

MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
LETTERKENNY INDUSTRIAL DEVELOPMENT AUTHORITY
FOR THE TRANSFER OF A PORTION OF
LETTERKENNY ARMY DEPOT, PENNSYLVANIA

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WITNESSETH THAT:

WHEREAS, pursuant to the Defense Base Closure and Realignment Act of 1990, PL 101-510, as amended (10 U.S.C. 2687, note) (BRAC), the military installation known as the Letterkenny Army Depot, Chambersburg, Pennsylvania (LEAD) is scheduled to be realigned; and

WHEREAS, it is the intention of the Army to retain certain portions of LEAD (Retained Property) in order to continue the Army's ongoing military mission; and

WHEREAS, the Letterkenny Industrial Development Authority (LIDA), the federally recognized local redevelopment authority for LEAD, was granted the authority to oversee and implement the civilian reuse of LEAD, excluding the Retained Property, in accordance with a reuse plan approved by the Franklin County Commissioners (Reuse Plan), attached hereto as Exhibit A; and

WHEREAS, pursuant to BRAC, the Army has the authority and intends to convey to the LIDA the portions of LEAD as described in the Property Plan at Exhibit B (the Property), as provided for in this Memorandum of Agreement (MOA); and

WHEREAS, the LIDA has made an application to the Army for an Economic Development Conveyance (EDC) as a rural base under 32 C.F.R. 91(e) and (f); and

WHEREAS, the Army, as authorized by BRAC and implementing regulations, has determined that the LIDA's application meets the criteria for economic development, job creation, and as a rural base; and

WHEREAS, in order to implement the intentions of the Army and the LIDA as set forth in this MOA, certain portions of the Property and buildings and facilities located on the Property will be leased to the LIDA, and the Property will be conveyed to the LIDA by the Army in phases, in accordance with the schedule attached hereto at Exhibit J.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

**ARTICLE 1
AGREEMENT TO ACQUIRE; COMPONENTS OF THE PROPERTY;
UTILITIES AGREEMENT; AGREEMENT TO LEASE**

1.01 AGREEMENT TO ACQUIRE: Except as otherwise provided in this MOA and subject to the conditions, reservations and restrictions set forth herein, the LIDA hereby agrees to acquire and the Army hereby agrees to convey to the LIDA as a Rural Economic Development Conveyance, title to the Property, as described on the plan at Exhibit B which shall include:

A. All real property, buildings, facilities, infrastructure and improvements thereon, and appurtenances thereto;

B. All hereditaments and tenements therein and reversions, remainders, issues, profits and other rights belonging or related thereto;

C. The on-post Electrical Distribution System (EDS), as described in and subject to the provisions of section 1.02 B below;

D. The Letterkenny Reservoir, dam and intake structures, the on-post water treatment and distribution system and domestic sewage collection and treatment system; and

E. The railroad system, as described in Exhibit S, and roads within the Property as described in Exhibit F.

1.02 COMPONENTS OF THE PROPERTY

A. A plan of the Property showing the Property and Retained Property is attached to this MOA as Exhibit B. A legal description of each phased portion of the Property will be provided by the LIDA in recordable form within a reasonable time prior to conveyance hereunder. The LIDA shall be responsible for the accuracy of the description and shall indemnify and hold the United States harmless from any and all liability resulting from any inaccuracy in the description. The conveyance of each phased portion of the Property shall be in accordance with the covenants, terms and conditions contained in this MOA. Included in the conveyance is a parcel containing approximately 15 acres situated at the Northwest corner of the Property. The parties understand that the LIDA intends to re-convey the parcel to the Air Hill Church. The parties agree that the parcel will not be conveyed to the LIDA until a new boundary fence is constructed along the new property line as directed by, but at no cost to the Army.

B. LEAD EDS on the Property and the Retained Property

1. Description: The EDS consists of the conduits and conductors from the points of attachment in the Allegheny Power substations to the 12.47 KV and 7.2 KV switching stations, the switching stations themselves, and all wires, poles, transformers and other appurtenances between switching stations and individual buildings on both the Property and the Retained Property.

