



**TOWN OF BRUNSWICK**

**PLANNING BOARD**

28 FEDERAL STREET, BRUNSWICK, ME 04011-1583

**TOWN OF BRUNSWICK**

**PLANNING BOARD**

**AGENDA**

**BRUNSWICK STATION**

**16 STATION AVENUE, BRUNSWICK, ME**

**ROOM 217**

**Monday, January 14, 2013**

**7:00 P.M.**

1. Introduction of Town Planner Jeremy Doxsee, AICP
2. **Case Number: 12-031 Brunswick Landing Subdivision:** The Board will review and take action on a **Final Plan** application submitted by the Midcoast Regional Redevelopment Authority to create 44 lots at Brunswick Landing (**Assessor's Map 40, Lot 2**) in the **BNAS Reuse Zoning District**.
3. Other Business
4. Minutes

It is the practice of the Planning Board to allow public comment on development review applications and all are invited to attend and participate.

Please call the Brunswick Department of Planning and Development (725-6660) with questions or comments. Individuals needing auxiliary aids for effective communications please call 725-6659 or TDD 725-5521. This meeting will be televised.

**BRUNSWICK LANDING SUBDIVISION  
PHASE 1**

**TOWN OF BRUNSWICK  
MAJOR DEVELOPMENT REVIEW  
FINAL PLAN APPLICATION**

**for the  
MIDCOAST REGIONAL REDEVELOPMENT  
AUTHORITY**

**DECEMBER 18, 2012  
Revised January 7, 2013**

January 7, 2013  
W-P Project No. 12218C

Ms. Anna Breinich  
Director of Planning and Development  
Department of Planning and Development  
28 Federal Street  
Brunswick, ME 04011

Subject: Revised Final Plan Review Subdivision  
Brunswick Landing Phase 1 Subdivision

Dear Ms. Breinich:

Please find attached the revised submission of 9 copies of our final subdivision application for the Phase 1 Subdivision of Brunswick Landing and two full sized sets of drawings. The revision to our original submission that was made on December 17, 2012 corrected for the number of lots in the subdivision, area and includes additional information requested during the staff review process. In addition the plans have been reviewed and minor revisions made as well as the inclusion of an overall subdivision plan that was requested at the staff review committee meeting.

The number of lots in the Phase 1 Subdivision will be 43 lots with a total land area of 399.36 acres which is a reduction of one lot from the December 17<sup>th</sup> application. This change was made because the Family Focus parcel will be transferred directly from the Navy to Family Focus and MRRA will not be in the chain of title. In addition we created a right of way across Lot 31 to access Lot 30 rather than having a roadway. In addition we have included a letter from the Brunswick Sewer District outlining the arrangement and ability to accept sewer from the development. We have added a letter in the Section 8 that outlines the status and intent of the Common Area Maintenance agreement that is being prepared to address roadway maintenance.

Please review the materials and let me know if you have any questions.

Very truly yours,

WRIGHT-PIERCE



Jan B. Wiegman, P.E.  
Project Manager

JBW/  
Enclosure

cc: Steve Levesque - MRRA

December 17, 2012  
W-P Project No. 12218C

Ms. Anna Breinich  
Director of Planning and Development  
Department of Planning and Development  
28 Federal Street  
Brunswick, ME 04011

Subject: Final Plan Review Subdivision  
Brunswick Landing Phase 1 Subdivision

Dear Ms. Breinich:

On behalf of the Midcoast Regional Redevelopment Authority (MRRRA), we are pleased to submit the final application for the Phase 1 Subdivision of Brunswick Landing. The Phase 1 portion of the subdivision includes approximately 401.74 acres of the overall Brunswick Landing site. This Phase 1 area encompasses the most of the base cantonment area that is outside of the airport facility and represents the areas that have transferred or will transfer over a relatively short time horizon to MRRRA from the USA. This Phase 1 area also represents many of the redevelopment opportunities at Brunswick Landing.

The subdivision layout closely follows the existing roadway network for the establishment of right-of-ways and the lots were laid out with consideration of the existing buildings and site features. Also considered in the planning of the subdivision was the reuse master plan for the redevelopment that was prepared as part of the base closure process.

The project does not propose any new roads or actual infrastructure improvements. There is a right-of-way that has been reserved for future alignment of the main entrance with the Merry Meeting Plaza entrance on Bath Road at such time as the improvement is warranted.

MRRRA is requesting a waiver of the following items:

1. Lot Monumentation: We are requesting waiver to defer the lot monumentation until just prior to the sale of the lot. This will ensure that the lots are monumented upon their sale and the expense to monument can be deferred until that time.
2. Profiles and cross sections and curve radii of existing streets: The existing streets are proposed to remain as private roads that will be maintained by MRRRA. The profiles and cross sections are essential for the construction of new roadways. Since no work is being proposed, their benefit is diminished considerably.
3. Profile and cross section of existing sewers: The existing sewers are owned and maintained by MRRRA and their locations mapped as shown on the application. The profiles and cross section are essential for the construction of new sewers, however, the sewers are constructed and in service.

Ms. Anna Breinich  
December 17, 2012  
Page 2 of 2



The subdivision plan is a key step in the redevelopment for the base and will allow for land negotiations and marketing efforts. The redevelopment of the base will provide an economic benefit to the region.

Please review the materials and let me know if you have any questions.

Very truly yours,

WRIGHT-PIERCE

Jan B. Wiegman, P.E.  
Project Manager

JBW/  
Enclosure

cc: Steve Levesque - MRRA

**Brunswick Landing Subdivision  
Phase 1**

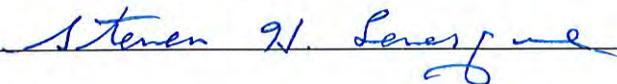
Major Development Review  
Final Plan Application

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**MAJOR DEVELOPMENT REVIEW  
FINAL PLAN APPLICATION**

1. Project Name: Brunswick Landing Subdivision – Phase 1
2. Project Applicant  
Name: Midcoast Regional Redevelopment Authority  
Address: 2 Pegasus Street, Suite 1, Unit 200  
Brunswick, ME 04011  
Phone Number: (207) 798-6512
3. Authorized Representative  
Name: Wright-Pierce  
Address: 99 Main Street  
Topsham, ME 04086  
Phone Number: (207) 725-8721
4. List of Design Consultants. Indicate the registration number, address and phone number of any engineer, surveyor, architect, landscape architect or planner used:
  1. Wright-Pierce, Jan Wiegman, P.E. #5852
  2. Wright-Pierce, Bob Clunie, P.L.S. #1213
  3. Titcomb Associates, David Titcomb, P.L.S. #1273
5. Physical location of property being affected: Brunswick Landing
6. Lot Size: 401.74 AC
7. Zoning District: R-PO, R-CMU, R-B&TI
8. Indicate the interest of the applicant in the property and abutting property. For example, is the applicant the owner of the property and abutting property? If not, who owns the property subject to this application? The applicant holds title to portions of the proposed Phase 1 area that have been transferred to MRRA. The transfer of the remaining land is covered under an existing agreement with the Navy.
9. Assessor's Tax Map 40 Lot Number     \* of subject property.  
\* Currently being assessed and delineated.
10. Brief description of proposed use: Proposed subdivision of a portion of former Naval Base for the redevelopment of the property into private development projects.
11. Describe specific physical improvements to be done: Delineation of lots, rights of way and utility easements.

Owners Signature: 

Applicants Signature (if different): \_\_\_\_\_

**Required Attachments (by Applicant):**

- Final Plan Check List
- Final Plan Requirements for Open Space Developments (if applicable)
- Request for Waivers (if applicable)
- Required Copies of Final Plan

**Required Attachment (by Planning and Development Department):**

- Listing of all owners of property within 200-foot radius of property under review.

## FINAL PLAN REQUIREMENTS

Key: "O" = omit; "S"=submit; "NA"=not applicable; "W" = waiver P=pending

Item	O	S	NA	W	P	Comments
Name of Development		X				
Scale, date, north point, area, number of lots (if subdivision)		X				
Boundaries of all lots and tracts with accurate distances and bearings, locations of all permanent monuments property identified as existing or proposed.		X		X		Waiver requested: Lot monumentation. Monumentation of lot corners to be deferred until sale of lot.
Certification by a professional land surveyor that the land has been surveyed and the boundaries established in accordance with the State of Maine Board of Licensure for Professional Surveyors standards for Category 1 (Standard Boundary Survey), conditions 1, 2, or 3.		X				
Existing zoning district and overlay designation.		X				
Names of engineer and surveyor; and professional registration numbers of those who prepared the plan.		X				
Names of current owner(s) of subject parcel and abutting parcels.		X				Per assessor's records
Name, location, width of paving and rights-of-way, profile, cross-section dimensions, curve radii of existing and proposed streets; profiles of center-lines of proposed streets, at a horizontal scale of 1" equals 50' and vertical scale of 1 inch equals 5 feet, with all elevations referred to in U.S.G.S. datum.				X		Waiver requested: For existing streets - Profiles, cross-sections and curve radii
A general road plan noting circulation, direction, traffic control devices, street lighting and type of lighting proposed.		X				
Existing and proposed easements associated with the development.		X				
Kind, location, profile and cross-section of all proposed drainage facilities, both within the development and outside of it, and a storm-water management plan which includes the submission requirements listed in the storm-water management checklist available in the Planning Department.			X			
Location of features, natural and artificial, such as water bodies, wetlands, streams, vegetation, railroads, ditches and buildings.		X				

Location of existing and proposed utilities; water, sewer, electrical lines, and profiles of underground facilities. Tentative locations of any private wells.		X				
Existing and proposed location, size, profile and cross section of sanitary sewers; description, plan and location of other means of sewage disposal with evidence of soil suitability.		X		X		Waiver requested: For profile & cross section of existing sewer
Topography with counter intervals of not more than 2 feet.		X				
A Class A (high intensity) Soil Survey prepared in accordance with the standards of the Maine Association of Professional Soil Scientists.			X			No septic system proposed
Location of all existing trees over 10 inches in diameter, locations of tree stands, and a plan showing all trees to be removed as a result of the development proposal.			X			No tree removal proposed
Lighting plan showing details of all proposed lighting and the location of that lighting in relation to the site.			X			No new lighting proposed
Existing locations and proposed locations, widths and profiles of sidewalks.		X				
Location map.		X				
Approximate locations and dimensions of proposed parking areas.			X			
Proposed ownership and approximate location and dimensions of open spaces for conservation and recreation.			X			
Grading, erosion control, and landscaping plan; proposed finished grades, slopes, swells, and ground cover or other means of stabilization.			X			
Reference to special conditions stipulated by the Planning Board, with conditions either set forth in full or on the plan or identified as specific documents filed with the Board.						
A wetlands map drawn by a specialist delineating wetland boundaries in accordance with the methods prescribed by the US Army Corps of Engineers.		X				
Dedicated public open spaces, areas protected by conservation easements, and existing and proposed open spaces or recreation areas.			X			

