

**MEMORANDUM OF UNDERSTANDING
BETWEEN
FORT RILEY, KANSAS AND
MUNICIPALITIES ADJACENT TO OR SURROUNDING
FORT RILEY, KANSAS
REGARDING COMMUNICATION AND
POTENTIAL LAND USE CHANGES**

WHEREAS, it is the desire of the counties of Clay, Geary and Riley and the cities of Grandview Plaza, Junction City, Manhattan, Milford, Ogden, and Riley ("Municipalities") to promote communication, cooperation and collaboration between the Fort Riley military installation ("Fort Riley") and each municipality adjacent to or surrounding Fort Riley, jointly referred herein as "the parties" ; and

WHEREAS, Kansas Statutes Annotated, specifically, K.S.A. 2014 Supp. §12-772 establishes a state area of interest, vital to national security and the economic well-being of the state, surrounding Fort Riley that is within the Flint Hills Joint Land Use Study Area, the Fort Riley Army Compatible Use Buffer area and the area considered in Fort Riley's Installation Operational Noise Management Plan; and

WHEREAS, K.S.A. 2014 Supp. §12-773(b) (1) (C) directs Fort Riley and the representatives of each municipality adjacent to or surrounding it to meet annually for the purpose of determining any critical area within the state area of interest. A critical area is any portion of the state area of interest where future use of such area is determined in a coordinated manner between the military installation and the municipality and should be monitored or managed to reduce any potential conflict with any military operation and the economic well-being of the municipality; and

WHEREAS, planning personnel and other representatives of Fort Riley and the Municipalities collaborated during October through December 2014 to define the boundaries of a critical area within the state area of interest surrounding Fort Riley and agreed the critical area should be the area within the currently understood Land Use Planning Zone for Explosives and Large Arms Operations at Fort Riley, and the area within one (1.0) statute mile of the installation boundary for Fort Riley, and the area within a helicopter flight route buffer, and the area between such helicopter flight route buffer and the installation boundary of Fort Riley, all as depicted in Figure 1 Map attached and incorporated herein; and

WHEREAS, K.S.A. 2014 Supp. §§ 12-773(b)(2)(C) and (D) directs each municipality adjacent to or surrounding Fort Riley to provide notice to the commander of Fort Riley of the adoption of any regulation, including any amendment thereof, or any adoption or amendment to any comprehensive planning document which affects any mutually agreed upon critical area, and to provide written notice to the commander of Fort Riley of each development proposal or change in land use requiring the approval of any planning, permitting or zoning board or office, which affects any agreed upon critical area to provide the commander of Fort Riley an opportunity to assess any impact and coordinate issues with planning staff, and to provide the following written notice

(Notice of Potential Impact) to individuals receiving a construction permit for improvements within the critical area:

“The property for which this permit is issued is situated in an area that may be subjected to conditions resulting from military training at a nearby military installation. Such conditions may include the firing of small and large caliber weapons, the over flight of both fixed-wing and rotary-wing aircraft, the movement of vehicles, the use of generators and other accepted and customary military training activities. These activities ordinarily and necessarily produce, noise, dust, smoke and other conditions that may not be compatible with the permitted improvement according to established federal guidelines, state guidelines or both.”; and

WHEREAS, the Kansas Statutes Annotated do not direct each municipality adjacent to or surrounding Fort Riley to provide notice to the commander of Fort Riley of the above-named changes, the adoption of any regulation, including any amendment thereof, or any amendment to any comprehensive planning document that affects any portion of the state area of interest surrounding Fort Riley that is not wholly or in part contained within the mutually agreed upon critical area surrounding Fort Riley, nor to provide written notice to the commander of Fort Riley of each development proposal or change in land use requiring the approval of any planning, permitting or zoning board or office, which affects any portion of the state area of interest surrounding Fort Riley that is not wholly or in part contained within the mutually agreed upon critical area surrounding Fort Riley to provide the commander of Fort Riley an opportunity to assess any impact and coordinate issues with planning staff, nor to provide the Notice of Potential Impact as stated above; and

WHEREAS, K.S.A. 2014 Supp. § 12-773 (c) states that municipalities adjacent to or surrounding military installations may enter into interlocal agreements with such military installations in order to accomplish the objectives expressed herein.