2. Conveyance: The Army agrees to transfer to the LIDA ownership of the EDS by an easement in the form at Exhibit C. Conveyance of the EDS to the LIDA is conditioned on and subject to the LIDA meeting the following conditions:

a. The LIDA will obtain an opinion from the Attorney General of the Commonwealth of Pennsylvania or a court of competent jurisdiction stating that it has authority to acquire and operate the EDS;

b. The LIDA and the Army will agree on a service contract that guarantees the Government reliable service at reasonable rates.

c. The LIDA will provide, at its sole expense, a performance bond in the amount of Five Hundred Thousand Dollars (\$500,000.00) from a reputable surety to guarantee its performance under the terms of the electrical service contract. In addition, the LIDA shall require that any successor or transferee of the electrical service contract furnish the Government a performance bond from a reputable surety in the amount of Five Hundred Thousand Dollars (\$500,000.00) guaranteeing its performance under the service contract. The LIDA's obligation to provide a performance bond shall terminate upon the LIDA's transfer of the service contract to a Government-approved successor in interest.

3. Cooperation for Securing Power Generation: The Army will collaborate on power generation requirements with the LIDA for an initial two year period to facilitate aggregation of the site load in securing a cost for power generation. The Army reserves the right to compete the generation element of its power requirement after the two year period.

4. Transfer of Operational Control: In order to transition control of the EDS in an expedient manner, the LIDA and LEAD will work cooperatively towards transition of operational control of the EDS by December 1998. In working towards the transition, LEAD and the LIDA will accomplish the following:

a. LEAD and the LIDA will complete a service contract on or about October 1998; and

b. The LIDA will begin operation/maintenance of the EDS on or about December 1998.

C. LEAD Water and Domestic Sewage Systems on the Property and the Retained Property

1. Description of LEAD Water Source, Treatment, Storage and Distribution System: The Letterkenny Army Depot water source, treatment, storage and distribution system consists of the Letterkenny Reservoir and Dam at Roxbury, Pennsylvania, the raw water transmission lines and corresponding rights-of-way from the reservoir to the LEAD boundary, the 1.0-mgd capacity treatment plant, the on-post main and lateral pipelines, pump station and storage structures.

2. Description of LEAD Domestic Sewage Collection /Treatment System: The Letterkenny Army Depot domestic sewage collection and treatment system consists of a 0.5-million-gallons-per-day (gpd) capacity treatment plant, an 8,000-gpd capacity package treatment plant, pump stations, main collection lines, lateral lines, and the discharge and outfall lines for both sewage treatment plants.

3. Conveyance: The Army agrees to transfer to the LIDA ownership of the LEAD water and sewage systems as follows after: a) the execution of the service contract that is attached as Exhibit D; b) a 30 day transition period and c) as soon as the Army is able to provide a Finding of Suitability to Transfer (FOST) for the portions to be conveyed in fee.

a. A fee interest in the following:

(1) The treatment plants and related structures located on the Property (to include the pump station, prechlorination building, and storage reservoirs and tower for the water system; all facilities within the fence at the main sewage treatment plant; and the sewage pumping stations); and

(2) The Letterkenny Reservoir and Dam at Roxbury.

b. An easement interest in the following, substantially in the form attached as Exhibit E:

(1) Within the Retained Property:

(a) The 8,000-gpd package plant and outfall line in the Ammunition Area;

(b) All sewage pumping stations;

(c) The water distribution and sewage collection networks;

(d) The raw water transmission line;

(e) All water and sewer service laterals to buildings:

(1) not individually metered: to a point 5 feet from each building;

(2) for individually metered: from the point of connection with the main to the location of the metering point;

(f) The sewage treatment plant outfall; and

(g) The Ammunition Area water tower and associated boiler plant (Building 3749).

(2) Within the Property:

(a) The raw water transmission line; and

(b) All water distribution and sewage collection mains.

(3) At the Letterkenny Reservoir and Dam at Roxbury:

(a) The Army's access road easements providing ingress and egress to the reservoir and dam; and

(b) The raw water transmission lines and corresponding rights-of-way from the reservoir and dam to the LEAD boundary.

c. Where the Army is conveying to the LIDA new easements, as opposed to easements it already owns, the new easement shall be thirty (30) feet in width.

d. As additional land and buildings are conveyed to the LIDA in fee, the remaining portion of the laterals servicing those buildings will also be conveyed to the LIDA.

e. Septic and holding tanks shall not be considered a part of the sewage system for purposes of this Agreement or the utilities contract. Septic and holding tanks on the Property shall be conveyed as part of the individual properties. Septic and holding tanks on the Retained Property shall remain the property of the Government.

