNTY ROAD
IMPROVEMENTS: BIRD FARM ROAD, COUNTY ROAD NO. 28.
PLAN AND PROFILE SHEETS FOR PROPOSED RIGHT-OF-WAY.
DATED 10/30/2003.

STA.PC 64+98.24

STA.PT 66+96.43

STA.PC 69+75.02

STA. 81+16.96 BK 304

STA. 81+45.16 AH

STA. 81+16.96 BK 304

STA. 81+45.16 AH

STA. 81+16.96 BK 304

STA. 81+45.16 AH

STA. 81+16.96 BK 304

STA. 81+45.16 AH

STA. 81+16.96 BK 304

STA. 81+45.16 AH

STA. 81+16.96 BK 304

STA. 81+45.16 AH

LINE	BEARING	DISTANCE
L1	S 79°37'32" W	278.58'
L2	N 76°09'54" E	356.85'
L3	S 74°48'13" E	177.40'
L4	S 54°18'07" E	203.55'

CURVE TABLE

CURVE	DELTA	RADIUS	ARC LENGTH	CORD BEARING	CORD DISTANCE
C1	44°09'03"	1370.00'	1055.69'	N78°17'56" W	1059.77'
C2	10°19'24"	1130.00'	203.60'	S84°47'14" W	203.32'
C3	13°47'02"	867.09'	208.60'	N83°03'24" E	208.10'
C4	29°01'54"	820.00'	415.49'	S89°19'09" E	411.06'
C5	20°25'31"	545.00'	194.29'	S64°35'27" E	193.26'



SCALE: 1"=200'

BASIS OF BEARINGS IS WYOMING STATE PLANE

(EAST CENTRAL ZONE)

DATUM: NAD 83(1983) NAVD 88 (U.S. FEET)

PAF: 1.000238652

LEGEND

- FOUND 1-1/2" ALUMINUM CAP PER LS 102
- FOUND 3-1/4" ALUMINUM CAP PER LS 2615
- FOUND 1-1/2" ALUMINUM CAP PER LS 2815
- CALCULATED POSITION/NOTHING FOUND/NOTHING SET
- MEASURED
- RECORD
- CALCULATED
- SECTION LINE
- INTERIOR SECTION LINE
- EXISTING COUNTY ROAD EASEMENT
- PROPOSED COUNTY ROAD RIGHT-OF-WAY EASEMENT LINE
- ACQUISITION/RIGHT-OF-WAY EASEMENT FOR PUBLIC INGRESS AND EGRESS
- EXISTING COUNTY ROAD RIGHT-OF-WAY EASEMENT
- ABANDONMENT

SURVEYOR'S CERTIFICATE

STATE OF WYOMING : ss
COUNTY OF SHERIDAN

I, THOMAS D. TUCKER A DULY REGISTERED LAND SURVEYOR IN THE STATE OF WYOMING, DO HEREBY STATE THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION.

Professional Land Surveyor
THOMAS D. TUCKER
6812
Date: 12-04-2003
WYOMING

"PLAT IS VALID ONLY IF PRINT HAS ORIGINAL SIGNATURE OF SURVEYOR SIGNED AND DATED"

SW1/4SE1/4

(AKA BIRD FARM ROAD NO. 28)

RECORD OWNER:
GARBER AGRI-BUSINESS, INC.
(BK 304, PG 522)

RECORD OWNER:
JOHN LENARD & KATHLEEN -
AGNES TENGESDAHL
(BK 387, PG 56)
RECORD OF SURVEY
DRAWER A, PLAT 167

EXHIBIT "B" RIGHT OF WAY EASEMENT FOR PUBLIC INGRESS AND EGRESS

CLIENT: HKM & ENTECH ENGINEERING
BIRD FARM ROAD REALIGNMENT

LOCATION: SE1/4SW1/4 & SW1/4SE1/4, SECTION 3,
T54N, R84W, 6TH P.M., SHERIDAN COUNTY, WY;

RESTFELDT
SURVEYING

PO BOX 3082
SHERIDAN, WY 82801
307-672-7415
FAX 674-5000

JN: 23040
DN: 200340BET1
DECEMBER 03, 2003