

**MUNICIPAL SERVICES AGREEMENT**

**between**

**CITY OF PORTSMOUTH**

**TOWN OF NEWINGTON**

**and**

**PEASE DEVELOPMENT AUTHORITY**

**Effective as of July 1, 1998**

## TABLE OF CONTENTS

### SECTION 1

#### DEFINITIONS

1.1	Definitions of Certain Terms .....	2
-----	------------------------------------	---

### SECTION 2

#### PROVISION OF MUNICIPAL SERVICES/PAYMENT

2.1	Services Cost for Leased Property .....	6
2.2.	Services Cost for Licensed Property .....	6
2.3	Service Cost due to TON .....	7
2.4	Calculation of Services Cost .....	7
2.4.1	Exceptions .....	7
2.5	Payment of Services Cost .....	7
2.6	Past Due Payments. ....	8
2.7	Recordkeeping. ....	8
2.8	Commencement Date/Termination of MSA I/Minimum Payment Required .....	8
2.8.1.	Commencement Date. ....	8
2.8.2.	Termination of MSA I .....	8
2.8.3	Minimum Payment Required .....	9
2.9	Waivers. ....	9

### SECTION 3

#### POLICE SERVICES

3.1	Provision of Police Services .....	10
3.2	Delegation .....	10
3.3	Agreements Between Municipalities .....	10

### SECTION 4

#### FIRE SERVICES

4.1	Provision of Fire Services .....	12
4.2	Fire Station .....	12

## SECTION 5

### PUBLIC WORKS SERVICES

5.1	Provision of Public Works Services .....	13
5.2	Definition of Public Works Services .....	13
5.3	Publicways .....	14

## SECTION 6

### ADMINISTRATION, DISPUTE RESOLUTION

6.1	Administration .....	15
6.2	Arbitration .....	15
6.3	Valuation Disputes .....	15
6.4	Required Legislation .....	16

## SECTION 7

### REPRESENTATIONS AND WARRANTIES

7.1	Organization and Authority .....	17
7.2	Authorization .....	17
7.3	No Conflict .....	17
7.4	Limits of Jurisdiction .....	17

## SECTION 8

### ADDITIONAL AGREEMENTS

8.1	Expenses .....	18
8.2	Further Assurances .....	18
8.3	Employees .....	18
8.4	Tenant Fees .....	18
8.5	Submission to Attorney General .....	18
8.6	Regulatory Approvals and Compliance .....	19

## SECTION 9

### GENERAL PROVISIONS

9.1	Remedies .....	20
9.2	Termination and Amendment .....	20
9.3	TON's Right to Terminate .....	21
9.4	COP's Obligation to Provide TON Services .....	21

9.5	No Third Party Rights .....	21
9.6	Notices .....	21
9.7	Waivers .....	22
9.8	Successors and Assigns .....	23
9.9	Miscellaneous .....	23

## MUNICIPAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of July 1, 1998 by and between the City of Portsmouth, a municipal corporation located in Rockingham County, New Hampshire ("COP"), the Town of Newington, a municipal corporation located in Rockingham County, New Hampshire ("TON") and the Pease Development Authority, a body politic and corporate of the state, located in Rockingham County, New Hampshire ("PDA").

WHEREAS, COP desires to provide, and PDA desires COP to provide, the Municipal Services (as defined below) in the Airport District;

WHEREAS, COP desires to be compensated fairly, and PDA desires to compensate COP fairly, for providing the Municipal Services;

WHEREAS, TON desires to provide, and PDA desires TON to provide Police Services (as defined below) in that portion of the Airport District located in the Town of Newington; and

WHEREAS, TON desires to be compensated fairly, and PDA desires to compensate TON fairly, for providing Police Services;

NOW THEREFORE, in consideration of the mutual promises contained herein, it is hereby agreed as follows:

## SECTION 1

### DEFINITIONS

1.1 Definitions of Certain Terms. As used in this Agreement, the following terms have the following meanings:

**Actual Cost:** the actual costs incurred by COP in providing Municipal Services to property located in the Airport District.

**Actual Cost of Police Services or ACPS:** the actual costs incurred by TON in providing police services to the portion of Pease located in Newington, including but not limited to salaries, benefits, insurance, equipment and associated administrative expenses, as contemplated in RSA 12-G:11, III.(a).

**Administrators:** as defined in Section 6.1 hereof.

**Airfield Area:** the part of the Airport District within the boundary line of the perimeter fence surrounding the airfield, as described in more detail and shown on Appendix I attached hereto.

**Airport District:** That portion of Pease as it is defined in RSA 12-G:2(I) as of January 1, 1998, and remaining following contraction of the Airport District by removal of the "Pilot Property".

**Appropriate Level of Service or ALS:** the level of Police Services, Fire Services or Public Works Services, and of each component service thereof, reasonably determined by the City of Portsmouth, or the Town of Newington with respect to Police Services in its jurisdiction, as

the appropriate level of such services in the Airport District, using the same criteria for determining the appropriate level of such services as are used in determining the level of service provided in the different areas of the City of Portsmouth or the Town of Newington, respectively.

**Commencement Date**

**or Effective Date:** July 1, 1998

**COP:** the City of Portsmouth.

**Fire Station:** all real property, buildings and fixtures comprising the fire station located in Parcel H, as described in more detail and shown on Appendix II attached hereto.

**Master Lease:** a lease by and between PDA and the United States of America, acting through the Air Force, dated April 14, 1992, as amended by a Supplement No. 1 thereto dated August 4, 1992, a Supplement No. 2 thereto dated July 15, 1993, and a Supplement No. 3 thereto dated June 27, 1997, pursuant to which PDA has leased the property described therein.

**MSA I:** a certain agreement by and between PDA, COP and TON dated as of January 1, 1993 for the provision of municipal services.