D. Roads and Streets: The Army agrees to convey to the LIDA and to the respective Townships or the Commonwealth the roads on the Property as shown on Exhibit F as soon as the Army is able to provide a FOST for the rights-of-way and the Townships and the Commonwealth accept the respective roads. If the respective Townships and/or Commonwealth are unwilling to accept the roads designated to be conveyed to them by July 2000 or when the Army is able to provide a FOST, whichever comes later, the Army shall convey those roads not needed for mission purposes to the LIDA. The Army agrees to grant the LIDA authority to bring the designated Township/Commonwealth roads shown on Exhibit F up to Township/Commonwealth

standards to facilitate the transfer to the Townships or the Commonwealth while the Army is still the owner of the roads. However, the LIDA shall coordinate such road work in advance with LEAD and, throughout the course of such work, provide LEAD continuous access to all land, buildings and facilities required by LEAD to accomplish its mission. Access to roads throughout the Property after the Phase 1 conveyance and until the new boundary fence is constructed is shown on Exhibit Q.

E. Railroad: The LEAD rail tracks as shown on Exhibit S shall be conveyed to the LIDA. The LEAD rail system (Rail) consisting of rail tracks, ties, switches and other appurtenances on the Property and the Retained Property shall be conveyed to the LIDA in accordance with the terms and conditions of the Rail Use Agreement attached as Exhibit M.

1.03 Except as specifically provided herein, included in the acquisition of the Property hereunder shall be, at the option of the LIDA, and at no expense to the Army, the transfer of LEAD's NPDES Permits No. PA 0030597 and No. PA 0044521. The LIDA and the Army agree to cooperate in the undertaking and completion of the processes and approvals necessary for the timely implementation of said transfers.

1.04 Until operational control of the utility systems is conveyed to the LIDA, LEAD shall provide to the Property water, sewer and electric services in accordance with the utility and services agreement attached hereto at Exhibit G.

1.05 The Lease Premises as set forth in the lease at Exhibit H herein may not be conveyed in fee by the Army to the LIDA until certain covenants and warranties presently set forth in Section 120(h) of CERCLA can be given and other requirements be met under applicable laws, regulations and Department of Defense (DOD) and Army policy. The parties agree that the conveyance of the Lease Premises, or portions thereof, to the LIDA shall be in accordance with and pursuant to the terms of this MOA, and will be consummated as soon as practicable after execution of a FOST by the Army for the Lease Premises. In furtherance of and pending said conveyances, the Army agrees to lease the Lease Premises to the LIDA, and the LIDA agrees to accept such lease or leases in furtherance of conveyance, pursuant to the terms, covenants, and conditions contained in a lease between the Army and the LIDA at Exhibit H, hereinafter called "Lease; provided that the Lease Premises are generally suitable for the LIDA's use under the Reuse Plan at Exhibit A.." The Lease or Leases shall be executed by the Army and the LIDA as LEAD makes additional land or buildings available in accordance with the phasing plan; provided that the LIDA's acceptance of any lease for Phase III property as described in Exhibit J will be at the LIDA's discretion.

1.06 Shown in purple on Exhibit B are Buildings 431 with adjacent parking areas, 433 (Engine Maintenance Building), 505, 506, 507 (Commander's House Complex) and 530 (AT+T Building). Ownership of these facilities will remain with the Army for the near term. The Army will re-evaluate its need for continued ownership of Building 433 after the LIDA obtains a rail operator; its need for Building 431 after mission related

decisions are made; its need for Buildings 505, 506 and 507 as soon as its housing needs are determined; and its need for Building 530 as its telephone needs are further studied. All four decisions will be made well before July 13, 2001, when all BRAC 1995 mission realignments must be completed. If it is determined by the Army that any of the above mentioned buildings are not needed, the Building(s) will be vacated by the Army and conveyed to the LIDA as soon as a FOST can be prepared. Building 433 may be made available to the LIDA rail operator under a license as determined appropriate by the Installation Commander.

1.07 The LIDA agrees that in order to facilitate the earliest possible conveyance of parcels, the Army may retain for agreed upon periods of time after conveyance the use of certain agreed upon buildings and land adjacent thereto to fulfill its continuing mission at LEAD. The Reservation of Use Agreement for the Phase 1 conveyance is at Exhibit I. The reserved use of the medical clinic in Building 500 is provided for in the Reserved Use Agreement at Exhibit R.

1.08 The Property and appurtenant easements (Appurtenant Easements) agreed upon by the LIDA and the Army shall be conveyed to the LIDA on a phase-by-phase basis as projected in Exhibit J. The phased conveyances shall include reservations of rights and easements as agreed upon by the Army and the LIDA (Reserved Easements) for support of the Army's ongoing mission at the Retained Property; provided, however, that the final locations and terms of the Reserved Easements shall, to the maximum extent practical, accommodate the development of the Property. The Army agrees to make a reasonable, good faith effort to convey all or substantially all of the Property to the LIDA in accordance with the phasing plan or as soon thereafter as the Army is able to execute a Finding of Suitability to Transfer (FOST).