NOW, THEREFORE, Fort Riley and the Municipalities agree:

I. ESTABLISHMENT OF CRITICAL AREA

The Critical Area, for purposes of implementing the requirements of K.S.A. 2014 Supp. § 12-773, shall be that area described in the Fort Riley State Area of Interest Map (Figure 1). The Fort Riley State Area of Interest Map shall be reviewed annually at a meeting of Fort Riley representatives and elected or appointed representatives of the Municipalities. If no changes to the Fort Riley State Area of Interest Map are desired by any of the entities, it shall remain in force as set forth in this Memorandum of Understanding. If there are changes to the Fort Riley State Area of Interest Map that are mutually agreed to by the entities, a new MOU shall be executed to reflect the agreement.

II. RESPONSIBILITIES OF THE MUNICIPALITIES

- A. Each municipality shall provide notice to the commander of Fort Riley of the adoption of any regulation, including any amendment thereof, or any adoption of or amendment to any comprehensive planning document which affects any portion of the Critical Area or any portion of the Fort Riley Army Compatible Use Buffer area outside of the Critical Area (Figure 1).
- B. Each municipality shall provide written notice to the commander of Fort Riley of each development proposal which affects any portion of the Critical Area or any portion of the Fort Riley Army Compatible Use Buffer area outside of the Critical Area (Figure 1) to provide the commander of Fort Riley an opportunity to assess any impact and coordinate issues with planning staff.
- C. Each municipality shall provide a Notice of Potential Impact to each individual receiving a construction permit for improvements within the Critical Area.

III. RESPONSIBILITIES OF FORT RILEY

- A. Fort Riley shall respond to each municipality within thirty (30) calendar days of providing the commander of Fort Riley notification under paragraph II A above, with its evaluation of whether the adoption of the regulation or amendment to the planning document would be likely to increase any potential conflict with any military operation of Fort Riley.
- B. Fort Riley shall respond to each municipality within twenty-one(21) calendar days of providing the commander of Fort Riley notification under paragraph II B above, with its evaluation of:
 - (i) The potential for release into the air of any substance such as steam, dust or smoke unless such substance is generated by agricultural use that would impair visibility or otherwise interfere with military operations, including ground operations.
 - (ii) The potential for production of any light emission, either directly, or indirectly or by reflective light, that would interfere with pilot vision, and aerial or ground based night vision training.
 - (iii) The potential for the production of electrical, electromagnetic, radioactive or other similar emissions that would interfere with military ground and aircraft communications and/or navigation equipment.
 - (iv) The potential to attract birds or waterfowl including, but not limited to, operation of any sanitary landfill and the maintenance of any large scale livestock feeding station.
 - (v) Whether or not structures are proposed within 10 feet of any defined aircraft approach, departure, or transitional surface; or within 100 feet beneath any low-level military aircraft training route as provided by the federal aviation administration.
 - (vi) The potential to expose persons to noise greater than 65 dB DNL.
 - (vii) The potential for obstructed visibility or surveillance, or both, of direct fire weaponry platforms into permanently populated or operational areas of military installations.

(viii) Whether or not there will be a violation of any federal aviation administration height restriction in title 14 of the code of federal regulations (14 CFR) part 77 entitled "Objects Affecting Navigable Airspace" or Department of Defense Instruction (DoDI) Number 4165.57 entitled "Air Installations Compatible Use Zones."

IV. ANTI-DEFICIENCY ACT

The stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act, 31 U.S.C.A. §1341, Pub. L. 97-258. If compliance with the Anti-Deficiency Act alters or impairs Fort Riley's ability to implement the stipulations of this Agreement, whatever provision or portion of this Agreement that violates the Anti-Deficiency Act will be deemed to be of no effect and unenforceable.