For Open Space Development, a note indicating the total permitted lot count of the entire land tract based upon the destiny standards in this Ordinance, the number of lots created by the Plan, and the number of lots permitted to be subdivided in the future, as well as a table showing setback requirements and impervious surface coverage limits for each lot.			X			
Building envelopes showing acceptable locations for principal and accessory structures.			X			

**FINAL PLAN/SUPPORTING DOCUMENTS**

Key: "O" = omit; "S"=submit; "NA"=not applicable; "W" = waiver P=pending

Item	O	S	NA	W	P	Comments
Documentation of Ownership or contract.		X				
Drafts of legal documents appropriate to the application, including: deeds, easements, conservation easements, deed restrictions or covenants, home/property owners association declarations and by-laws, and such other agreements or documents as are necessary to show the manner in which conservation land will be owned, maintained, and protected.			X			
Draft performance guarantee or conditional agreement.			X			
Disclosure of any required permits from the Department of Environmental Protection, Marine Resources, US Army Corps of Engineers, Department of Inland Fisheries and Wildlife, or other agencies, as applicable; or, if a permit has already been granted, a copy of that permit.		X				
Any additional studies required by the Planning Board, which are deemed necessary in accordance with this Ordinance.						
Storm water management program for the proposed project prepared by a professional engineer.			X			
A storm water management checklist prepared by the Cumberland County Soil and Water Conservation District made available at the Brunswick Department of Planning and Development.	X					

An erosion and sedimentation control checklist prepared by the Cumberland County Soil and Water Conservation District.	X				
A statement from the Brunswick-Topsham Water District of conditions under which water will be provided.		X			
A statement from the Brunswick-Topsham Water District of its review and comments on the proposed use if the project involves development within the Aquifer Protection Zone.		X			
A Statement from the Fire Chief recommending the number, size, and location of hydrants, available pressure levels, road layout and street and project name, and any other fire protection measures to be taken.					
A statement from the Superintendent of the Brunswick Sewer District of the conditions under which the Sewer District will provide sewerage disposal service and approval of the sanitary sewers proposed within the development.		X			
Where a septic system is to be used, evidence of soil suitability.			X		
All applicable materials necessary for the reviewing entity to review the proposal in accordance with the Criteria of Section 411.		X			
A plan of all buildings with new construction or expansion of an existing facility, including type, size, and footprint, floor layout, setback, elevation of first floor slab, storage, and loading areas.			X		
An elevation view of all sides of each building proposed indicating height, color, bulk, surface treatment, and signage.			X		
A circulation plan describing all pedestrian and vehicle traffic flow on surrounding road systems.		X			
The size and proposed location of water supply and sewage disposal systems.			X		
A site landscaping plan indicating grade change, vegetation to be preserved, new plantings used to stabilize areas of cut and fill, screening, the size, location and purpose and type of vegetation.			X		

# *Section 1*

## SECTION 1

### PROJECT DESCRIPTION

The Midcoast Regional Redevelopment Authority (MRRRA) has acquired and is continuing to acquire land within the former Brunswick Naval Air Station from the United States of America as part of the base closure. MRRRA's goal with the acquisition of the land is to facilitate the redevelopment of the property into private projects which will provide economic benefit for the region. To facilitate the redevelopment of the property, now called Brunswick Landing, MRRRA has identified a 399.36 acre portion of the site as the most likely to be redeveloped given the transfers that have taken place to date and the concentration of existing facilities that are conducive to redevelopment. A location map showing where the Phase 1 subdivision is in relationship to the overall Brunswick Landing site has been attached to this section.

The proposed project, Brunswick Landing Subdivision Phase 1, will consist of a forty-three (43) lot subdivision encompassing 399.36 acres of land which will include the establishment of rights of ways over the existing roadways and development parcels. The existing development on the parcel with roads and buildings make the portions of the site a functional subdivision. By establishing the subdivision, MRRRA will be able to market the property and develop the site in an organized manner. The lots have been arranged to take advantage of existing buildings and parking areas. Lot areas range in size from 0.75 ac to 65.75 ac to allow for a potential broad range of redevelopment opportunities.

A significant planning effort has gone into the closure of the base and the impacts associated with the closure and redevelopment. A redevelopment master plan was conceived and was used as a guide in the preparation of the subdivision plan. A Final Environmental Impact Statement (FEIS) was prepared for the base closure and issued in 2010. This application utilizes information from the FEIS as supporting information.

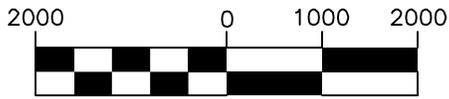
The proposed subdivision includes land in several zoning districts including Community Mixed Use, Professional Office, Business & Technology Industries and Recreation & Open Space. A design guideline was developed to guide future development within the Brunswick Landing site.

The subdivision is supported by existing utility infrastructure already serving the buildings and uses in the development. The sewer collection system is operated by MRRRA and the waste water discharged to the Brunswick Sewer District through a trunk line that leaves the site at the main entrance. The water system on the site is operated by MRRRA and water is supplied to the system via two connections to the Brunswick Topsham Water District water distribution system. The electrical distribution system on the site is operated by MRRRA and connected to CMP's distribution system at two locations. Maine Natural Gas owns and operates the natural gas distribution network at Brunswick Landing.

The stormwater system on the site consists of a collection system and several stormwater attenuation ponds with discharges in several locations along the perimeter of the greater Brunswick Landing site. Stormwater from the site flows to several watersheds including two urban impaired stream watersheds. Because no new construction is proposed with this phase of the subdivision, no changes to the stormwater system are proposed. As sites are developed, the stormwater management plan for each site will address the full treatment of stormwater from the site.



**GRAPHIC SCALE**



( IN FEET )  
1 inch = 2000 ft.

<b>LOCATION PLAN BRUNSWICK LANDING SUBDIVISION - PHASE I BRUNSWICK, MAINE</b>		
PROJ NO:	12218B	DATE: DEC. 2012
<b>WRIGHT-PIERCE</b> 		<b>1</b>
Engineering a Better Environment		

## *Section 2*

## SECTION 2

### RIGHT, TITLE AND INTEREST

A portion of the Subdivision property is controlled by the Midcoast Regional Redevelopment Authority (MRRA) as described in the following quitclaim deeds of the United States of America:

- Book 29003, Page 3, dated September 30, 2011;
- Book 29003, Page 167, dated September 30, 2011;
- Book 29004, Page 173, dated September 30, 2011;
- Book 29437, Page 1, dated March 14, 2012;
- Book 29438, Page 1, dated March 14, 2012; and
- Book 29754, Page 1, dated June 27, 2012;
- Book 30069, Page 1, dated September 30, 2012, all recorded in Cumberland County Registry of Deeds.

A portion of the Subdivision property is under an option to purchase as set forth in an “Agreement for the Purchase of Real Property between the United States of America and Midcoast Regional Redevelopment Authority”, dated September 30, 2011. A copy of this agreement is attached.

Reference is also made to an “Agreement Granting Reciprocal Easements for Ingress and Egress, General Access, and Utility Service”, dated March 28, 2011, recorded in Book 28607, Page 205, Cumberland County Registry of Deeds.

**AGREEMENT FOR THE PURCHASE OF REAL PROPERTY  
BETWEEN THE UNITED STATES OF AMERICA AND  
MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY**

This Agreement for the Purchase of Real Property (hereinafter referred to as "**Agreement**") is made as of this 30th day of September, 2011, between the UNITED STATES OF AMERICA, acting by and through the Department of the Navy ("**Government**"), and the MIDCOAST REGIONAL REDEVELOPMENT AUTHORITY, a body politic and corporate and a public instrumentality of the State of Maine organized under Title 5, Maine Revised Statutes Annotated, Section 13083-G, et seq. ("**MRRA**"). Government and MRRA are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

**RECITALS**

- A. The Defense Base Closure and Realignment Commission's recommendations for 2005 included the closure of the former Naval Air Station, Brunswick, Maine ("**NASB**"). The Government declared the former NASB complex surplus to the needs of the United States on February 16, 2007 and formally closed it on May 31, 2011.
- B. Pursuant to provisions of the Federal Property and Administrative Services Act of 1949, and approved June 30, 1949, (63 Stat. 377), as amended, and 49 U.S.C. Sections 47151-47153 (formally known as the Surplus Property Act of 1944 [58 Stat. 765], as amended), a delegation from the Administrator of General Services to the Secretary of Defense and subsequent delegation to the Secretary of the Navy, the Secretary of the Navy is authorized to convey surplus property at a closing installation and under the power and authority provided by the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510) as amended, and the implementing regulations of the Department of Defense (32 CFR Part 174);
- C. Pursuant to the power and authority provided by section 2903 of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160) and the implementing regulations of the Department of Defense (32 CFR Part 174), the Secretary of the Navy may convey surplus property at a closing installation to the recognized local redevelopment authority for economic development and job generation purposes ("**EDC**").
- D. Pursuant to a letter dated July 23, 2010 the Department of Defense, Office of Economic Adjustment officially recognized the Midcoast Regional Redevelopment Authority as the Local Redevelopment Authority ("**LRA**") for purposes of implementing the local redevelopment plan for NASB.
- E. By application dated April 6, 2010, as amended, (the "**EDC Application**"), MRRA proposed to acquire approximately One Thousand and Ninety-Eight ( $\pm 1098$ ) acres of land, more or less, and the associated improvements situated thereon at the NASB consistent with the provisions of the Economic Development Conveyance Authority authorized by section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, as amended (Pub. L. No. 101-510 [1990]). The EDC Application was approved by the Government with a Non-Binding Summary of Acquisition Terms and Conditions being accepted and executed on September 14, 2011.

F. The property that is the subject of this Agreement consists of +1,098 acres of land (the “**Real Property**”), more fully described in **Exhibit “A”** attached hereto and made a part hereof, together with the personal property located thereon and more fully described in the Bill of Sale (as defined below) (together with the Real Property, the “**Property**”).

## AGREEMENT

1. **Property.** At the Initial Closing, the Government agrees to convey and MRRA agrees to accept in accordance with the terms and conditions of this Agreement, the real property consisting of +249.37 acres of land, more fully described in **Exhibit “A-1”** and **Exhibit “B”**, attached hereto and made a part hereof (the “**Property**”), together with the buildings and improvements and personal property located thereon; utilities, utility systems and poles to the extent provided herein; and all rights, easements and appurtenances thereunto belonging; all subject to the terms, conditions and general provisions set forth in this Agreement.