ARTICLE 2 DELIVERY OF POSSESSION; TITLE; NOTICE; ENCUMBRANCES; PERSONAL PROPERTY

2.01 The Property will be conveyed by a good and sufficient quitclaim deed or deeds to the LIDA, substantially in the form set forth in Exhibit K, as applicable and modified as necessary by the Army, in consultation with the LIDA, in accordance with A through I below. The deed or deeds shall contain covenants and warranties required under CERCLA and other applicable laws, and shall convey all rights and title held by the United States, free from encumbrances, except for the following:

A. Existing easements, reservations and restrictions and those easements, reservations and restrictions still needed by the Army to carry out its mission;

B. Institutional controls necessary under CERCLA, the Resource Conservation and Recovery Act (RCRA) or state law; reservations or restrictions necessary to ensure the health, welfare and safety of the public or protection of the environment,

including historic and cultural properties and use restrictions, as specified by the FOST, or as may be required under CERCLA or the Federal Facilities Agreement (FFA) between the Army and the U.S. Environmental Protection Agency (EPA) dated February 3, 1989, or any amendments thereto.

C. Existing building codes or zoning laws, if applicable;

D. Applicable provisions of the Programmatic Agreement between the Advisory Council on Historic Preservation, the Army, and the Pennsylvania Historic and Museum Commission, attached hereto as Exhibit L (Programmatic Agreement);

E. Any existing agricultural subtenants or licensees of the Army or sublessees or licensees of the LIDA under leases previously identified or given to the LIDA by the Army;

F. Mortgages and other liens created by the LIDA or its sublessees or licensees;

G. The right and reservation by the Army to use and occupy portions of the Property in accordance with Exhibit I and Exhibit R;

H. The right and reservation by the Army to use and occupy portions of the railroad tracks and associated structures currently existing on the Property in accordance with Exhibit M; and

I. Such other easements, encumbrances, reservations or restrictions as may be mutually agreed upon in writing by the LIDA and the Army, or as may be required by applicable law or regulation, or the FFA.

2.02 As the Army vacates buildings for conveyance to the LIDA, the Army will make a determination of whether the personal property is 1) needed for mission activities either at LEAD or elsewhere in the Army, or 2) excess to the Army. If the LIDA disputes categorization and disposition of property, a dispute will be forwarded to LEAD's higher command for resolution. Of the property that the Army determines excess, the LIDA will declare whether it desires to acquire the property or not. Property that the LIDA wishes to acquire will be secured in its present location or moved by the Army once to a central secured storage area agreed to by the LEAD property officer and the LIDA's accountable property manager until conveyance. Property not being acquired by the LIDA will be removed by the Army and transported to the Defense Reutilization Marketing Office (DRMO) for disposal or returned to field service stock for DOD reuse. Prior to conveyance, if the LIDA decides the property it first declared a need for is no longer needed for its reuse efforts, the LIDA shall transport the property, at no cost to the Army, to DRMO for disposal. The personal property the LIDA wishes to acquire in Phase 1 is listed at Exhibit N1 (LEAD property) and Exhibit N2 (Defense Logistics Agency property) and shall be transferred by the Army by a Bill of Sale substantially in the form at Exhibit O and pursuant to the terms thereof. Each subsequent transfer of

personal property by the Army to the LIDA will be substantially in the form at Exhibit O. Each Bill of Sale shall have attached to it a list of the personal property to be conveyed and the property's estimated fair market value. Personal property may be transferred directly to the LIDA upon approval of the Letterkenny Commander.

2.03 Except as otherwise expressly provided for herein, all of the Property and personal property is conveyed under this agreement in an "as is" and "where is" condition, without any representation or warranty whatsoever by the Army concerning the state of repair or condition of said property.

2.04. The LIDA shall pay all survey expenses; title insurance premiums; real estate transfer taxes, if any; recording fees; and all other reasonable costs/expenses associated with the transfer/conveyance of the Property and personalty and release of liens against the same. This MOA shall not be recorded. All instruments of conveyance and release shall be placed on record in the manner prescribed by local recording statutes at the LIDA 's expense.

ARTICLE 3 CONSIDERATION; BROKER FEES; CONDITIONS TO TRANSFER; IMPROVEMENTS PRIOR TO POSSESSION

3.01 For and in consideration of the mutual promises contained herein and other good and valuable consideration and subject to the provisions set forth in this MOA, the Army agrees to convey the Property and to lease the Property pending conveyance, and the LIDA agrees to accept such conveyance and lease.