**Municipal Services:** Fire Services, Police Services and/or Public Works Services, but specifically excluding water and wastewater services.

**Municipalities:** collectively the City of Portsmouth and Town of Newington.

**Non-Airfield Area:** the part of the Airport District not included in the Airfield Area.

**Payment Date(s):** as defined in Section 2.5

**PDA:** the Pease Development Authority.

**Pease:** the former Pease Air Force Base

**Pilot Property:** the property at Pease commonly referred to as Parcels G.1 and H, as well as the portion of Parcel I located in COP (except for the Subleased Premises and Option Area described in the Sublease Agreement between PDA and Celltech Biologics, Inc. dated April 8, 1993, as amended through the date of this Agreement (the "Lonza Sublease")), with respect to which PDA intends to facilitate the collection of a payment-in-lieu-of-taxes ("Pilot") by COP.

**Rights-of-Way:** the areas immediately adjacent to a road, street, bridge and sidewalk customarily owned by, subject to an easement to, or under the control of, the municipality in which the road, street, bridge or sidewalk is located.

**Tax Agreement:** the Agreement by and between PDA and the COP executed June 19, 1997 to facilitate implementation of the tax plan.

**Tax Plan:** the contemplated tax or in-lieu-of-tax plan outlined in the Letter dated April 30, 1996, from George R. Meyer and Lynn Marie Hummel to Vincent A. Scarano, as modified by the removal of additional property from the Airport District, as set forth in the Letter dated February 11, 1997, from George R. Meyer to Vincent A. Scarano.

**Services Cost:** as defined in Section 2.4 hereof.

**Services Cost for Licensed Property or SCLP:** as defined in Section 2.2 hereof.

**TON:** the Town of Newington.



**Wastewater Disposal and**

**Water Service Agreement:** an Agreement effective January 1, 1993, as amended and ratified by an agreement of even date herewith by and between PDA and COP concerning the provision of certain wastewater disposal and water distribution services, as defined therein.

## SECTION 2

### PROVISION OF MUNICIPAL SERVICES/PAYMENT

2.1 Services Cost for Leased Property. The "Services Cost", as defined in Section 2.4 below, due COP, shall be, except as otherwise set forth below, due when property in the Airport District is (i) leased by PDA to tenants or (ii) occupied by such tenants (collectively "Leased Property") on the January 1, April 1, July 1 or October 1 of any calendar year. Any license or other agreement for use of property in the Airport District, which shall continue for a consecutive period of six (6) months or longer shall be considered Leased Property for the purpose of calculating the Services Cost hereunder. The Services Cost shall be paid to COP twice per year at the times and in the manner set forth in Section 2.5 below. PDA shall maintain such books and records as are necessary to provide a complete and accurate record of Leased Property for the purpose of calculating the Services Cost. PDA shall forward to COP within thirty (30) days after the commencement of each calendar quarter (i.e. January 31, April 30, etc.) a list of all Leased Property for which Services Cost is due.

2.2. Services Cost for Licensed Property. The Services Cost for Licensed Property ("SCLP") due COP for any license or other agreement for use of any building in the Airport District, for a period of less than six (6) months, shall be calculated in each calendar quarter by multiplying \$.25 times the number of square feet of building area so licensed by PDA in each calendar quarter, prorated based on the number of license days within such quarter. The SCLP due COP for any license or other agreement for use of any land in the Airport District, for a period of less than six (6) months, shall be ten percent (10%) of any license fee paid to PDA.

The SCLP shall be paid to COP by PDA thirty (30) days after the end of any applicable quarter and shall be accompanied by a report identifying, at a minimum, the Licensee, square footage of the

Licensed Premises and the term of the License. The SCLP shall be adjusted from time to time, as agreed by the Administrators, as defined in Section 6, to reflect changes in the actual cost of providing municipal services.

2.3 Service Cost due to TON. The Services Cost due to TON shall be the obligation of COP. COP agrees to pay TON the ACPS at the times and in the manner set forth in the COP/TON Agreement attached hereto as Appendix III.

2.4 Calculation of Services Cost. Except as otherwise set forth in Section 2.2 or this Section 2.4, the Services Cost shall be applicable to all property in the Airport District as though such property were not owned by PDA and were held in fee simple. The Services Cost shall be an amount equal to the amount that would have been paid annually as ad valorem taxes but excluding any school tax component in respect to such property.

2.4.1 Exceptions Notwithstanding any other provision herein to the contrary, for purposes of this Agreement, no Services Cost shall be due or payable for any space occupied by PDA, including the PDA Golf Course, any space for public use in the Building 238 airport terminal, and any space for public use in any future airport terminal building; provided, however, that this public use exception shall only apply to any space for which PDA receives no lease, rental or use fee. "Space occupied by the PDA" as used herein shall mean the number of square feet of building floor area occupied by PDA employees, agents or contractors (but with regard to agents or contractors this exception applies only to space for which PDA receives no lease, rental or use fee) for the purposes of the proper and efficient conduct of PDA business but shall not include completed facilities other than the PDA Golf Course or airport terminals within the Airport District operated by the PDA for public or other use.

2.5 Payment of Services Cost. The Services Cost for Leased Property shall be payable to COP on June 1<sup>st</sup> and December 1<sup>st</sup> of each year (individually the "Payment Date" and collectively the "Payment Dates"). COP shall forward to PDA at least thirty (30) days prior to the Payment Date(s) an invoice setting forth the Services Cost for Leased Property. The Municipalities and PDA hereby agree that the Services Cost, as modified by Section 2.3 and Section 8.4, is the only reimbursement required by Chapter 12-G:11 III(a) and New Hampshire law with respect to the provision of Municipal Services, including Police Services.

2.6 Past Due Payments. Interest shall accrue on unpaid Services Cost at a rate of 18 percent (18%) per annum from the due date until such time as payment is made.