V. DURATION

This agreement will terminate five (5) years from the date of the last signature. Prior to such time, Fort Riley and the signatory Municipalities may consult to reconsider the terms of the agreement and revise or amend it.

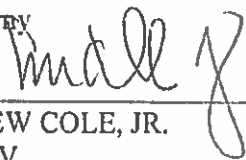
VI. EXECUTION

All commitments made under this MOU are subject to the availability of funds. Nothing in this agreement will be construed as limiting or affecting the legal authorities of the U.S. Army or the signatory Municipalities, or as binding upon the signatories to perform beyond their respective authorities. Neither will it require any of the signatories to assume or expend funds in excess of available appropriations. If funds are not available, the Army shall consult with the signatories of this understanding to amend or terminate it.

SIGNATORIES:

U.S. Army

By

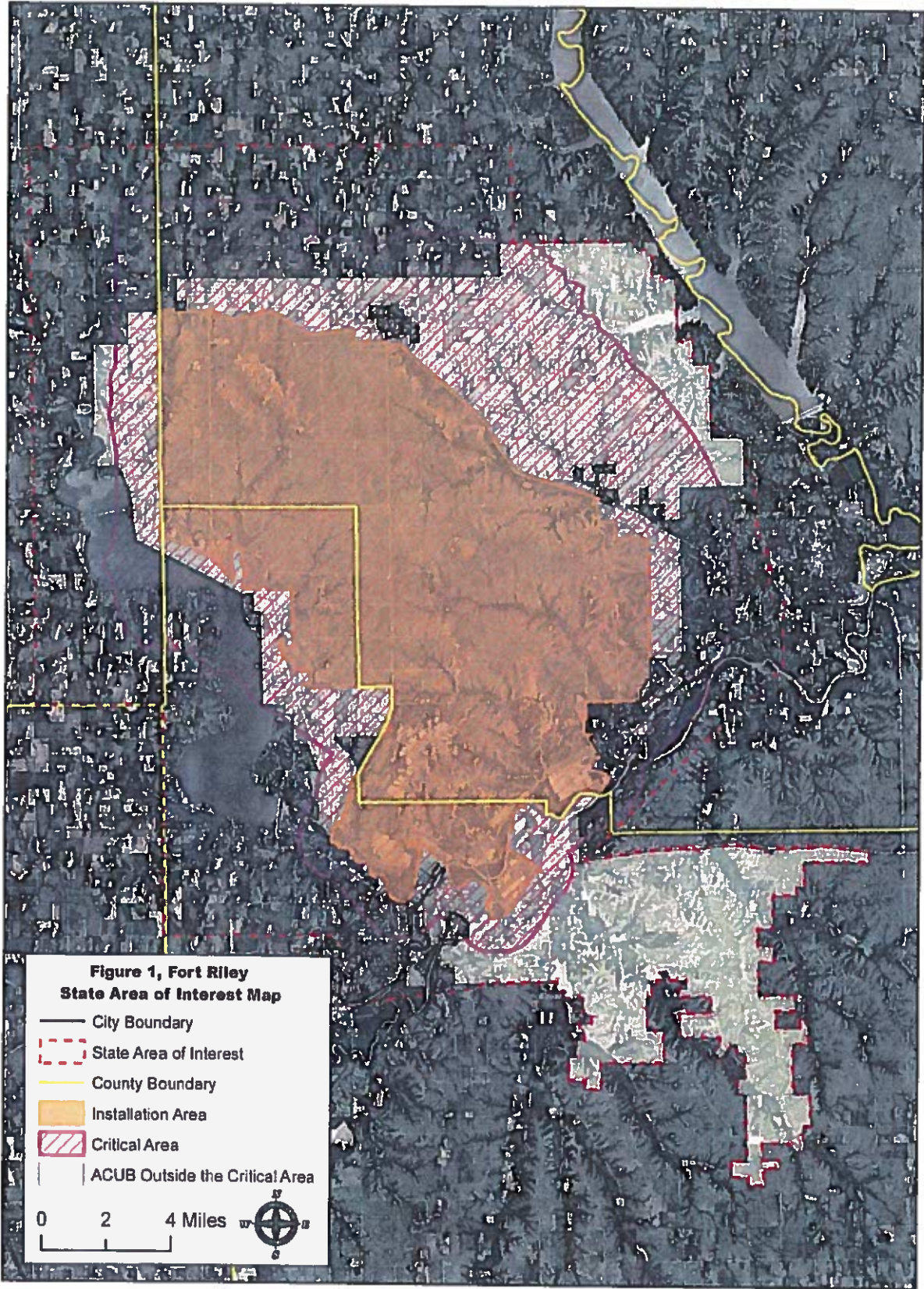

ANDREW COLE, JR.
COL, AV
Commanding

Date

12 MAR 15

Municipalities

(See attached signature pages)



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MUNICIPALITIES SIGNATURE PAGE

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ACCEPTED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF
GEARY COUNTY, KANSAS, this 4th day of MAY, 2015

By: R. Ben Bennett
R. Ben Bennett, Chairman

By: Florence A. Whitebread
Florence Whitebread, Commissioner

By: Larry Hicks
Larry Hicks, Commissioner

ATTEST:



Rebecca Bossemeyer
Rebecca Bossemeyer, County Clerk

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MUNICIPALITIES SIGNATURE PAGE

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ACCEPTED AND APPROVED BY THE GOVERNING BODY OF GRANDVIEW PLAZA,
KANSAS, this 21st day of April, 2015

By: 
Rick Geike, Mayor

ATTEST:


Janet Young, City Clerk