3.02 The LIDA warrants that no person or selling agency has been employed or retained to solicit or secure this MOA upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or established commercial or selling agencies retained by the LIDA for the purpose of securing business. For breach or violation of this warranty, the Army shall have the right to annul this MOA without liability or in its discretion to require the LIDA to pay, in addition to the purchase price hereunder, the full amount of such commission, percentage, brokerage, or contingent fee.

3.03. The LIDA, consistent with the Programmatic Agreement and with the approval of the Army by issuance of a license, lease or other appropriate document, may enter on the Property and undertake and complete improvements to the Property or site preparation on the Property, including demolition or testing and sampling activities related to future use in accordance with the Reuse Plan, prior to the transfer of any portion of the Property to the LIDA. All such work and improvements by the LIDA shall be subject to terms, conditions and restrictions deemed necessary by the Army and set forth in the license, lease or other appropriate documents. The cost of said improvements shall be borne entirely by the LIDA, and said improvements shall remain

the property of the Army if the transfers anticipated herein do not occur. The LIDA shall indemnify and hold the Army harmless from all claims, liability, loss, cost, environmental contamination or damage that may occur as a result of the undertaking by the LIDA of said improvements or site preparation, except where such claims, liability, loss, cost, environmental contamination or damage is the result of the gross negligence or willful misconduct of the Army or its employees, agents or contractors. It shall be the responsibility of the LIDA at its expense to obtain all governmental permits and clearances and complete any environmental analysis or documentation required for the undertaking of said improvements or site preparation, including but not limited to:

A. Permits and clearances from the Army, EPA and/or the Pennsylvania Department of Environmental Protection related to the ongoing environmental cleanup at the Letterkenny Army Depot and as may be required under the FFA;

B. Air quality analysis and documentation; and

C. Any analysis and documentation required by the National Environmental Policy Act of 1969 (NEPA) or the National Historic Preservation Act of 1966 (NHPA).

The Army shall cooperate with the LIDA as necessary to obtain said permits, provided that the Army shall not be responsible for any costs or liability associated with the LIDA securing said permits.

3.04 The LIDA shall comply with the applicable restrictions, limitations and procedures set forth in the Programmatic Agreement entered into by the Army in compliance with the NHPA.

ARTICLE 4 EFFECT OF TRANSFER OF TITLE; CONTINUING OBLIGATIONS OF THE ARMY; RISK OF LOSS

4.01 The delivery of the executed deed or deeds pursuant to this MOA from the Army to the LIDA shall be deemed full performance by the Army of its obligations hereunder with regard to the portions of the Property conveyed thereby, except for the continuing obligations of the Army, as provided for in Article 5 and the Contract for Sale of Utilities Services at Exhibit G.

4.02 The Army shall remain responsible for all losses and damages to the Property by fire, windstorm, casualty or other cause, and for all damages or injuries to persons or property occurring thereon or related thereto (except as may be caused by acts of the LIDA or its officers, employees, agents, contractors, licensees or sublessees), prior to leasing or conveying the Property to the LIDA. Notwithstanding the foregoing, the Army shall have no obligation to repair, replace or demolish Property damaged or destroyed prior to transfer, but the Army shall take reasonably appropriate measures to ensure

that the site upon which the building or structure is located is rendered safe in accordance with applicable Federal regulations. The Parties agree that any damage or destruction to the Property shall not otherwise affect the parties' rights and responsibilities under this MOA.

ARTICLE 5 ENVIRONMENTAL PROVISIONS; INDEMNIFICATION; SAFETY PROVISIONS

5.01 The Letterkenny Army Depot Disposal/Reuse Environmental Assessment (EA) is the National Environmental Policy Act compliance document for uses anticipated in the Reuse Plan. The Finding of No Significant Impact (FONSI) for the EA was signed on March 11, 1998. The disposition of the Property by the Army hereunder is compatible with uses of the Property analyzed in the EA. The use of the Property by the LIDA shall be in accordance with the Reuse Plan.

5.02 In conveying the Property and leasing the Leased Premises, the Army recognizes its obligation to hold harmless, defend and indemnify the LIDA and any successor, assignee, transferee, lender or lessee of the LIDA, its successors or assigns, as required and limited by Section 330 of the Department of Defense Authorization Act of 1993, and to otherwise meet its obligations under the law.