2.7 Recordkeeping. The Municipalities shall maintain such books and records as are necessary to provide a complete and accurate record of actual costs. The Municipalities shall provide PDA reasonable access to such books and records.

2.8 Commencement Date/Termination of MSA I/Minimum Payment Required

2.8.1. Commencement Date. This Agreement shall commence on July 1, 1998 (the "Commencement Date" or "Effective Date"). For all property in the Airport District, the first payment of a Services Cost shall be paid to the COP by PDA on December 1, 1998, in accordance with the provisions of Section 2.5 of this Agreement. For all PILOT property, any tenant of PILOT property, unless otherwise exempted from taxation under RSA 72.23, shall during the period beginning on the Commencement Date and ending on June 30, 1999, pay to the COP a services cost equal to the payment in lieu of taxes (PILOT) which would have otherwise been due to the COP in accordance with the provisions of RSA 12-G:11 II from said tenant if the PILOT property had been removed from the Airport District on or before April 1, 1998.

2.8.2. Termination of MSA I. PDA, COP and TON are parties to a certain agreement dated as of January 1, 1993 for the provision of municipal services ("MSA I"). MSA I shall be terminated in its entirety as of the Commencement Date of this Agreement, except for those obligations of the Parties under MSA I that survive termination or expiration of said MSA I, or as otherwise set forth below.

2.8.3 Minimum Payment Required. In the event any tenant of PILOT property shall fail to make the PILOT payment, in accordance with the terms set forth herein on or before thirty (30) days following the due date, PDA shall pay to COP a municipal services fee equal to the lesser of (i) the amount which would have been due under MSA I, as though MSA I were still in full force and effect or (ii) the PILOT.

2.9 Waivers. Notwithstanding any other provision herein to the contrary, for all property in the Airport District for which a Services Cost is otherwise applicable, any entity which would otherwise be exempted from taxation under RSA 72:23 and which is obligated to pay such Services Cost may request from the COP waiver of the Services Cost due. Waiver requests shall be sent to City Manager of the COP, in writing, and are subject to approval by the COP.

## SECTION 3

### POLICE SERVICES

3.1 Provision of Police Services. The Municipalities shall, from and after the date hereof, provide Police Services within their respective jurisdictions both in the Airfield Area and the Non-Airfield Area of the Airport District at a level equal to the ALS for Police Services. Police Services shall be all those services provided, from time to time, by the Portsmouth or Newington Police Departments, or their successors, to the residents of Portsmouth or Newington, all in accordance with Police Department Rules and Regulations and Standard Operating Procedures, and any other applicable regulations, as they may be amended from time to time; provided, however, that notwithstanding any provision herein to the contrary, COP and TON shall not be required to provide in the Airfield Area any of the air transportation security services required of PDA by the Federal Aviation Administration, as described in 14 C.F.R. Part 107, as it may be amended from time to time.

3.2 Delegation. The Municipalities and PDA agree that PDA has, pursuant to Section 3.1 hereof, delegated to COP and TON within their respective jurisdictions, its obligation, as described in Chapter 12-G:11 III(a), to provide security for all land and buildings within the Airport District but not security for flights to or from the Airport District.

3.3 Agreements Between Municipalities. The Municipalities reserve the right to enter into written agreements, reasonably satisfactory in form and substance to PDA as to matters within its jurisdiction, as provided for in NHRSA 53-A:5, extending the authority of duly authorized police officers of either COP or TON with respect to each others jurisdictions and such other agreements as shall be reasonably required to fulfill the obligations of COP or TON to provide Municipal Services

as contemplated herein. In the event of a termination by TON in accordance with Section 9.3, COP and TON will in good faith negotiate and execute such agreements as may be required for COP to provide Municipal Services to the PDA.

## SECTION 4

### FIRE SERVICES

4.1 Provision of Fire Services. COP shall, from and after the date hereof, provide Fire Services in both the Airfield Area and Non-Airfield Area of the Airport District at a level equal to the ALS for Fire Services. Fire Services shall be all those services provided, from time to time, by the City of Portsmouth Fire Department, or its successor, to the residents of the City of Portsmouth; provided, however, that notwithstanding any provision herein to the contrary, COP shall not be required to provide in the Airfield Area any of the fire protection and crash rescue services required of PDA by the Federal Aviation Administration, as described in 14 C.F.R. Part 139, as it may be amended from time to time.

4.2 Fire Station. PDA shall grant to COP a license (the "Fire Station License") to use the Fire Station, located at 127 International Drive for provision of fire services. Except as otherwise set forth below, the Fire Station License shall be conterminous with the term of this Agreement. In the event the Fire Station is, after January 1, 2000, occupied or used for less than six (6) months in any two consecutive fiscal year periods or any two COP Council terms, whichever shall be longer, the Fire Station License shall terminate and the Fire Station shall revert to the PDA. The Fire Station License is attached hereto as Appendix IV. ("Occupancy" or "Use" shall mean any activity or presence, including preparation, maintenance or operation, but excluding storage, in or about the Fire Station by the City of Portsmouth Fire Department.) Nothing herein shall be deemed to obligate the COP to maintain or operate a Fire Station at Pease.



## SECTION 5

### PUBLIC WORKS SERVICES

5.1 Provision of Public Works Services. COP shall, from and after the date hereof, provide Public Works Services in the Non-Airfield Area of the Airport District at a level equal to the ALS for Public Works Services, except as expressly provided in this Section 5.

5.2 Definition of Public Works Services. Public Works Services shall be all those services provided, from time to time, by the City of Portsmouth Department of Public Works, Division of Streets, or its successor, to the residents of the COP, including without limitation, the following component services:

- (i) Maintaining and repairing roads, streets, bridges and sidewalks;
- (ii) Removing snow and ice from, and distributing sand and salt on, roads, streets, bridges and sidewalks; and
- (iii) Planting, maintaining, removing and trimming trees, brush and grass on Rights-of-Way.
- (iv) providing electrical service and maintenance to the 95 existing street lights at Pease as of July 1, 1998, street lights to be installed on the south entrance road to be constructed by the New Hampshire Department of Transportation, and such other street lights, as shall be approved by the City following application to the Department of Public Works.