Upon execution of a FOST for any portion of the remaining EDC property consisting of +848.63 acres of land, an additional closing shall occur (each, an “**Additional Closing**”) on a date mutually agreeable to the parties. Such date shall not be more than 30 days after the date of the FOST. At each Additional Closing, the Government shall convey, and MRRA shall accept, in accordance with the terms and conditions of this Agreement, the applicable portion of the EDC property, together with the buildings and improvements and personal property located thereon, and all rights, easements and appurtenances thereunto belonging; all subject to the terms, conditions and general provisions more fully set forth in this Agreement. Additionally, the parties will execute a Lease in Furtherance of Conveyance (“**LIFOC**”), in a form mutually acceptable to both parties, for any portion of the Property not conveyed at the Initial Closing for which a Finding of Suitability to Lease (“**FOSL**”) is issued as of the date of the Initial Closing. Further, any portion of the Property for which a FOSL is issued will be added to the LIFOC within 30 days of issuance of the FOSL. The LIFOC will terminate for each parcel 10 days after the delivery of a good and sufficient Quitclaim Deed for each respective parcel or sub-parcel.

2. **Consideration.** The parties agree that the total Purchase Price shall be Ten Million, Six Hundred Thousand Dollars (\$10,600,000.00). Consideration shall be paid as follows:

A. **Deposit.** MRRA shall pay the Government Twenty-Five Thousand Dollars (\$25,000.00) at the Initial Closing (as defined herein).

B. **\$3 Million Note.** MRRA shall execute and deliver a purchase money promissory note from LRA to the Government (the “**Note**”) in the original principal amount of Three Million Dollars (\$3,000,000.00). The Note shall be paid in nine annual principal installments of One Hundred and Fifty Thousand Dollars (\$150,000.00) plus interest and a final tenth principal payment of One Million, Six Hundred and Fifty Thousand Dollars (\$1,650,000.00) plus interest beginning three (3) years after the Initial Closing or January 1, 2015 whichever is earlier. No interest shall accrue during the thirty-six months following the Initial Closing. Interest shall be calculated at 150 basis points over the U.S. Treasury 10 Year Composite Rate utilizing the rate established on the day execution of

this Agreement for Purchase. The Note shall be secured by a Three Million Dollar (\$3,000,000.00) declining balance letter of credit, written for a term of one year which shall be provided not later than June 1, 2014. The letter of credit shall include an automatic annual renewal provision and shall be from a national banking association reasonably acceptable to the Government and in a form and pursuant to terms reasonably acceptable to the Government. The parties agree that the balance on the letter of credit may decline in an amount equal to the amount of principal paid on the Note by MRRA in each annual payment. In lieu of a declining balance letter of credit, the Government agrees to accept a loan guarantee from the Finance Authority of Maine executed by the appropriate state official in a form acceptable to the Government to secure the Note.

The expected schedule for delivery of land and facilities comprising the ±1098 acres covered by this Economic Development Conveyance is attached hereto and made a part hereof as **Exhibit "C"**. At the initial closing, the Government intends to convey title to 249.37 of the 1098 acres, (22.71%), and hereby agrees to convey whatever portion of the Property for which a FOST has been issued. MRRA shall have the right to withhold from each annual payment due under the Note an amount equal to the proportionate amount of the Property not yet conveyed to MRRA multiplied by the amount due, (hereinafter the "**Deferred Amount**"). No interest will accrue on the Deferred Amount and the Deferred Amount will be added to the amount due in the next annual payment in accordance with the terms and conditions of the Note. For clarity purposes only, the following example and description is provided. The numerator shall be equal to the total number of acres of the Property conveyed divided by the denominator which shall be equal to 1098. Therefore if the Government fails to convey any additional property within the three year period after the Initial Closing, MRRA's obligation to pay the initial \$150,000.00 payment will be limited to the proportionate amount of the Property actually conveyed (249.37 acres) divided by 1098 acres, which equals 22.71% of the Property. Accordingly, MRRA would be obligated to pay Government \$34,065 with \$115,935 deferred without the accrual of interest, and added to MRRA's obligation for Year 2 of the Note. This deferment of payment under the Note shall continue until all of the Property is conveyed to MRRA.

**C. Government Participation in Gross Real Estate Proceeds.** The anticipated amount the Government will receive under this provision is estimated to be Seven Million, Six Hundred Thousand Dollars (\$7,600,000.00). The parties hereby acknowledge that the actual amount received by the Government may be less than or could exceed \$7,600,000.00 depending upon the success of the LRA's implementation of the Reuse Plan and sale of EDC Property. MRRA shall continue to pay Consideration calculated on gross Real Estate Proceeds for a period of twenty-three (23) years after the Initial Closing or January 1, 2038 whichever is earlier, as follows:

(i) The LRA shall have no obligation to pay any Additional Consideration on the initial Seven Million Dollars (\$7,000,000.00) of the gross Real Estate Proceeds received on the sale, transfer, conveyance, assignment or lease of any portion of the Property. The term "**Real Estate Proceeds**" means all monies received by MRRA from the sale, transfer, conveyance, assignment, license or lease of any portion of the Property excluding any monies received by MRRA in connection

with the operation and maintenance of the Utilities and Utilities Distribution System; and

(ii) For the gross real estate proceeds received on the sale, transfer, conveyance, assignment, license or lease of any portion of the Property by MRRA in excess of Seven Million Dollars (\$7,000,000.00) and up to Thirty-Seven Million, Four Hundred Thousand Dollars (\$37,400,000.00), MRRA shall pay the Government Twenty-Five Percent (25%) of such gross Real Estate Proceeds; and,

(iii) MRRA shall have no obligation to pay any Additional Consideration on the gross Real Estate Proceeds received on the sale, transfer, conveyance, assignment, license or lease of any portion of the Property by MRRA in excess of Thirty-Seven Million, Four Hundred Thousand Dollars (\$37,400,000.00) and up to Forty-Two Million, Four Hundred Thousand (\$42,400,000.00); and

(iv) For all gross real estate proceeds received on the sale, transfer, conveyance, assignment, license or lease of any portion of the Property by MRRA in excess of Forty-Two Million, Four Hundred Thousand Dollars (\$42,400,000.00), MRRA shall pay the Government Fifty Percent (50%) of such gross Real Estate Proceeds.

(v) The first payment of Additional Consideration shall be paid to the Government on or before April 1, 2015 and shall consist of the appropriate percentage of Real Estate Proceeds due to the Government, if any, for Real Estate Proceeds for the time period prior to January 1, 2015. Additional payments of Additional Consideration shall be made on or before April 1<sup>st</sup> of each year and shall consist of the appropriate percentage of Real Estate Proceeds due to the Government for the time period between January 1<sup>st</sup> and December 31 of the previous year (i.e. on April 1, 2016, MRRA shall pay the Government the appropriate percentage of Real Estate Proceeds due to the Government for Real Estate Proceeds received by MRRA between January 1, 2015 and December 31, 2015).

**D. Government Right to Challenge Fair Market Value for purposes of determining amount of Government's Participation in Gross Real Estate Proceeds.** The LRA agrees to provide the Government with thirty (30) days notice prior to executing any final deed, sale, assignment, license or lease permitting or establishing development rights on the Property, (the "**Disposition Notice**"). The Disposition Notice shall identify (a) the portion of the Property proposed for Disposition (the "**Disposition Parcel**") and (b) the Proposed Sale Price or Contract Price that will be received by the LRA from the Disposition Parcel. If the LRA cannot provide the Proposed Sale Price, it shall include the minimum amount of Real Estate Proceeds the LRA will accept for the Disposition Parcel.

**(i) Government Objection to Disposition Notice.** When a Disposition Notice is provided, the Government shall have the right to object to the Proposed Sale Price or Contract Price, and if appropriate, will provide the LRA with a Fair Market Value Concern Notice ("**Fair Market Value Concern Notice**"), as hereinafter

defined, in writing within twenty (20) days of receipt of such Disposition Notice. A Fair Market Value Concern Notice may be issued by the Government only if the Government reasonably believes that the LRA is proposing to convey, sell, assign, license or lease a Disposition Parcel that is priced (i) for less than eighty percent (80%) of the Fair Market Value for those Disposition Parcels with a Proposed Sale Price or Contract Price of One Million Dollars (\$1,000,000.00) or less, or (ii) for less than ninety percent (90%) of the Fair Market Value for those Disposition Parcels with a Proposed Sale Price or Contract Price exceeding One Million Dollars (\$1,000,000.00). The Fair Market Value Concern Notice shall (i) identify the Government's basis for its objection, and (ii) include the Government's initial estimate of the Fair Market Value. If the Government fails to provide a written Fair Market Value Concern Notice within twenty (20) days of receipt of a Disposition Notice, then the Government waives any right to challenge the value of the Real Estate Proceeds received by the LRA for such Disposition Parcel.

(ii) **LRA Obligations upon Receipt of Government Fair Market Value Concern Notice.** Nothing in this section shall be interpreted as preventing the LRA from consummating the sale, transfer, conveyance, assignment, license or lease of the Disposition Parcel at any price; provided, however, that the LRA agrees that it will hold in escrow 25% or 50% of the amount estimated by the Government as Fair Market Value in its Fair Market Value Concern Notice. The percentage to be withheld shall be determined by the total amount of Real Estate Proceeds received by the LRA as specified in the "Government Participation in Gross Real Estate Proceeds" as set forth above. Further, the LRA agrees that the percentage of Real Estate Proceeds payable to the Government for the Disposition Parcel shall be calculated based on the Appraisal as defined by paragraph (C) below or the actual Real Estate Proceeds received by the LRA for the Disposition Parcel, whichever is higher.

(iii) **Government Right to an Appraisal.** Within sixty (60) days after providing a Fair Market Value Concern Notice to the LRA, if any is provided, the Government, at its sole cost, shall provide the LRA with a letter appraisal identifying the Fair Market Value of the Disposition Parcel. "**Fair Market Value**" shall mean the fair market value of the Disposition Parcel as determined by an appraisal that is paid for by the Government. The Parties agree that any such appraisal shall be conducted in accordance with the appraisal instructions set forth in **Exhibit "D"** attached hereto, (hereinafter the "**Appraisal**"). If the Government fails to complete the Appraisal within sixty (60) days after the provision of a Fair Market Value Concern Notice to MRRA, then the Government waives any right to challenge the value of the Real Estate Proceeds received by the MRRA for such Disposition Parcel.