5.03 The Property is subject to the terms and conditions of the Letterkenny Army Depot FFA, dated February 3, 1989, and any amendments thereto, between the Army and the U.S. Environmental Protection Agency. Applicable provisions of the FFA, as amended, shall be binding on the LIDA and any successor, assignee, transferee, lender or lessee of the LIDA, its successors or assigns.

5.04 The Army agrees to complete the clean up of the Property as required by the FFA, CERCLA and other applicable laws and regulations and subject to the availability of funds. The LIDA or any successor, assignee, transferee, lender or lessee of the LIDA or its successors or assigns, shall have no obligation to fund, participate in or complete the clean up of existing contamination, unless said parties have caused or contributed to said contamination. The Army agrees to pursue in good faith the expeditious remediation of the Property in accordance with law and regulation, subject to the availability of appropriated funds.

5.05 To the extent such information is available on the basis of a complete search of Army files, the notice required by 42 U.S.C. 9620(h)(1) regarding hazardous substances stored for one year or more, known to have been released or disposed of on the Phase 1 Property, including the Leased Premises, is provided in Exhibit P. Notice of hazardous substances with respect to the portions of the Property to be conveyed after Phase 1 shall be provided at the time of said conveyances. Additionally, the LIDA acknowledges receipt of and has reviewed and carefully

inspected the environmental baseline survey (EBS) for the Property, dated August, 1996.

5.06 The appropriate asbestos notice and covenants are set forth under the heading of WARNING AND COVENANT in the lease at Exhibit H and the deed at Exhibit K. The parties agree:

A. The Army, the LIDA, the EPA and the Commonwealth will conduct a walk through inspection of the Property prior to each phased conveyance to determine the condition of the asbestos and paint in the buildings on the Property;

B. The Army will summarize the inspection results in a report;

C. The inspection report will be included as an enclosure to the FOST; and

D. Any damaged friable asbestos will be remediated by the Army in accordance with the DOD Policy on Asbestos at BRAC Properties dated October 31, 1994.

The Army will assume no responsibility for remediation of paint in the buildings. The Army will abate asbestos hazards by removal or encapsulation at the Army's option prior to property disposal unless the subject buildings are scheduled for renovation, which involves structural renovations that will remove or encapsulate the asbestos containing material, or demolition by the LIDA. Buildings currently scheduled for demolition are identified at Exhibit T.

5.07 Risk Assessments and Future Remediation to Support Reuse Activities

The Army previously performed a Risk Assessment for the Southeastern Area and a Risk Assessment for the Property Disposal Office Area that support the use of the Property for commercial/industrial purposes. The Army agrees to conduct the following additional risk assessments:

A. Gym/Chapel Parcel - outdoor child use risk assessment;

B. Golf Course Parcel - outdoor recreational risk assessment;

C. Kenny Hill Parcel - residential risk assessment for use of the approximately 2 - 3 acre site known as the Kenny Hill Family Housing Area for a child care facility; and

D. School District Parcel - risk assessment to support the reuse identified by the Chambersburg Area School District in a letter to the LEAD BRAC Environmental Coordinator dated March 18, 1998.

ARTICLE 6
INSTALLATION ACCESS; EMERGENCY SERVICES; CODE COMPLIANCE;
FUTURE EXCESS PROPERTY

6.01 INSTALLATION ACCESS AGREEMENTS: The installation is currently a closed post, meaning that all persons entering the post must pass through a guarded gate as a security check. The Army is currently designing a new fence line that will render the retained boot area (a portion of the Retained Property) a secured area with controlled public access but render the Property an open public area. To accommodate the LIDA's need to have unrestricted access to the Property as it is conveyed and to maintain the security requirements associated with the Army's continued mission at LEAD, the parties agree to the following:

A. Until the new boundary fence is constructed, the Army will retain guards at gates 1 and 6 but will permit entrance to people with satisfactory identification. In addition, the Army may increase its roving guards to prevent the access of unauthorized persons into areas in which the Army's mission is still being conducted; and

B. When the new boundary fence is constructed, Gates 1 and 6 will be abandoned in place by the Army. Access to the retained boot area will be restricted to authorized persons having a need to enter the area. Access to the Property will be unrestricted. The Army may continue to conduct roving patrols on portions of the Property which are still owned by the Army.