5.3 Publicways. COP shall provide Public Works Services on the roadways shown on Appendix VI, attached hereto and incorporated herein, including the southern entrance road, as the same may be from time to time amended at the request of the PDA and as approved by COP.

## SECTION 6

### ADMINISTRATION, DISPUTE RESOLUTION

6.1 Administration. The implementation of this Agreement for Municipal Services shall be administered by the City Manager of COP, the Chairperson of the Board of Selectmen of TON and the Executive Director of PDA (the "Administrators"), who shall meet at least once every calendar year to discuss the implementation of this Agreement and such other matters related thereto as they deem appropriate.

6.2 Arbitration. If disputes (excluding disputes of valuation addressed in Section 6.3 below) between the Administrators concerning the provision of, or payment for, Municipal Services hereunder cannot be resolved within 10 days of one Administrator giving another Administrator written notice thereof, any Administrator may request arbitration of such dispute within the jurisdiction of that Administrator (provisions of Police Services by TON shall be arbitrated only by TON, COP and PDA and only if appropriate). Provided all Administrators consent to arbitration, arbitration shall be conducted by a panel of three arbitrators in accordance with the rules of the American Arbitration Association sitting at Boston, Massachusetts. The decision of the three arbitrators, by a majority vote, shall be final and binding on the parties hereto and not subject to any appeal except as otherwise contemplated in RSA 542:8 and any successor statute. All arbitration proceedings shall be held in a public forum and costs of arbitration shall be shared equally by the parties to the arbitration.

6.3 Valuation Disputes. Notwithstanding the provisions of 6.2 above, if the PDA or its tenants determine that any valuation made by COP is excessive, it may seek a reduction of the valuation by following the procedures prescribed in NHRSA ch. 76 for the abatement of taxes.

6.4 Required Legislation. The COP and PDA hereby agree to jointly support proposed legislation to amend RSA 12-G:11 to provide that for all property within the Airport District, if the Lessee or PDA determines that any valuation made by COP in the calculation of the Services Cost is excessive, it may seek a reduction of the valuation by following the procedures prescribed in RSA ch. 76 for the abatement of taxes.

## SECTION 7

### REPRESENTATIONS AND WARRANTIES

COP, TON and PDA each represent and warrant to the other as follows:

7.1 Organization and Authority. They are municipal corporations in the case of COP and TON and a body politic and corporate of the state in the case of PDA, duly organized and validly existing under the laws of the State of New Hampshire and have all requisite power and authority to execute, deliver and perform this Agreement.

7.2 Authorization. This Agreement has been duly authorized, executed and delivered by it, constitutes the legal, valid and binding obligation of it and is enforceable against it in accordance with its terms.

7.3 No Conflict. Neither the execution and delivery of this Agreement by it nor the consummation by it of any of the transactions herein referred to or contemplated hereby has constituted or resulted in or will constitute or result in a breach of or a default under the provisions of any agreement, lease or other instrument to which it is a party, or by which it is bound, or the violation of any law, judgment, decree, injunction or governmental or administrative order, rule or regulation applicable to it.

7.4 Limits of Jurisdiction. Notwithstanding any other provision of this Agreement to the contrary, TON hereby agrees that this Agreement covers in full its rights and obligations with respect to the provision of Municipal Services.

## SECTION 8

### ADDITIONAL AGREEMENTS

8.1 Expenses. Each party hereto shall pay its own expenses incident to preparing for and entering into this Agreement.

8.2 Further Assurances. Each party hereto shall use its best efforts to execute such further documents, and perform such further acts, as may be necessary or reasonably desirable to consummate the transactions contemplated hereby.

8.3 Employees. All personnel who provide Municipal Services, in the manner described herein, shall be and remain employees or agents of COP or TON, as the case may be, and COP or TON shall be solely responsible for (i) training and equipping such personnel, (ii) all wages, worker's compensation, and other employee compensation and benefits and (iii) any other applicable duty of an employer to an employee.

8.4 Tenant Fees. Notwithstanding any other provisions herein to the contrary, if the Municipalities generally charge their residents for providing any component service of Police Services, Fire Services or Public Works Services, as defined in Sections 3.1, 4.1, and 5.1 hereof, respectively, including, without limitation, providing ambulance service or responding to unfounded emergency alarms, the Municipalities may charge PDA and its tenants an identical fee for providing such component service.

8.5 Submission to Attorney General. This Agreement shall be submitted to the New Hampshire Attorney General's Office for a determination of whether the Agreement is in proper form and compatible with the Laws of the State of New Hampshire, if, and only if, the New Hampshire

Attorney General's Office determines that such submission is required by the provisions of Chapter 53-A:3 V, NHRSA. If such submission is determined to be necessary, the parties hereto shall cause this Agreement to be filed as provided in Chapter 53-A:4 NHRSA.

8.6 Regulatory Approvals and Compliance. The Municipalities shall, at their sole cost and expense, obtain and maintain all Federal, state and local regulatory approvals and permits necessary to provide the Municipal Services, as described herein. In the performance of its obligations hereunder, COP shall, at its sole cost and expense, promptly observe and comply with all applicable Federal, state and local laws, rules and regulations, and all applicable PDA rules and regulations approved by COP, or TON with respect to Police Services only.

## SECTION 9

### GENERAL PROVISIONS

9.1 Remedies. Each party hereunder acknowledges and agrees that, because the other party's legal remedies may be inadequate in the event of a breach of, or other failure to perform, any of the party's obligations set forth herein, the other party may, at its option, in addition to obtaining any other remedy or relief available to it (including without limitation damages at law), enforce the provisions hereof by injunction or other equitable relief.