3. **Title; Deed.**

A. The Property shall be conveyed by a good and sufficient Deed substantially similar in form and substance to that shown in **Exhibit "E"** attached hereto and made a part hereof, with all provisions completed to the satisfaction of the parties hereto (the "**Deed**"), and title to the Property shall be fee simple. The Deed shall contain covenants and warranties required under the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**") and other applicable laws and shall convey all rights and title held to the Property, free from all parties in possession and encumbrances, except for the following:

- (i) institutional controls, reservations and restrictions required pursuant to the FOSTs.
- (ii) existing easements, reservations, and restrictions of record insofar as the same are in force and applicable as of the date of such Deed.
- (iii) an access and utility easement which will be granted to Affordable Mid Coast Housing, LLC as required by the Second Amended, Restated and Bifurcated Brunswick Real Estate Ground Lease and Conveyance of Facilities between the United States of America, Department of the Navy and Affordable Mid Coast Housing, LLC, dated October 29, 2010, and recorded in the Cumberland County Registry of Deeds at Book 28222, Page 303 (the "**PPV Lease**") in a form substantially similar to the Grant of Easement shown in **Exhibit "F"**.
- (iv) existing building or zoning laws, as applicable.
- (v) applicable notices, conditions and restrictions of the NEPA Record of Decision ("**ROD**") for the Main Base portion of NASB, published by the Government on February 15, 2011, the Finding of No Significant Impact ("**FONSI**") for the Topsham Annex portion of NASB, issued December 10, 2010, and applicable state or federal laws. MRRA acknowledges receipt of the ROD and FONSI.
- (vi) applicable notices, conditions, restrictions and covenants required by the "Programmatic Agreement between the United States Navy and the Maine State Historic Preservation Officer ("**SHPO**") on the Lease and Property Transfer of Properties located at the Naval Air Station Brunswick, Maine and Topsham Annex, Topsham, Maine" dated September 27, 2010. MRRA acknowledges receipt of this Programmatic Agreement.
- (vii) rights under Agreement Granting Reciprocal Easements for Ingress and Egress, General Access and Utility Service dated March 28, 2011, Navy Contract No. N47692-11-RP-11X01, recorded on March 29, 2011 in the Cumberland County Register of Deeds as Document No. 16298, at Book 28607, Pages 205-238.

(viii) access and utility easements reserved to the United States Army, United States Coast Guard, and Federal Aviation Administration and its assigns.

(ix) any such other easements, encumbrances, reservations or restrictions as may be mutually agreed upon in writing by the Parties hereto.

(x) rights established in favor of the Lessee under the Second Amended, Restated and Bifurcated Brunswick Real Estate Ground Lease and Conveyance of Facilities between the United States of America, Department of the Navy and Affordable Mid Coast Housing, LLC, dated October 29, 2010, and recorded in the Cumberland County Registry of Deeds at Book 28222, Page 303 (the "**PPV Lease**"). MRRA acknowledges receipt of this lease and understands it assumes the rights, duties and obligations of the Government under this lease.

B. Prior to the Closing (as hereinafter defined), MRRA may, at MRRA's sole option, obtain (i) a preliminary title report of the Property issued by the Title Insurance Company (as hereinafter defined) (the "**Title Report**") and (ii) a survey of the Property (the "**Survey**", together with the Title Report and the Survey, collectively being referred to as the "**Title and Survey Materials**"). MRRA shall have an opportunity to review the Title and Survey Materials to determine, in its sole discretion, their acceptability, including, without limitation, the legal description of the Property based upon the Survey, the quality of title (including any proposed Restrictions), and all other matters included in the Survey and the Title Report. Any title and survey materials, which may be desired by MRRA, will be procured at its sole cost and expense.

C. **Reinvestment of Gross Real Estate Proceeds.** With the exception of proceeds that are used to pay the Government, MRRA hereby agrees and covenants that the Gross Real Estate Proceeds from a sale, lease or license received by MRRA during the first seven years after the Initial Closing shall be used to support economic redevelopment of, or related to NASB. The use of Gross Real Estate Proceeds to pay for, or offset the costs of public investment on or related to NASB for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to NASB:

- (A) Road construction;
- (B) Transportation management facilities;
- (C) Storm and sanitary sewer construction;
- (D) Police and fire protection facilities and other public facilities;
- (E) Utility construction;
- (F) Building rehabilitation;
- (G) Historic property preservation;
- (H) Pollution prevention equipment or facilities;
- (I) Demolition;
- (J) Disposal of hazardous materials generated by demolition;
- (K) Landscaping, grading, and other site or public improvements; and
- (L) Planning for or the marketing of the development and reuse of the installation;
- (M) Administration of the reuse of the installation; and
- (N) Management and administration of the Homeless Trust Fund.

Consistent with standard accounting practices for tax purposes, MRRA shall maintain adequate records and books of account for income and expenses related to redevelopment of the Property detailing transactions received from the sale, transfer, conveyance, assignment, lease or license of any portion of the Property. MRRA shall provide the Government with access to such records and books of account.

MRRA shall submit to the Government an annual financial statement certified by an independent certified public accountant. The statement shall cover MRRA's use of proceeds it receives from the sale, transfer, conveyance, assignment, lease or license of any portion of the Property. The first statement shall cover the 12 month period beginning on the date of the Initial Closing and shall be delivered to the Government within sixty (60) days of the end of that period and annually thereafter.

If, after review of the annual financial statements, it is determined that the Gross Real Estate Proceeds were not reinvested in allowable uses described herein, MRRA shall repay to the Government 100% of the Gross Real Estate Proceeds that are not appropriately reinvested. Such payments shall be made by a check payable to the Treasurer of the United States of America and shall be submitted within 120 days after the Navy notifies MRRA that such payment is due. This covenant shall survive all closings for the Property.

4. **Closing Deliveries.** On the Closing Date (as hereinafter defined), the Government shall deliver or cause to be delivered to MRRA:

- A. the Deed, duly executed by the Government;
- B. execution of an appropriate affidavit agreed to by both parties.
- C. a Bill of Sale for the utility systems on, over, under or within the Real Property, which shall be substantially in the form of **Exhibit "G"**, attached hereto and made a part hereof (collectively "Bill of Sale"), duly executed by the Government without warranties conveying any and all personal property located on the Property to MRRA; and
- D. all keys to the buildings or other improvements located on the Property held by the Government for the land conveyed to MRRA. The Government shall retain copies of necessary keys required for environmental work.

5. **Closing Date.** Subject to the provisions of this Agreement, the Deed and the other Government Documents shall be delivered to MRRA on September 30, 2011 (the "**Closing Date**") at the offices of MRRA in Brunswick, Maine, or at such other place as is otherwise agreed upon in writing by the Parties.

6. **Covenants.**

- A. With the exception of a Grant of Easement for utilities and utility distribution system to Affordable Mid Coast Housing, LLC, the Government shall not enter into any agreements, leases, letters of intent or other rental or occupancy agreements (written or verbal) which grant any ownership, possessory or equitable interest in and to all or any

portion of the Property, without first providing MRRA with 30 days' prior written notice (except in an emergency, when shorter notice may be given).

B. The Government shall not enter into any contract or other agreement with respect to all or any portion of the Property, which will survive the Closing, or which would otherwise affect the ownership, use, operation or enjoyment of all or any portion of the Property after the Closing, without first providing MRRA with 30 days' prior written notice (except in an emergency, when shorter notice may be given).

C. Until Closing, the Government shall (i) operate and maintain the Property in accordance with Federal Management Regulations (41 CFR Chapter 102-75, Subpart D, Management of Excess and Surplus Property).

D. From and after the date hereof, the Government shall not create any new restrictions, liens, encumbrances, rights, titles or interest in others other than those identified in Section 3 hereof without first providing MRRA with 30 days' prior written notice (except in an emergency, when shorter notice may be given).

7. **Conditions Precedent to Closing.** The following shall be conditions precedent to the Parties' obligation to consummate the Closing:

A. All of the representations and warranties made in this Agreement shall be true and correct as of the Closing Date and all of the covenants and agreements made by the Government and MRRA in this Agreement shall have been fully and timely performed.

B. Should any of the above-mentioned conditions not be met by the Closing Date, either party shall have the right to postpone the Closing Date thirty (30) days. In the event Closing does not occur by July 1, 2012, the Government, at its sole discretion, has the right to declare this agreement null and void by providing written notice thereof to MRRA, and the Government shall be free to dispose of the Property by the appropriate methods, including public sale.

8. **Termination.** The Purchase Agreement shall not be terminable by MRRA or by the Government, except in the event of a default after notice and a reasonable opportunity to cure.

9. **Restrictions on Participation.**

A. No member of or delegate to the United States Congress shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.

B. In no event shall the Government enter into any direct contract, agreement or incur any obligation with MRRA's contractors, employees, or vendors for any of MRRA's indemnification, insurance and payment obligations made pursuant to this Purchase and Sale Agreement.

10. **Further Assurances.** The parties hereto acknowledge that it is their mutual intent to effectuate an orderly, amicable, and expeditious transfer of the Property from the Government to MRRA and that, toward that end, (i) any ambiguities herein shall, to the extent practicable, be construed in the way most liberally conducive to the aforesaid conveyance and (ii) the parties hereto both agree to take such additional acts and/or to permit such additional actions (including but not limited to any actions required in the event it shall become necessary, before or after the conveyances contemplated herein, to effect a formal subdivision or subdivisions of the Property) as appropriate and allowable under applicable law. This paragraph will survive the Closing.

11. **No Brokerage.** Each Party warrants to the other Party that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by MRRA for the purpose of securing business.

12. **Entire Agreement.** All terms and conditions with respect to this Agreement are expressly contained herein and the Government and MRRA agree that no other representation or promise has been made with respect to the Property not expressly contained herein. This Agreement may not be canceled, modified, or amended except by a written instrument executed by both the Government and MRRA.

13. **Waiver.** No waiver of any breach of any agreement or provision contained herein shall be deemed a waiver of any preceding or succeeding breach of any other agreement or provision herein contained. No extension of time for the performance of any obligation or act shall be deemed an extension of time for the performance of any other obligation or act.

14. **Notices.** Notices shall be deemed sufficient under this Agreement if made in writing and submitted to the addresses set forth below (or to any new or substitute address hereinafter specified, in a writing theretofore delivered in accordance with the notice procedure set forth herein by the intended recipient of such notice). All notices shall be delivered (i) by hand, (ii) by certified mail – return receipt requested, or (iii) by reputable overnight carrier.

In the case of MRRA:

Midcoast Regional Redevelopment Authority  
Attn: Executive Director  
4 Admdiral Fitch Avenue  
Brunswick, ME 04011

In the case of the Government, to:

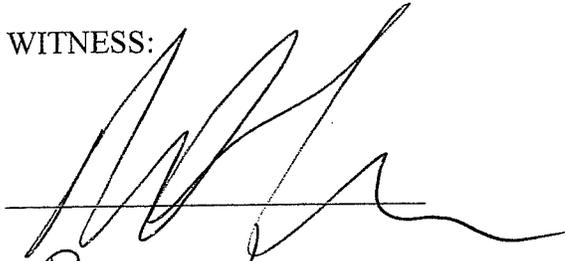
BRAC Program Management Office, Northeast  
4911 South Broad Street  
Building 679  
Philadelphia, Pa 19112  
Attn: Real Estate Contracting Officer

15. **Remedies.** If either Party defaults under this Agreement, the sole and exclusive remedy of the other Party, at law or in equity, shall be to terminate this Agreement.
16. **Time is of the Essence.** The parties agree that time is of the essence regarding all provisions and requirements set forth in this Agreement.
17. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, combined, shall constitute one and the same Agreement.

[ SIGNATURES ON NEXT PAGE ]

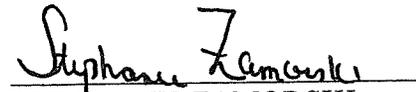
IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the date first written above.