6.02 ACCESS ACROSS THE RETAINED BOOT AREA: The Army agrees to convey to the LIDA a perpetual and assignable road access right-of-way fifty (50) feet wide across the Army's retained boot area. The parties agree that the present environmental condition of the retained boot area is such that the path of the right-of-way can only be located in the general location from Georgia Avenue just after its intersection with East Patrol Road, cutting more directly across and through currently undeveloped land, then across California Avenue to a portion of the Property which is currently being used by the Army as a test track. The general conditions of the grant are as follows:

A. The ultimate path of the departure from Georgia Avenue across the Army's retained boot area will be agreed to in the future by the parties and will be influenced by the environmental condition of the property and future Army requirements for the property, including the security needs of the Army which shall be paramount;

B. All costs associated with the design, construction and maintenance of the road, to include fencing and any required traffic control devices at its intersection with other roads, shall be the responsibility of the LIDA;

C. The roadway shall be fenced by the LIDA on both sides in a manner consistent with the other fencing around the Retained Area. Road intersections must

maintain security and integrity of the Army traffic and property such that there are no unguarded/unprotected breaks in the LEAD fence line. If the parties agree guards are required, they will not be at the expense of LEAD. LEAD traffic must have unimpeded access to the full length of California Avenue, north of Coffey Avenue;

D. The intersection of the LIDA's right-of-way with California Avenue must prevent non-military access to California Avenue in a manner acceptable to LEAD; and

E. The LIDA shall submit design plans for the road, fencing and traffic control devices to the Installation Commander for approval prior to construction. The Commander shall not unreasonably withhold approval.

6.03 EMERGENCY SERVICES:

A. Law Enforcement: The Army has sent a letter to the Governor of the Commonwealth of Pennsylvania asking that the Commonwealth accept retrocession to concurrent legislative jurisdiction over the Property. Concurrent jurisdiction will give the State Police the ability to enter the Property and enforce state and local laws prior to conveyance of the Property. When property is conveyed from the United States, jurisdiction automatically reverts to proprietary meaning the United States will not have any jurisdiction over the conveyed property. Once concurrent jurisdiction is enacted, the State Police will enforce laws pertaining to people on properties leased to the LIDA and properties already conveyed to the LIDA by patrolling the area in the same manner as they do throughout the County. The LEAD security force will enforce laws pertaining to real property still owned by the United States and used by the Army, with specific procedures and protocols to be identified in a memorandum of agreement between the Pennsylvania State Police and the Letterkenny Army Depot. The Army will address matters involving military personnel on property owned by the LIDA but used by the Army in accordance with a lease or temporary use agreement.

B. Fire Protection, Ambulance Service & Hazard Response:

1. While the United States still owns the Property.

While title to the Property and buildings is held by the United States, the LEAD Fire Company 13 will maintain, monitor and administer all life and fire safety on the Federal property. This will include all buildings and properties being leased to the LIDA. Additionally, LEAD Fire Company 13 will continue to provide emergency fire service; testing and inspection of fire alarm and detection systems, suppression and extinguishing systems; testing of fire hydrants, pumps and flow; and administration of drills and prevention measures. The LEAD fire company may conduct flow and pressure tests on fire hydrants after first giving proper notice to the LIDA, its transferee or the water system operator. The LEAD Fire Company will provide emergency ambulance service to the nearest hospital and will also provide emergency hazardous material response on a reimbursable basis as regulated. The LIDA understands and

agrees that the Army will provide such services as limited by its equipment, personnel and other resources.

2. After the United States Conveys the Property.

Once property is conveyed to the LIDA, fire, ambulance and hazardous response becomes the responsibility of the municipalities and the appropriately assigned fire stations. The Property to be conveyed lies within the municipalities of Greene and Letterkenny Townships. These Townships have acknowledged their responsibility; however, the LEAD fire company shall respond to fires and emergency situations in accordance with any Mutual Aid Agreement then existing.

C. Zoning And Covenants, Codes & Restrictions: Once property is conveyed to the LIDA, it shall be subject to all applicable zoning laws.

6.04 FUTURE EXCESS PROPERTY:

If the Army determines additional LEAD property to be surplus prior to July 2001, the Army shall make a determination on a case by case basis whether the additional surplus property can be conveyed to the LIDA in accordance with the terms and conditions of this MOA or whether the disposal of the additional property will be made as a separate transaction outside of the terms and conditions of this MOA to the LIDA or to another transferee. If the Army determines the additional property is to be disposed of as a separate transaction, the Army shall consult with the LIDA as to the appropriate means of disposing of the additional property. If the Army offers to convey additional property to the LIDA, the LIDA shall be under no obligation to accept the additional property.

SECTION 7 MISCELLANEOUS

7.01 This MOA contains the entire agreement between the parties regarding the conveyance of the Property to the LIDA and the leasing of the Lease Premises to the LIDA, and any agreement hereafter made shall not operate to change, modify or discharge this MOA in whole or in part, unless that agreement is in writing and signed by both parties.