9.2 Termination and Amendment. Except as set forth in this Section 9.2, the duration of this Agreement shall be perpetual unless amended or modified by, and only by, an instrument in writing signed on behalf of each party hereto. Notwithstanding any other provision of this Agreement to the contrary, nothing herein contained shall limit the authority of COP and the PDA to modify, without the consent of TON, this Agreement with respect to the provision of Police Services and Fire and Public Works Services in COP's jurisdiction or the authority of TON and PDA to modify, without the consent of COP, this Agreement with respect to the provision of Police Services in TON's jurisdiction.

9.2.1 Wastewater Disposal and Water Service Agreement. COP and PDA have executed and delivered an Amendment and Ratification of the Wastewater Disposal and Water Service Agreement, a Wastewater Disposal and Water Service Facilities Sublease and License Agreement (the "Sublease") and a Wastewater Disposal and Water Facilities Transfer Agreement (the "Transfer Agreement") both of which are effective as of January 1, 1993, and which provide, in part, for the transfer in fee to COP of certain wastewater disposal, water distribution and related facilities and equipment, as the same are more particularly described in Appendix VII attached hereto and



incorporated herein by reference (the "Facilities"). In the event that the PDA is unable to transfer in fee to COP the Facilities on the terms and conditions set forth in the Transfer Agreement, then upon termination of the Sublease, or at the election of COP if PDA or its successors retain an interest in the Airport District, this Agreement shall terminate and the Municipalities shall have no further obligation, except as set forth in NHRSA ch.12-G, to provide Municipal Services as set forth herein.

9.3 TON's Right to Terminate. Ninety (90) days prior to each fifth (5<sup>th</sup>) anniversary of this Agreement, TON shall have the option, at its sole discretion to terminate its rights and obligations with respect to this Agreement, by written notice to PDA and COP in accordance with Section 9.6 and, if such notice shall be given, TON's rights and obligations with respect to this Agreement shall terminate on the ninety-first (91<sup>st</sup>) day following receipt of such notice.

9.4 COP's Obligation to Provide TON Services. In the event that TON exercise its option to terminate as set forth in Section 9.3, COP shall be obligated to assume the rights and obligations of TON to provide Police Services to PDA.

9.5 No Third Party Rights. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of the Agreement to make the public or any member thereof a third-party beneficiary of the Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

9.6 Notices. Any notice or other communication in connection with this Agreement shall be in writing or in the form of a telex or telecopy and shall be deemed to be delivered if addressed as

provided below and if either (a) actually delivered at said address (evidenced in the case of a telex, by receipt of the correct answer back) or (b) in the case of a letter, five business days shall have elapsed after the same shall have been deposited in the United States mails, postage prepaid:

if to COP:

City of Portsmouth  
Municipal Complex  
P.O. Box 628  
Portsmouth, NH 03802-0628  
Attention: City Manager

if to PDA:

Pease Development Authority  
601 Spaulding Turnpike  
Suite 1  
Portsmouth, NH 03801-2833  
Attention: Executive Director

if to TON:

The Town of Newington  
Town Hall  
Newington, NH 03801  
Attention: Chairperson, Newington Board of Selectmen

9.7 Waivers. No action taken pursuant to this Agreement, including an investigation by or on behalf of any party hereto, shall be deemed to constitute a waiver, by the party taking such action, of compliance with any representation, warranty, covenant or agreement contained herein or in any ancillary document contemplated hereby. Except as expressly provided in this Agreement, no delay or failure to exercise any right, power or remedy accruing to any party hereunder, upon any breach or default of any party under this Agreement, shall impair any such right, or remedy, nor shall it be

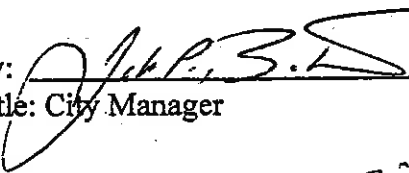
construed to be a waiver of any such breach or default, or any acquiescence therein, or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring.

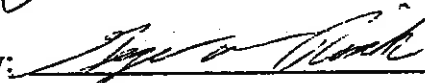
9.8     Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective transferees, successors and assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be delegated, assigned, or otherwise transferred by any party hereto without the prior written consent of the other party.

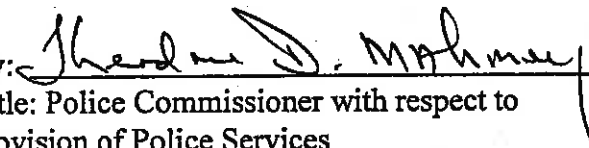
9.9     Miscellaneous. The invalidity or enforceability of any term or provision hereof shall not affect the validity or enforceability of any other term or provision hereof. This Agreement (a) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and (b) is not intended to confer upon any person not a party hereto any rights or remedies hereunder. The headings in this Agreement are for convenience of reference only and shall not alter or otherwise affect the meaning hereof. This Agreement may be executed in any number of counterparts which together shall constitute a single instrument and shall be governed by and construed in accordance with the laws of the State of New Hampshire.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their respective officers thereunto duly authorized as of the date first above written.