WITNESS:

  
ROBERT LECLERC

THE UNITED STATES OF AMERICA

By:

  
STEPHANIE ZAMORSKI  
Real Estate Contracting Officer

WITNESS:

  
Kathy Paradis

MIDCOAST REGIONAL  
REDEVELOPMENT AUTHORITY

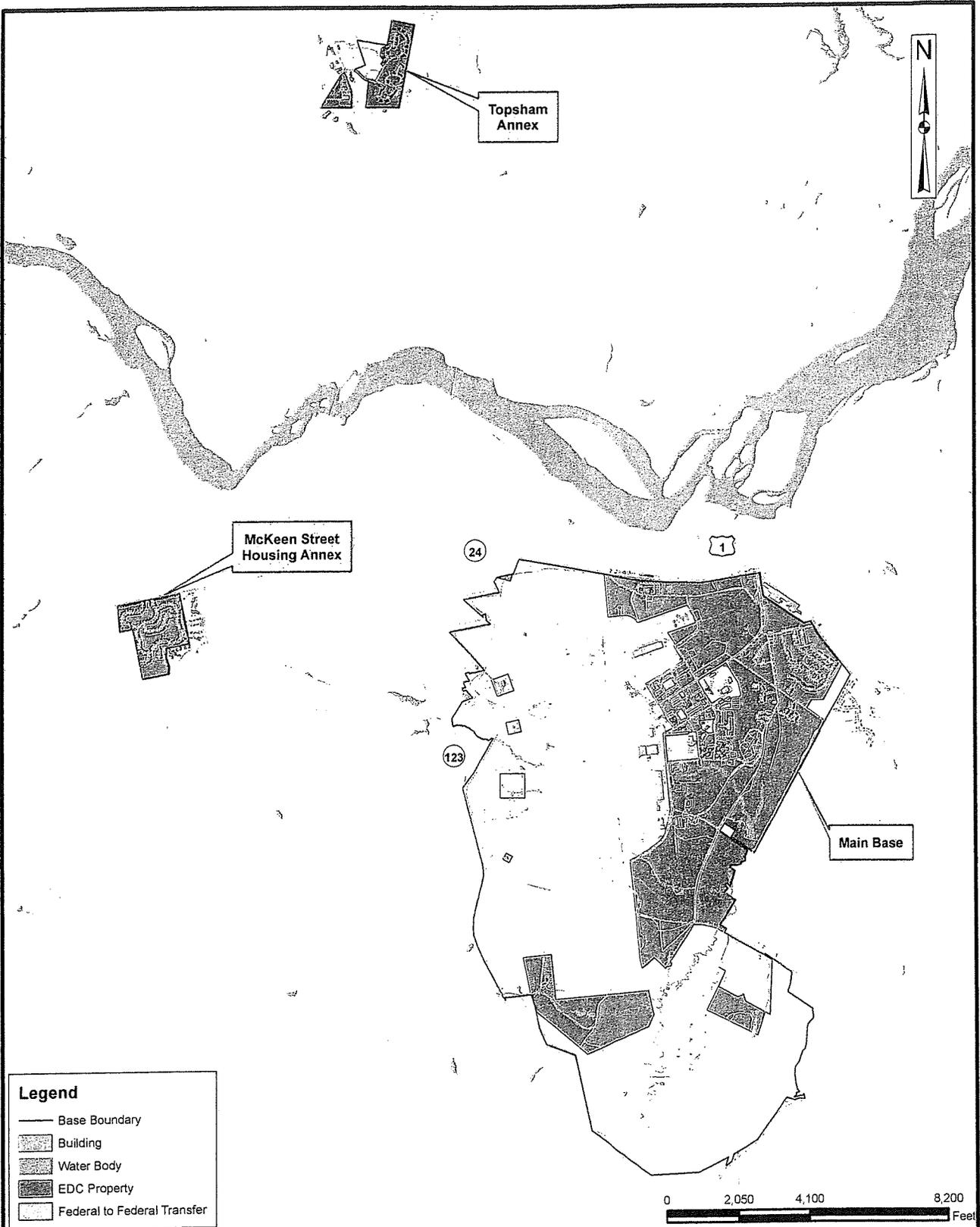
By:

  
STEVEN LEVESQUE  
Executive Director

## SCHEDULE OF EXHIBITS

- Exhibit "A" - Plan of EDC Property
- Exhibit "A-1" - Plan of Conveyed Property
- Exhibit "B" - EDC Parcels at Initial Closing
- Exhibit "C" - Expected Schedule of Delivery for Land and Facilities
- Exhibit "D" - Appraisal Instructions
- Exhibit "E" - Form of Deed
- Exhibit "F" - Form of Grant of Easement to Affordable Mid Coast Housing, LLC
- Exhibit "G" - Form of Bill of Sale for Utility Systems

EXHIBIT A  
PLAN OF EDC PROPERTY



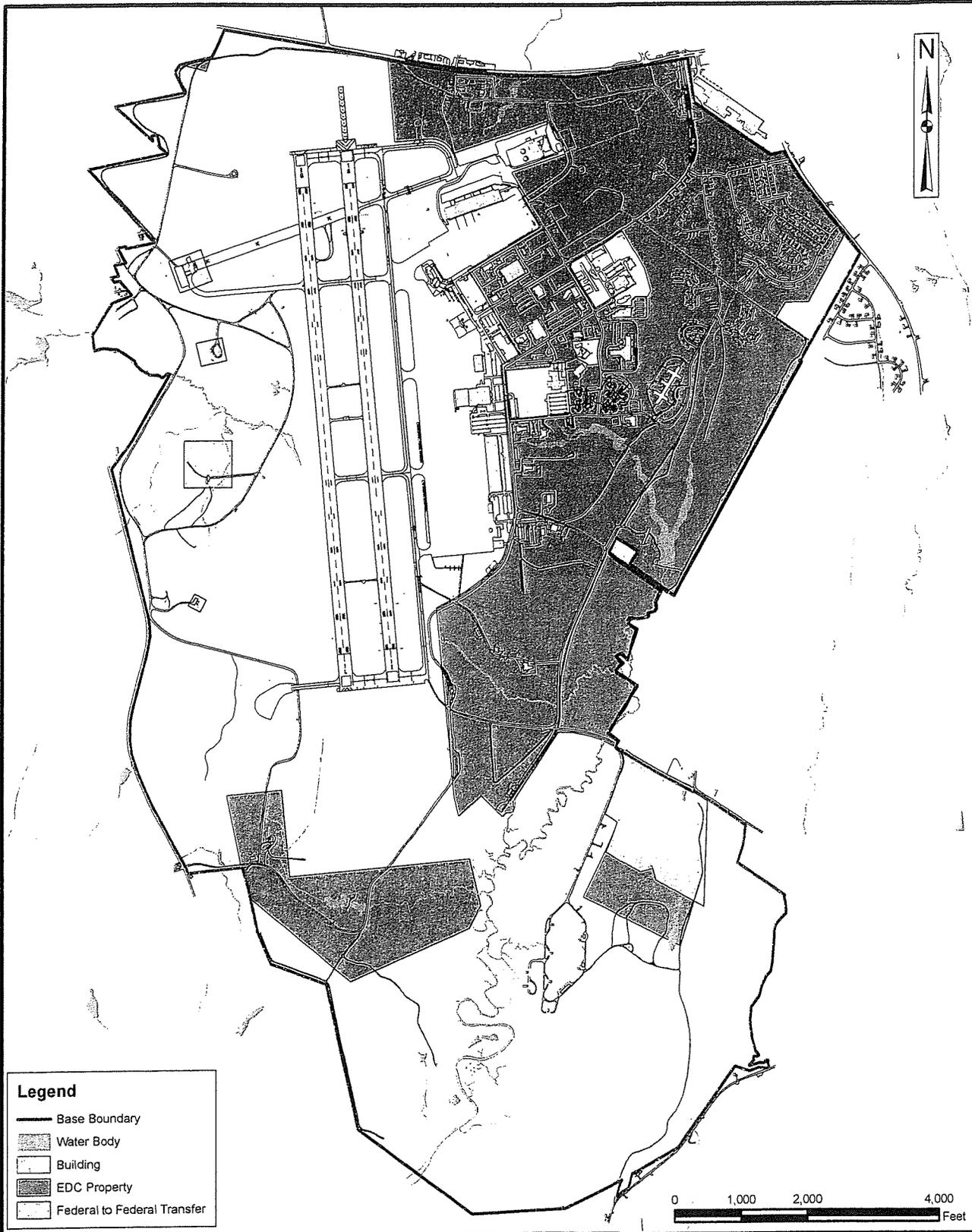
**Legend**

- Base Boundary
- Building
- Water Body
- EDC Property
- Federal to Federal Transfer



EXHIBIT "A"  
 EDC PROPERTY  
 FORMER NAVAL AIR STATION BRUNSWICK  
 BRUNSWICK, MAINE

SCALE AS NOTED	
FILE G:\_POST_EDC_PROPERTY_HOUSING_FULLBASE.MXD	
REV 0	DATE 09/15/11
FIGURE NUMBER A	



**Legend**

- Base Boundary
- ▨ Water Body
- Building
- ▩ EDC Property
- ◻ Federal to Federal Transfer