7.02 No member or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this MOA or to any benefit to arise therefrom. Nothing herein contained, however, shall be construed to extend to any incorporated company, if the MOA be for the general benefit of such corporation or company.

7.03 Nothing contained in this MOA will make or will be construed to make the parties hereto partners or joint venturers with each other, it being understood and agreed that

the only relationship between the LIDA and the United States hereunder is that of grantee and grantor and lessee and lessor. Neither will anything in the MOA render or be construed to render either of the parties hereto liable to any third party for debts or obligations of the other party hereto.

7.04 The failure of either party to insist in any one or more instances upon strict performance of any of the terms, covenants or conditions of this MOA shall not be construed as a waiver or a relinquishment of that party's rights to the future performance of any such terms, covenants or conditions by the other party in accordance with the terms hereof.

7.05 The brief headings or titles preceding each Article are merely for purposes of identification, convenience and ease of reference and will be completely disregarded in the construction of this MOA.

7.06 This MOA is executed in two (2) counterparts, each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

7.07 All personal pronouns used in this MOA, whether used in the masculine, feminine or neuter gender, will include all other genders.

7.08 The LIDA may not transfer or assign its rights and interests under this MOA without the written consent of the Army, except as provided for in exhibits attached to this MOA or any subsequent written agreements between the parties. The covenants, agreements, rights and responsibilities contained in this MOA inure to the benefit of and are binding upon the parties hereto, their successors and assigns. Nothing in this MOA otherwise shall be construed as creating any rights of enforcement by any person or entity that is not a party hereto, nor any rights, interest or third party beneficiary status for any entity or person other than the parties hereto.

7.09 This MOA shall terminate: (1) upon the transfer of all the Property to the LIDA in fee or (2) at the option of the Army upon (a) dissolution of the LIDA; (b) loss of the LIDA's status as a federally approved LRA; or (c) the LIDA's inability or refusal to take title to or a leasehold interest in the property as required herein. The termination of this agreement shall have no effect on the continuing obligations of the parties as provided for in the deed(s) of conveyance, lease, or other agreement(s) provided for herein. In the event a party hereto fails to observe or perform any of its obligations under this MOA, after having been provided written notice and failing to cure the default within ninety (90) days, the other will be entitled to exercise any and all of the remedies for breach which are provided for herein, as well as any other remedies to which the party is entitled at law or in equity.

7.10 All notices required or permitted under this MOA shall be in writing and shall be deemed sufficiently served when delivered by hand if a receipt is obtained therefore or

when actually received if delivered by mail, provided delivery by mail shall be by registered or certified first class mail, return receipt requested, postage pre-paid. In all cases notices shall be addressed as follows:

To the LIDA: Executive Director
 Letterkenny Industrial Development Authority
 Letterkenny Army Depot
 5000 Letterkenny Road, Suite 320
 Chambersburg, Pennsylvania 17201-8382

With a copy to: Installation Commander
 Letterkenny Army Depot
 1 Overcash Avenue
 Chambersburg, Pennsylvania 17201-4150

To the Army: U.S. Army Corps of Engineers
 Chief, Real Estate Division
 P.O. Box 1715
 Baltimore, Maryland 21203-1715

Each party authorizes the other to rely in connection with their respective rights and obligations under this MOA upon approval by the parties named above or any person designated in substitution or addition hereto by notice, in writing, to the party so relying.

7.11 If any provision of this MOA is declared or found to be illegal, unenforceable or void, both parties shall be relieved of all obligations under that provision. The remainder of this MOA shall remain enforceable to the fullest extent permitted by law.

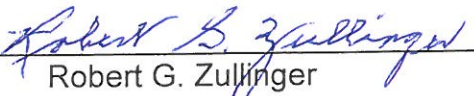
7.12 The Army's obligation to pay or reimburse any money under this MOA is subject to the availability of appropriated funds, and nothing in this MOA shall be interpreted to require obligations or payments by the United States in violation of the Anti-Deficiency Act, provided that the Army shall otherwise comply with all applicable statutory requirements and its obligation under the terms of this MOA.

IN WITNESS WHEREOF, the parties have executed this MOA this 5th day of November 1998.

UNITED STATES OF AMERICA

By: 
 Paul W. Johnson
 Deputy Assistant Secretary of the Army
 (Installations & Housing)

LETTERKENNY INDUSTRIAL DEVELOPMENT AUTHORITY

By: 
Robert G. Zullinger
Chairman