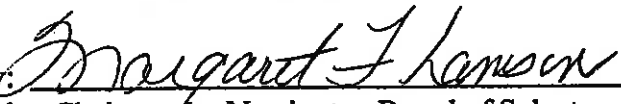
CITY OF PORTSMOUTH


By:   
Title: City Manager

By:   
Title: Fire Commissioner with respect to  
provision of Fire Services

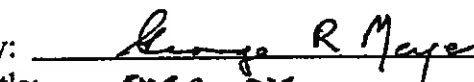
By:   
Title: Police Commissioner with respect to  
provision of Police Services

TOWN OF NEWINGTON

By:   
Title: Chairperson, Newington Board of Selectmen  
with respect to provision of Police Services

By:   
Title: Police Commissioner with respect to  
provision of Police Services

PEASE DEVELOPMENT AUTHORITY

By:   
Title: EXEC DIR

## APPENDICES

- Appendix I - Plan and description of the Airfield Area
- Appendix II - Plan and description of the Fire Station
- Appendix III - COP/TON Agreement
- Appendix IV - Fire Station License
- Appendix V - [RESERVED]
- Appendix VI - Roadways
- Appendix VII - Wastewater Disposal and Water Distribution Facilities

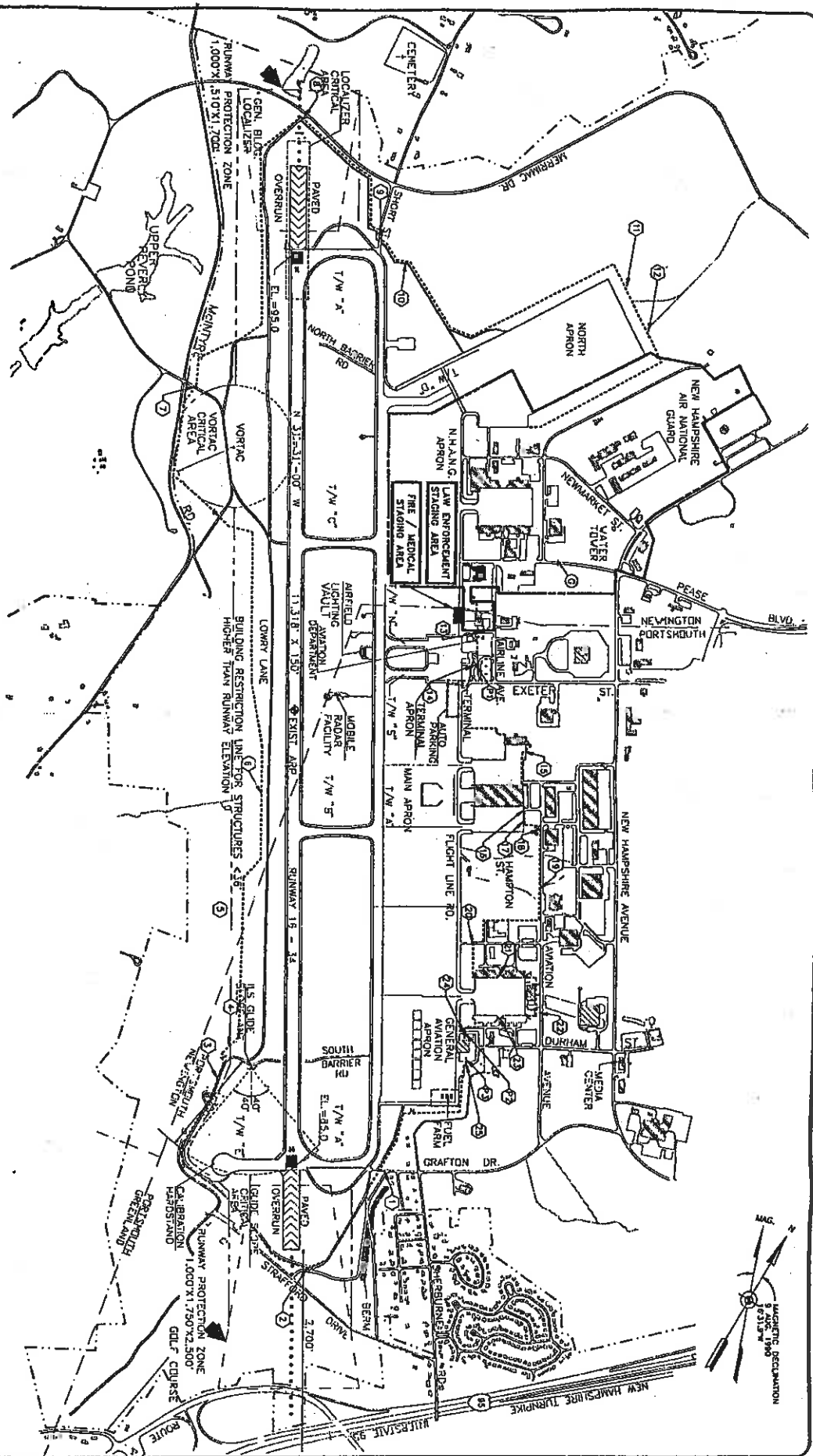
## Appendix I

### Plan and Description of the Airfield Area

LEGEND  
 ⑩ GATE NUMBER AND LOCATION  
 ..... SECURITY FENCE

⑪ EMERGENCY ACCESS GATE

R.E. ACORD/00



PEASE INTERNATIONAL TRADEPORT

# TAB 17 - AIRPORT EMERGENCY PLAN

**HTA**  
 companies

NOT TO SCALE

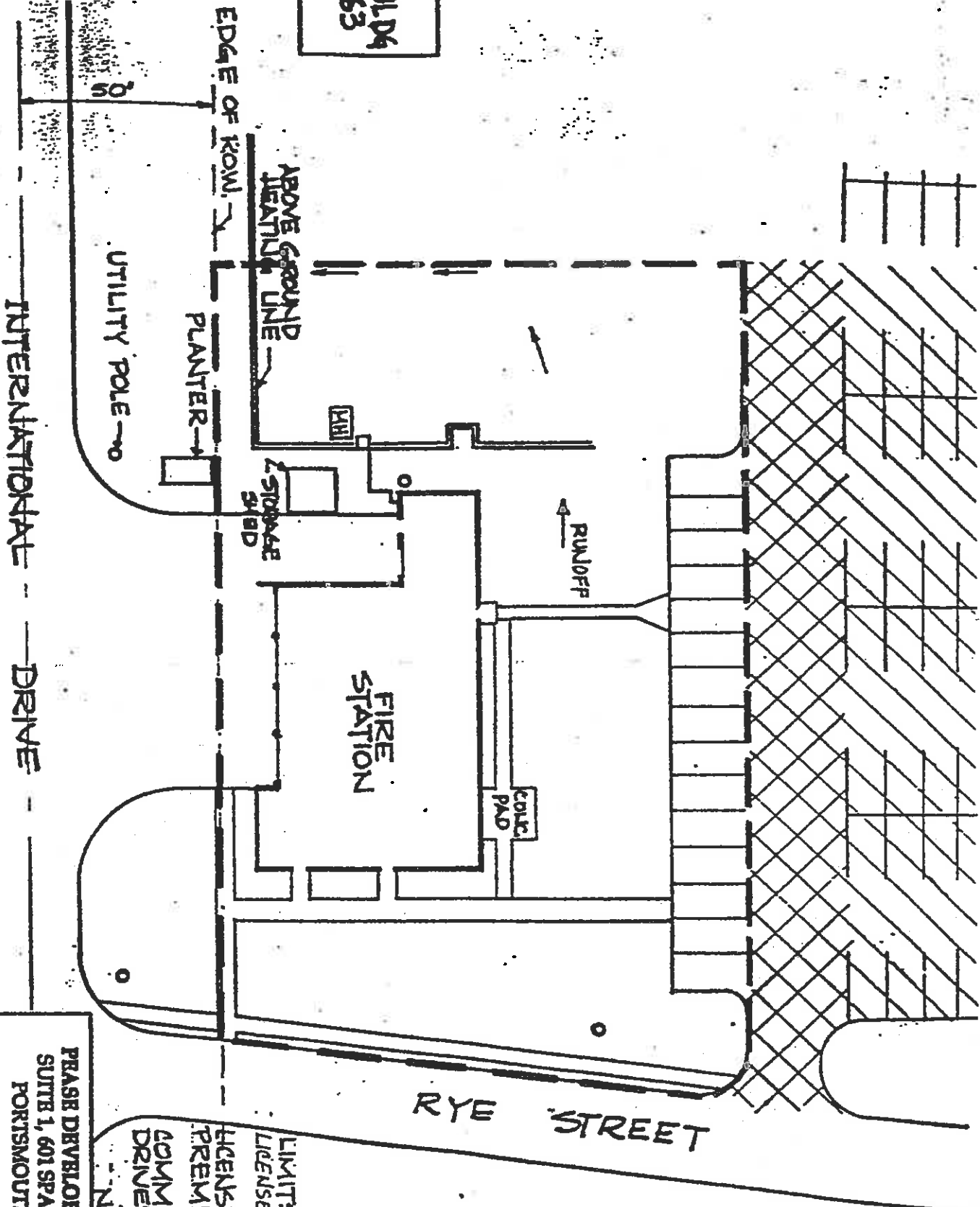
FIGURE

## Appendix II

### Plan and description of the Fire Station



ILD4  
63



INTERNATIONAL DRIVE

FIRE STATION

RYE STREET

LIMITS OF  
LICENSED PREMISES  
LICENSED PREMISES  
COMMON  
DRIVEWAY

NOT TO SCALE

PEASE DEVELOPMENT AUTHORITY  
SUITE 1, 601 SPAULDING TURNPIKE  
PORTSMOUTH, NH 03801-2833

FIRE STATION  
PLAN  
BUILDING 62

## Appendix III

### COP/TON Agreement

## **APPENDIX III**

### **POLICE SERVICES COST METHODOLOGY AGREEMENT** **CITY OF PORTSMOUTH/TOWN OF NEWINGTON**

The City of Portsmouth and the Town of Newington, pursuant to Section 2.3 of a certain Municipal Services Agreement (MSA) between the City of Portsmouth, the Town of Newington and the Pease Development Authority effective as of July 1, 1998 hereby agree that the Service Costs due to the Town of Newington for providing police services to the Airport District of the Pease International Tradeport under the MSA shall be calculated and paid as follows:

1. On an annual basis commencing on July 1, 1998 the Town of Newington shall calculate the hourly personnel cost attributable to officers of the Newington Police Department by totaling the wage and benefit cost for patrol personnel and dividing that by the total scheduled hours for those patrol personnel during the previous one year period.
2. The Town of Newington shall keep an updated log of all calls for service, including routine patrols, to the Airport District of the Pease International Tradeport, which shall specify the number of personnel and the time required to respond to the call.
3. The Town of Newington shall keep an updated log of all calls for service, including routine patrols, to any location other than the Airport District of the Pease International Tradeport, which shall specify the number of personnel and the time required to respond to the call.
4. The Town of Newington shall determine the actual personnel cost of providing police services to the Airport District of the Pease International Tradeport by multiplying the total personnel hours attributable to those calls (item number two above) by the cost of personnel time (item number one above).
5. The Town of Newington shall determine its police vehicle operation costs by dividing the number of calls for service to the Airport District of the Pease International Tradeport by the total number of calls for service to all locations to produce an Airport District Multiplier (ADM), which shall be applied to the total budget for police vehicle operation.
6. The Town of Newington shall calculate its actual cost of firearms training by applying the ADM to its total firearms training budget.
7. The Town of Newington shall calculate all remaining costs for providing police services beyond the foregoing by multiplying its equipment and supplies budget by .01.
8. The actual costs to the Town of Newington of providing police services to the Airport District of the Pease International Tradeport shall be determined by totaling the personnel costs, the vehicle operations costs, the firearms training costs and the equipment and supplies costs as calculated above for any appropriate invoice.