**EXHIBIT "A"**  
**MAIN BASE EDC**  
**FORMER NAVAL AIR STATION BRUNSWICK**  
**BRUNSWICK, MAINE**

SCALE AS NOTED	
FILE	
GA:\FOST_EDC_PROPERTY_MAINBASE.MXD	
REV 0	DATE 09/15/11
FIGURE NUMBER A	

EXHIBIT A-1  
PLAN OF CONVEYED PROPERTY

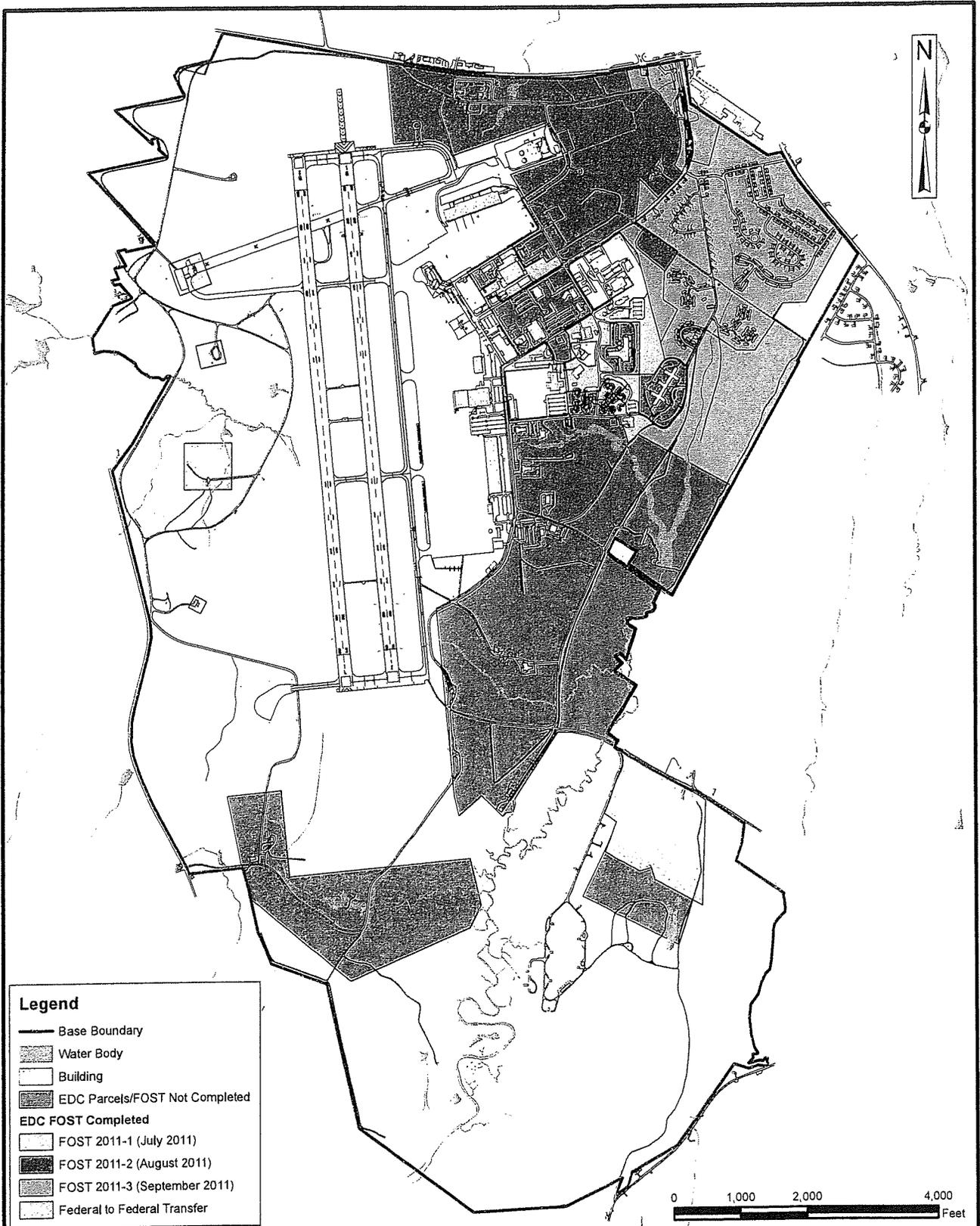


EXHIBIT "A-1"  
 EDC FOST PARCELS  
 FORMER NAVAL AIR STATION BRUNSWICK  
 BRUNSWICK, MAINE

SCALE AS NOTED	
FILE G:\_FOST_EDC_PROPERTY_TRANSFER_MAINBASE.MXD	
REV 0	DATE 09/15/11
FIGURE NUMBER D	

EXHIBIT B  
EDC PARCELS AT INITIAL CLOSING

**EXHIBIT "B"**  
**EDC Parcels - Initial Closing**

	A	B	C	D	E
1	Deed	Parcel Names	Acres	Buildings	FOST #
2	EDC Phase I - Main Base EDC Parcels	EDC-1	0.94		2011-1
3		EDC-2	9.57	294	2011-1
4	(*EDC-3 re-configured due to survey issues)	EDC-3*	21.95	24, 25, 43, 48, 54, 228, 460, 516, 592, 639	2011-1
5		EDC-4	4.19	27, 30	2011-1
6	Total Acres Phase I		36.65		
7	EDC Phase II - Main Base EDC & EDC Housing Parcels	EDC-HSG-MAIN-A	141.76	Land associated w/ PPV-owned housing	2011-3
8		EDC-HSG-MAIN-C	0.37	Land associated w/PPV-owned housing	2011-3
9	Total Acres Phase II		142.13		
10	EDC Phase III - McKeen Street EDC Housing Parcels	EDC-HSG-MCKN	70.2	Land associated w/PPV-owned housing	2011-3
11	Total Acres Phase III		70.2		
12	EDC Phase V - Utility Parcels	EDC - Utility Features	0.39	42, 49, 111, 124, 146, 147, 277, 537, B590 L.S., 638, B750 L.S., Water Main Valve Pit, N.F.F.L.S., Defoaming Shed, Recloser Substation, Staflower Lane L.S., Lupine Circle L.S. and Topsham 385 & 388	2011-2
13	Total Acres Phase IV		0.39		
14					
15	Initial Closing - Total Acres		249.37		

EXHIBIT C  
EXPECTED SCHEDULE  
FOR DELIVERY OF LAND AND FACILITIES

**EXHIBIT C**  
**Expected Schedule of Delivery of Land and Facilities**

	A	B	C	D	E	F
1	Parcel	EDC Acres	Buildings	FOST #	FOST	Disposal
2	<b>FOST Completed</b>					
3	EDC-1	0.97		2011-1	<b>27-Jul-11</b>	<i>31-Oct-11</i>
4	EDC-2	9.67	294	2011-1	<b>27-Jul-11</b>	<i>31-Oct-11</i>
5	EDC-3	33.73	24, 25, 43, 48, 54, 228, 460, 516, 592, 639, 730, 737, 738, 742, 743, 744, 745, 747, 748, 749	2011-1	<b>27-Jul-11</b>	<i>31-Oct-11</i>
6	EDC-4	4.36	27, 30	2011-1	<b>27-Jul-11</b>	<i>31-Oct-11</i>
7	EDC - Utility Features	0.5	42, 49, 111, 124, 146, 147, 277, 537, B590 L.S., 638, B750 L.S., Water Main Valve Pit, N.F.F.L.S., Defoaming Shed, Recloser Substation, Stafflower Lane L.S., Lupine Circle L.S. and Topsham 385 & 388	2011-2	<b>2-Aug-11</b>	<i>31-Oct-11</i>
8	EDC-HSG-MAIN-A	143.6	Land associated w/ PPV- owned housing	2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
9	EDC-HSG-MAIN-C	0.34	Land associated w/PPV-owned housing	2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
10	EDC-HSG-MCKN	70.2	Land associated w/PPV-owned housing	2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
11	EDC-HSG-TPSM	46.4	Land associated w/PPV-owned housing	2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
12	EDC-5	37.3	33, 35, 37, 38, 109, 415, 471	2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
13	EDC-6	13.9		2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
14	EDC-7	67.8		2011-3	<b>13-Sep-11</b>	<i>31-Oct-11</i>
15	<b>Total acreage for Land where FOST is completed</b>	<b>428.77</b>				
16						
17	<b>FOST Required</b>					
18	EDC-HSG-MAIN-B	6	Land associated w/ PPV-owned housing, B904 & 905	TBD	<i>TBD</i>	<i>TBD</i>
19	EDC-8/14	252.49		2012-1	<i>31-Mar-12</i>	<i>15-May-12</i>
20	EDC-15+	410.74		2013-1	<i>31-May-13</i>	<i>30-Jun-13</i>
21	<b>Total Acreage for Land where FOST is required</b>	<b>669.23</b>				
22						
23	<b>Total EDC Acres</b>	<b>1098</b>				

EXHIBIT D  
APPRAISAL INSTRUCTIONS

**Exhibit "D"**

**SPECIFICATIONS FOR REAL PROPERTY APPRAISAL  
For Property Known as "Property covered by Contract for Sale"**

**GENERAL SPECIFICATIONS:**

Appraisal of approximately (acres determined by subject sale parcel) +/- acres of land with improvements, known as (description of property taken from the Contract for Sale). The property is further identified in Metes and Bounds Survey and Title Reports to be provided to the appraiser (in cooperation with the LRA's most current data).

1(a) - Scope of Service. The appraiser shall furnish all materials, supplies, tools, equipment, personnel and travel and shall complete all requirements of this contract including performance of the professional services listed herein.

The project consists of a **Complete, Self-Contained Appraisal Report, as described below**, for the lands and improvements which are as identified above. The appraiser shall furnish three copies of the appraisal report with a CD of the report in Microsoft word, or PDF format., All excel spread sheets, Argus runs, lease analysis, photos, or other electronic programs shall be imbedded in the report and shall be delivered to the General Services Administration's identified Contact.

For the purposes of these specifications, any appraisal report, whether identified by the appraiser as a self-contained report or a summary report, will conform to the "Uniform Standards of Professional Appraisal Practice" (USPAP) requirements for a 'self-contained' report by its preparation in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" (UASFLA, 2000; Section A). The report shall provide an estimate of market value for the estate to be appraised and, except as expressly set forth herein, shall conform to Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA). No departure from any of the standards may be invoked.

The date of the value estimate shall be the last date the appraiser inspected the appraised property, which shall be no earlier than the date of the Contract for Sale.

If clarification of these specifications is needed, and/or to arrange for the site inspection, the appraiser shall contact:

Navy Base Closure Officer  
Attn: Stephanie Zamorski  
4911 South Broad Street  
Building 679  
Philadelphia, PA 19112  
Voice: 215-897-4905  
E-mail: Stephanie.Zamorski@navy.mil

The Navy will provide the LRA with a minimum of 48 hours notice in order to permit their participation in a prework meeting or phone call, pre-work conference or site visit by the appraiser.

A mandatory prework meeting or phone call shall be held between the appraiser, the assigned Navy representative, a representative of the LRA and the seller of the property prior to the commencement of the assignment.

1(b) - Appraisal Report. The appraiser shall make a detailed field inspection of the subject property as identified, and shall make such investigations and studies as are necessary to derive sound conclusions and to prepare the appraisal report.

1(c) - Pre-Work Conference: the appraiser is required to participate in the pre-work conference for discussion and understanding of these instructions. The pre-work conference will be held in conjunction with the property examination. A representative of the LRA and the seller of the property shall have the opportunity to participate in the pre-work conference.

1(d) - Examination Notice. The Appraiser shall provide the seller of the property and the Government 10 days advance notice of the property visitation date and shall give the LRA, or its designated representative, the seller of the property and the Government an opportunity to accompany the Appraiser during any inspection of the property if access to and inspection of the property is desired. These notices shall be documented in the Appraiser's transmittal letter of the appraisal report. The Appraiser shall certify that the signer of the report has personally visited the appraised property and has personally visited each of the comparable transactions used in the comparative analyses.

1(e) - Definition of Terms: Unless specifically defined herein or in either USPAP or UASFLA, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition. UASFLA shall take precedence in any differences among definitions, except as such defined terms may be modified by these specifications.