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MUNICIPALITIES SIGNATURE PAGE

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ACCEPTED AND APPROVED BY THE GOVERNING BODY OF JUNCTION CITY,
KANSAS, this 7th day of April, 2015



By: Michael L. Ryan
Michael L. Ryan, Mayor

ATTEST:

Tyler Ficken
Tyler Ficken, City Clerk

MUNICIPALITY SIGNATURE PAGE

for

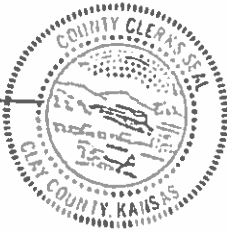
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Clay County, Kansas

By Michael M. Spicer Date 30 MAR 15
Michael M. Spicer
Chairman, Board of County Commissioners

ATTEST:

Kayla Wang
Kayla Wang
Clay County Clerk



MUNICIPALITY SIGNATURE PAGE

for

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Riley County, Kansas

By Ronald E Wells Date 3/23/15
Ronald E. Wells
Chairman, Board of County Commissioners

ATTEST:

Rich Vargo
Rich Vargo
Riley County Clerk

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MUNICIPALITIES SIGNATURE PAGE

ACCEPTED AND APPROVED BY THE GOVERNING BODY OF MILFORD,
KANSAS, this 9th day of April, 2015

By: 
Brad Roether, Mayor

ATTEST:


Tim Himelick, City Clerk

MUNICIPALITY SIGNATURE PAGE

for

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CITY OF MANHATTAN, KANSAS

By: Karen McCulloh Date 05/05/2015
Karen McCulloh, Mayor



ATTEST:

Gary S. Fees
Gary S. Fees, MMC, City Clerk

MUNICIPALITY SIGNATURE PAGE

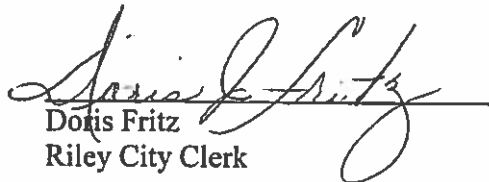
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City of Riley, Kansas

By  Date 24 March 2015
R. David Shover, II
Mayor, City of Riley

ATTEST:


Dotis Fritz
Riley City Clerk

MUNICIPALITY SIGNATURE PAGE

for

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City of Ogden, Kansas

By Robert R. Pence, Jr.
Robert R. Pence, Jr.
Mayor, City of Ogden

Date 05-20-2015

ATTEST:

David C. Ward
David C. Ward
Ogden City Clerk