2. Analysis of Highest and Best Use. For appraisals, UASFLA defines highest and best use as, "The highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonably near future." The appraiser may also refer to definitions as found in "The Dictionary of Real Estate Appraisal". In determining the highest and best use of the subject property, the use of the subject property as determined under the most recent Development Plan which has been approved by the LRA for the subject property shall be dispositive. The LRA shall provide the appraiser with a copy of the most recent Development Plan no later than the date of the pre-work conference. If the LRA has not approved a Development Plan for the subject property, then in determining highest and best use, the appraiser shall give deference to the LRA's Approved Reuse Plan, the LRA's approved Master Plan and the LRA's Zoning and Land Use By-Laws and also shall refer to the LRA's Accepted EDC Application.

If speculation or investment is the highest and best use of the property, the appraisal should describe and explain its interim and most probable ultimate use.

Market value cannot be predicated upon potential uses that are speculative and conjectural. Sales comparisons shall be determined using the sales of similar properties in the Maine Mid-Coast real estate market.

Market value shall reflect the fact that the Reuse Plan and the EDC Application contemplate a coordinated master development at the former NAS Brunswick and impose limitations and requirements on the master development (including minimum and maximum amounts of mixed-use commercial, office, retail, residential, senior housing, affordable housing and workforce housing components and associated recreation and other public amenities). Accordingly, market value shall be determined in the context of the aggregate development, and the associated limitations and requirements thereon, contemplated by the Reuse Plan and the EDC Application.

The appraiser's opinion of a reasonable probability of a zoning change must have a factual foundation. The appraisal report shall include a description of the investigation undertaken to determine the probability of rezoning. The investigation shall include thorough research of the use(s) and zoning of properties situated similarly to the subject property, but only within the area covered by the zoning authority of the subject property. The stated rezoning conclusion shall be supported by facts surfaced in the research. A property cannot be valued as if it were already rezoned for a different use. The property must be valued only in light of the probability of obtaining a zone change.

**3. Comprehensive Review. Federal law requires review of all appraisals by a qualified review appraiser to assure they meet applicable appraisal requirements, including those in UASFLA, General Services Administration policy, and these specifications. Compliance with USPAP will also be reviewed. Findings of deficiency shall be discussed and corrections requested once the appraisal report has been delivered. A value estimate is acceptable for agency use only after the assigned Navy staff review appraiser has approved the appraisal report.**

#### 4. DELIVERIES OR PERFORMANCE

The appraiser shall submit to the assigned Navy Review Appraiser a draft Self-Contained Appraisal Report for approval within 30 days of the date of value. The Review Appraiser will review within 15 days the draft appraisal report for acceptance or recommend revisions. If revisions are necessary, the revised report shall be submitted within 15 days of notification. The Review Appraiser will then review the final report for acceptance.

#### ADDITIONAL INSTRUCTIONS TO APPRAISER

In determining market value, the appraiser shall recognize the concept of "key occupant recognition". This concept states that users of space create value in real estate. "Anchor tenants", either residential or commercial in nature, are what enable all classes of property to be

developed. Special consideration and concessions may be attached to anchor tenants in terms of such items as land value, rent, sales prices, and expense reimbursements. The appraiser in their valuation should follow the intent of UASFLA in their analysis of "all available economic uses."

All appraisal work will be performed by a senior appraiser working for a national or regional firm with the MAI designation with at least 10 years experience in appraising land development within the Maine Mid-Coast market. The appraiser will follow referenced methodology and present the "as is" value of the land under analysis.

EXHIBIT E  
FORM OF DEED

**Exhibit "E"**  
**QUITCLAIM DEED**

THIS INDENTURE ("Quitclaim Deed") is made the \_\_\_\_\_ day of September, 2011 between **United States of America**, acting by and through the Secretary of the Navy, Base Closure Program Management Office Northeast, Philadelphia, PA, hereinafter referred to as "GOVERNMENT," and the **Midcoast Regional Redevelopment Authority**, a body politic and corporate and a public instrumentality of the State of Maine organized under Title 5, Maine Revised Statutes Annotated, Section 13083-G, et seq., hereinafter referred to as "GRANTEE." It is based upon the following facts:

**Recitals**

**WHEREAS**, the Secretary of the Navy is authorized to convey surplus property at a closing installation to the recognized Local Redevelopment Authority for economic development purposes pursuant to Section 2905(b)(4) of the National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160) as amended, and the implementing regulations of the Department of Defense (32 CFR Part 174); and

**WHEREAS**, GRANTEE, by application dated April 6, 2010 requested an economic development conveyance ("EDC") of surplus portions of the former Naval Air Station, Brunswick Maine, consisting of a total of 1098 acres, more or less, hereinafter referred to as the "EDC Property"; and

**WHEREAS**, the GOVERNMENT and the GRANTEE have agreed that the EDC Property, comprised of several individual parcels of land, with improvements, and related personal property thereon, collectively referred to as the "Individual Parcels" will be conveyed to the GRANTEE by separate deeds of the Individual Parcels as they are determined suitable for transfer; and

**WHEREAS**, an agreement ("Purchase Agreement") for the purchase of the EDC Property, therein described was executed by the GOVERNMENT and GRANTEE on \_\_\_\_\_ 2011; and

**WHEREAS**, the GOVERNMENT and the GRANTEE have agreed that at the EDC Initial Closing the GOVERNMENT will convey to the GRANTEE approximately 249.37 acres of land by four Quitclaim Deeds consisting of several Individual Parcels, identified as the Phase I Main Base EDC Parcels; Phase II Main Base EDC Housing Parcels, Phase III McKen Street Parcel, and Phase IV EDC Utility Parcels; and

**WHEREAS**, this Quitclaim Deed constitutes Phase \_\_\_ of the Initial Conveyance of Individual Parcels, consisting of \_\_\_ non-contiguous parcels, also sometimes referred to as

subparcels \_\_\_\_\_, containing \_\_\_\_\_ acres of land, more or less, hereinafter referred to as the "PROPERTY".

**NOW THEREFORE**, in consideration of the foregoing, of the terms and conditions set forth below, and of the terms and conditions set forth in the Purchase Agreement, including total purchase price in the amount of Ten Million, Six Hundred Thousand Dollars (\$10,600,000.00) for the EDC Property, in the form of (i) Cash Deposit in the amount of \$25,000.00 to be paid at the Initial Conveyance; (ii) Purchase Money Promissory Note in the amount of Three Million Dollars \$3,000,000.00; and (iii) the balance to be paid through Government Participation in Gross Real Estate Proceeds, the receipt and adequacy of which, as consideration, the parties hereto both acknowledge; and the parties hereto, intending to be legally bound hereby, have agreed to, and do hereby, effectuate the conveyance set forth below.

By the acceptance of this Quitclaim Deed or any rights hereunder, the GRANTEE, for itself, its successors and assigns, agrees that the transfer of all the Property transferred by this Quitclaim Deed is accepted subject to the following terms, restrictions, reservations, covenants, and conditions set forth below, which shall run with the land, in perpetuity. The terms, reservations, restrictions, covenants, and conditions contained in this Quitclaim Deed shall be expressly referenced in any deed or other legal instrument by which the GRANTEE divests itself of either the fee simple title or any other lesser estate in the Property or any portion thereof with the proviso that any such subsequent transferee assumes all of the obligations upon the GRANTEE by the provisions of this Quitclaim Deed with respect to the property being transferred.

The failure of the GOVERNMENT to insist in any one or more instances upon complete performance of any of the terms, covenants, conditions, reservations or restrictions in this Quitclaim Deed shall not be construed as a waiver or relinquishment of the future performance of any such terms, covenants, conditions, reservations or restrictions and the obligations of the GRANTEE, its successors and assigns, with respect to such future performance shall continue in full force and effect.

#### **Conveyance Language**

GOVERNMENT does hereby, subject to any easements and encumbrances of record and subject to the reservations, exceptions, notices, covenants, conditions, and restrictions expressly contained herein, grant, sell, convey, remise, release, and quitclaim unto GRANTEE, its heirs, successors, and assigns, without any warranty express or implied as to the quantity or quality of GOVERNMENT's title (except such warranties as are specifically set forth herein, required by 42 U.S.C. § 9620(h)(3), or otherwise required by law), all right, title, and interest in that certain real property (collectively, the "PROPERTY"), including, but not limited to the underlying estate, buildings, structures, and improvements, including but not limited to utilities, utility distribution systems and components, and personal property situated or installed thereon, which the GOVERNMENT has in and to the Property, consisting of \_\_\_\_\_ acres of land, more fully described in the legal descriptions attached to this Quitclaim Deed and incorporated herein as **Exhibit "A"**.

TOGETHER WITH all and singular the ways, waters, water-courses, driveways, rights, hereditaments and appurtenances, whatsoever thereunto belonging, or in any way appertaining, and the reversions and remainders, rents, issues and profits thereof, and any interest the Government has in water rights and mineral rights, and all the estate, right, title, interest, property, claim and demand whatsoever of GOVERNMENT, in law, equity, or otherwise howsoever, of, in, and to the same and every part thereof, and

TO HAVE AND TO HOLD the PROPERTY, the hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said GRANTEE, its heirs, its successors, and its assigns, and subject to the reservations, restrictions, and conditions set forth in this instrument, to and for the only proper use and behoof of the said GRANTEE, its heirs, its successors, and its assigns forever.

### **Special Sections**

**I. Reinvestment Covenant:** GRANTEE acknowledges and agrees to the terms and provisions within the reinvestment covenant attached hereto as **Exhibit "B"**.

**II. Reservation regarding Reciprocal Easements:** An Agreement Granting Reciprocal Easements for Ingress and Egress, General Access and Utility Service dated March 28, 2011, Navy Contract No. N47692-11-RP-11X01, recorded on March 29, 2011 in the Cumberland County Register of Deeds as Document No. 16298, at Book 28607, Pages 205-238 creating reciprocal easements granting general access, ingress and egress, and utility service affecting the PROPERTY has been executed by the parties hereto and is incorporated by reference and made apart hereof as if set out in length.

**III. Reservation of Easements:** Subject to Reciprocal Easement Agreement (Navy Contract No. N47692-11-RP-11X01), GOVERNMENT hereby reserves unto itself and any assigns that are Federal agencies for the United States of America the following easements, as more particularly described in **Exhibit "C"** attached to this Quitclaim Deed and made a part hereof:

- A. United States Coast Guard: (access and utilities easement)
- B. Federal Aviation Administration: (access and utilities easement)
- C. United States Army: (access and utilities easement)

**IV. Reservation of Utility Easement for PPV Housing:** A Utility Easement dated 30 September 2011, Navy Contract No. N47692-11-RP-11Q11, granting access to and use of the streets, roads, and easements for electric, telephone, gas, water and sewer and other facilities affecting the PROPERTY has been granted by United States of America, Department of the Navy, to the Affordable Mid Coast Housing, LLC (Lessee), and is incorporated by reference and made apart hereof as if set out in length.

V. **Federal Facility Agreement:** The Naval Air Station Brunswick Federal Facilities Agreement, dated 19 October 1990, as amended, is incorporated herein by reference and made a part hereof as if set out in length.

VI. **Notice of Environmental Condition:** Information concerning the environmental condition of the PROPERTY, identified as Parcels \_\_\_\_\_, is contained in the document known as the Finding of Suitability to Transfer, FOST 2011-\_\_\_\_ (FOST) dated \_\_\_\_\_, which is attached hereto and made a part hereof as **Exhibit "D"** and incorporated herein by reference, and the receipt of which is hereby acknowledged by the GRANTEE.

VII. **Representation, Warranty, and Covenant required by 42 U.S.C. § 9620(h)(4)(D)(i) for Parcels \_\_\_\_\_:** In accordance with the requirements and limitations contained in Title 42 U.S.C. § 9620(h)(4)(D)(i), for Parcels \_\_\_\_\_, the GOVERNMENT hereby warrants that any response action or corrective action found to be necessary after the date of this transfer shall be conducted by the GOVERNMENT.

VIII. **Reservation of Access as Required by 42 U.S.C. §9620(h)(4)(D)(ii) for Parcels \_\_\_\_\_:** The GOVERNMENT reserves for itself, United States Environmental Protection Agency (USEPA) and Maine Department of Environmental Protection (MEDEP), their officers, agents, employees, contractors, and subcontractors all reasonable and appropriate rights of access to the PROPERTY for the purpose of monitoring and enforcing these restrictions, provisions and conditions, for the purposes described below, and for such other purposes consistent with any provision of the Federal Facility Agreement (FFA). The right of access described herein shall include the right to conduct tests, investigations, and surveys (including, where necessary, drilling, soil and water sampling, test pitting, boring, soil gas surveys and other similar activities), and to conduct tests or surveys required by the USEPA or MEDEP relating to assessment of environmental conditions on the PROPERTY. Such right shall also include the right to conduct, operate, maintain, or undertake any other response as reasonably necessary (including but not limited to soil removals, monitoring wells, pumping wells, and treatment facilities). Any such entry, and all responses, shall be coordinated in advance by the GOVERNMENT, with such coordination including reasonable notice provided to GRANTEE or its successors and assigns, and shall be performed in a manner which eliminates, or minimizes to the maximum extent possible, (i) any damage to any structures now or hereafter located on the PROPERTY and (ii) any disruption or disturbance of the use and enjoyment of the PROPERTY.

IX. **Reuse Restrictions:** GRANTEE, its successors, and assigns, covenant that FOST Parcels \_\_\_\_\_ at **Exhibit "D"** cannot be used for residential or other uses that include long-term elder care facilities, child day care, pre-school, child playground or any other similar child occupied facility or activity. Parcels \_\_\_\_\_ shall not be used for dwellings of any kind, lodgings, campground, community centers, recreational facilities, stables, farms, or vegetable gardens.

**X. Covenant and Restriction Concerning the Use of Groundwater:** GRANTEE, its successors, and assigns, covenant and agree that no groundwater extraction/production supply wells shall be installed or permitted, and that no access to groundwater for dewatering or other purposes shall be permitted in the PROPERTY without the prior written approval of the Department of the Navy (Navy), United States Environmental Protection Agency (USEPA) and Maine Department of Environmental Protection (MEDEP), as appropriate.

**XI. Covenant and Restriction Concerning Soil Disturbance:** GRANTEE, its successors, and assigns, covenant and agree that no soil excavation, drilling, digging, or other ground-disturbing activities, including disturbance of building slabs, roads, and other structures and paved areas shall be permitted on FOST Parcels \_\_\_\_\_ at **Exhibit "D"**, without the prior written approval of the Department of the Navy (Navy), United States Environmental Protection Agency (USEPA) and Maine Department of Environmental Protection (MEDEP), as appropriate. GRANTEE, its successors, and assigns, or their subcontractors, shall stop all work and notify the GOVERNMENT immediately if previously unknown contamination, such as, but without limitation, buried debris, stained soil, unusual odors, is discovered during soil disturbing activity on the PROPERTY

**XII. Asbestos Containing Materials Disclosure and Acknowledgment:** The GRANTEE, its successors, and assigns, covenant and agree that they will comply with all federal, state and local laws relating to Asbestos Containing Materials (ACM ) in their use of the buildings and structures on the PROPERTY (including demolition and disposal of underground utilities [e.g., abandoned steam or fuel pipelines] that may contain ACM wrapping). GOVERNMENT assumes no new or further liability as a result of this transfer than it would otherwise have for losses, judgments, claims, demands or expenses, or damages of whatever nature or kind from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with ACM from buildings, structures, and underground utilities on the PROPERTY. Due to the potential presence of undiscovered ACM associated with underground utilities, any subsurface work performed by the GRANTEE must be conducted in accordance with applicable regulations and conducted by trained, properly-equipped personnel. Buildings are transferred "As-Is" and asbestos hazards in said buildings are the responsibility of the GRANTEE. An Asbestos Containing Materials Hazard Disclosure and Acknowledgement Statement is provided as **EXHIBIT "E"** to this Quitclaim Deed.

**XIII. Lead Based Paint Hazard Disclosure and Acknowledgment:** The GRANTEE, its successors, and assigns agree that they will comply with all federal, state, and local laws relating to Lead Based Paint (LBP) in their use of the buildings and structures on the PROPERTY (including demolition and disposal of existing improvements). The GOVERNMENT assumes no new or further liability as a result of this transfer than it would otherwise have for losses, judgments, claims, demands, expenses, or damages of whatever nature or kind from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with LBP from buildings or structures on the

PROPERTY. Buildings will be transferred “As-Is” and LBP hazards in said buildings are the responsibility of the GRANTEE. A Lead Based Paint Hazard Disclosure and Acknowledgment Statement is provided as **EXHIBIT “F”** to this Quitclaim Deed.

**XIV. Presence of Polychlorinated Biphenyls (PCB’s):** The GRANTEE, its successors and assigns are hereby warned and do acknowledge that certain portions of the improvements, such as but not limited to fluorescent light fixture ballasts, on the PROPERTY may contain PCBs. Prior to beginning any maintenance, alterations, demolition, restoration, or construction work affecting fluorescent light fixtures, the GRANTEE must determine if PCB ballasts are present. If present, PCB ballasts and/or fixtures must be disposed of in accordance with applicable Federal, State, and local laws and regulations relating to PCB’s. The GRANTEE, its successors and assigns, covenant that in their use and occupancy of the PROPERTY they will comply with all applicable Federal, State, and local laws and regulations relating to PCB’s. The GRANTEE, its successors and assigns are hereby warned and do acknowledge that buildings constructed or renovated between 1950 and 1978 have the potential to have PCBs contained within caulking, and the PCBs can migrate from the caulk into air, dust and surrounding material, such as wood, bricks and soil. Such materials must be handled, managed and disposed of during maintenance and/or renovations by the GRANTEE in accordance with applicable Federal, State, and local laws and regulations relating to PCB’s.

**XV. Reservation Regarding Groundwater Monitoring Wells:** The GOVERNMENT its successors and assigns reserves for itself an easement for all existing and future groundwater monitoring wells located within the PROPERTY for (a) the periodic sampling of existing groundwater monitoring wells to satisfy the requirements of the Navy Installation Restoration (IR) and Petroleum Programs and (b) the maintenance or abandonment of all existing and future monitoring wells. Existing groundwater monitoring wells are more fully described in the FOST, Figure \_\_\_\_ and Table \_\_\_\_\_, at **Exhibit “D”**, attached hereto and made a part hereof. The GOVERNMENT its successors and assigns shall further have the right, in common with all others entitled thereto, to pass and repass on streets, roadways, and passageways as may exist and as reasonably necessary to perform periodic sampling and required maintenance of the existing and any future groundwater monitoring wells. The GRANTEE, its successors, and assigns shall be able to use the PROPERTY in any manner that does not relocate or otherwise interfere with the integrity, maintenance or continued usefulness of the monitoring wells, or any part or portion thereof without the prior written consent of the GOVERNMENT. If wells become damaged or otherwise rendered inoperable, they will be replaced by the Navy and the cost will be borne by the GRANTEE or its successors and assigns.

**XVI. Covenant and Restriction Regarding Annual Certification:** GRANTEE its successors and assigns covenants that it or its designee shall perform inspections of the PROPERTY to ensure that all land use controls, as hereinafter set forth, are being complied with and provide written certification annually to the GOVERNMENT certifying such compliance, for as long as land use controls are required on the PROPERTY. Such annual certifications shall be provided using the form attached hereto as **Exhibit “G”**, or similar form as may later be approved by the GOVERNMENT.

**XVII. Covenant for Historic Property:** Historic assets exist within the boundaries of the PROPERTY. The GRANTEE, its successors and assigns, hereby covenant that it shall consult with the Maine Historic Preservation Officer prior to any development that may affect sites identified in the Programmatic Agreement between the United States Navy and the Maine Historic Preservation Officer, signed September 27, 2010, marked **Exhibit “H”**, attached hereto and made a part hereof. The following “Covenant Regarding Archeological Matters” and “Covenant Regarding Historic Preservation” are binding on the GRANTEE, its successors and assigns, in perpetuity:

**(a) Covenant Regarding Archeological Matters:** As more fully described in **Exhibit “H”** attached to this Quitclaim Deed, areas within the PROPERTY have been identified and are referred to within, collectively, as Archeological Sites. GRANTEE, its successors, and its assigns hereby covenant at all times to the Maine State Historic Preservation Officer (“ME SHPO”) to maintain and preserve the Archeological Site as follows:

1. No disturbance of the ground surface or any other thing shall be undertaken or permitted to be undertaken on the Archeological Sites that would affect the physical integrity of the Archeological Site without first obtaining the prior written permission of the ME SHPO (signed by a fully authorized representative thereof). Should the ME SHPO require, as a condition to granting of such permission, that GRANTEE conduct a Phase II survey, archeological data recovery operations or other activities designed to mitigate the adverse effect of the proposed activity on the Archeological Site, GRANTEE shall at its own expense conduct such activities in accordance with the Secretary of the Interior’s Standards and Guidelines for Archeological Documentation (48 FR 447344-37) and such standards and guidelines as ME SHPO may specify (including, but not limited to, standards and guidelines for research design, field work, analysis, preparation and dissemination of reports, disposition of artifacts and other materials, consultation with Native American or other organizations, and re-interment of human remains).
2. GRANTEE shall make every reasonable effort to prohibit any person from vandalizing or otherwise disturbing the Archeological Site and shall promptly report any such disturbance to the ME SHPO.
3. GRANTEE will allow the ME SHPO or his/her designee, upon reasonable advance notice to GRANTEE, an annual inspection of the Archeological Sites in order to ascertain whether GRANTEE is complying with the conditions of this preservation covenant.
4. In the event of a violation of this covenant, and in addition to any remedy now or hereafter provided by law, GOVERNMENT, or (upon 60 days prior notice to GOVERNMENT) ME SHPO, may, following reasonable written notice to GRANTEE, institute a suit to enjoin said violation, seek damages, return of any Archeological artifacts removed, require, if appropriate, the restoration of the Archeological Site or to seek any other remedy available at law or equity.