9. On January 1, April 1, July 1 and October 1 of every year in which this Agreement is in effect, commencing with the execution of the MSA, the Town of Newington shall submit a detailed invoice to the City of Portsmouth outlining its actual cost of providing police services to the Airport District of the Pease International Tradeport for the three month period ending on the date of submission.

10. Within thirty (30) days of receipt of any invoice required by the foregoing provision, the City of Portsmouth shall reimburse the Town of Newington for the cost of providing police services as calculated herein.

11. In the event of a dispute concerning the amount to be paid by the City of Portsmouth to the Town of Newington under this Agreement, the dispute resolution provisions of the MSA shall be applicable.

12. This Agreement shall remain in effect for any period of time in which the Town of Newington is obligated to provide police services to the Airport District of the Pease International Tradeport pursuant to the MSA.

Signed this 1<sup>st</sup> day of JULY, 1998, by the undersigned duly authorized representatives of the Town of Newington and the City of Portsmouth.


  
Witness

Town of Newington, Board of Selectmen

By: 

  
Witness

City of Portsmouth

By:   
John P. Bohenko  
City Manager

## Appendix IV

### Fire Station License

## PEASE DEVELOPMENT AUTHORITY

### LICENSE

This LICENSE is made by and between the PEASE DEVELOPMENT AUTHORITY established under New Hampshire law ("PDA") and CITY OF PORTSMOUTH, N.H. FIRE DEPARTMENT ("Licensee"). PDA and Licensee may be referred to jointly as the "Parties".

### RECITALS

A. PDA is an agency of the State of New Hampshire established pursuant to RSA ch. 12-G, "Pease Development Authority," and is authorized to enter into this License pursuant to the provisions contained therein.

B. PDA anticipates acquiring fee title to the portion of the former Pease Air Force Base comprising the Airport District (the "Airport") from the United States of America ("Government" or "Air Force") by public benefit transfer (*i.e.* transfer without consideration) pursuant to Section 13(g) of the Federal Surplus Property Act of 1944, 50 App. USC § 1622(g). The terms of such acquisition are set forth in an Amended Application for Public Benefit Transfer executed by PDA ("Application") and accepted by the Air Force on April 14, 1992 (the "Acceptance"). Pending final disposition of the Airport in accordance with the terms of the Application and Acceptance, the PDA and Air Force have entered into a Lease as of April 14, 1992 for the Airport District, a Supplement No. 1 thereto dated August 4, 1992 and a Supplement No. 2 thereto dated July 15, 1993 (collectively the "Master Lease"). The Licensed Premises are within the Airport District. The Parties

acknowledge that the Application, Acceptance and Master Lease impose certain requirements on PDA with respect to subleases and licenses which are addressed in the terms and conditions of this License. Copies of the Application, Acceptance and Master Lease are attached to this License as Exhibits 1 and 2. Unless the context refers specifically to the documents constituting Exhibits 1 and 2, the terms Application, Acceptance and Master Lease shall include any amendments to said documents.

C. The Parties acknowledge that a Federal Facilities Agreement ("FFA") required under Section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq., has been entered into by the Air Force, the New Hampshire Department of Environmental Services ("NHDES") and the United States Environmental Protection Agency ("EPA") regarding certain contamination at Pease and that this FFA also imposes certain requirements upon PDA and Licensee which are addressed in the terms and conditions of this License. A copy of the current FFA is attached to this License as Exhibit 3. Unless the context refers specifically to the document constituting Exhibit 3, the term FFA shall include any amendments to said document.

NOW, THEREFORE, in consideration of the covenants herein contained and other valuable consideration, the receipt of which is hereby acknowledged, PDA and Licensee hereby agree as follows: PDA grants to Licensee, for a period beginning on July 1, 1998, a License to use Building 62 (also known as 127 International Drive) Pease International Tradeport (the "Airport"), New Hampshire, as shown on Exhibit A ("Licensed Premises"), attached hereto and made a part of this License. Licensee may use the Licensed Premises during the period beginning July 1, 1998 and

terminating on the first to occur of (i) termination of the Municipal Services Agreement by and between PDA and the City of Portsmouth and dated July 1, 1998 (the "MSA") or (ii) such other conditions for termination as are set forth in Section 4.2 of the MSA and for no other use without the prior express written consent of the PDA.

This License is granted subject to the following conditions:

1. The use, occupation and maintenance of the Licensed Premises shall be (a) without cost or expense to the PDA; (b) subject to the general supervision and approval of the PDA; and (c) subject to such rules and regulations as the PDA may prescribe from time to time.
2. Licensee acknowledges that it has inspected the condition of the Licensed Premises and that said Licensed Premises are in good and tenantable condition for the use contemplated in this License. Licensee accepts the Licensed Premises in an "as is," "where is" condition without any representation, warranty or obligation on the part of the PDA to make any alterations, repairs, or improvements or as to the use or occupancy which may be made thereon. PDA shall not be responsible for any latent or other defect or change in condition in said Licensed Premises.
3. Licensee understands and acknowledges that (a) this License allows only temporary use of the facilities. Licensee's use of the Licensed Premises shall be orderly and efficient, shall not constitute a nuisance and shall not cause disruption to other Airport activities.
4. Licensee will, at all times, protect, repair and maintain the Licensed Premises including sidewalks, curbs, parking areas and fences, if any, in good order and condition at its



expense and without cost or expense to PDA. The Licensee shall be responsible for snow removal in the Licensed Premises. Licensee agrees to provide the following services and/or utilities, if required, at its sole expense: janitorial services, grounds maintenance and restoration, trash removal, snow removal, water, electricity, gas, telephone and sewer. Licensee shall exercise due diligence in protecting the premises against damage or destruction by fire, vandalism, theft, weather or other causes. PDA makes no representation or warranty as to the availability of utility lines or capacities. If Licensee desires to install any equipment which shall require utility facilities, such installation shall be subject to PDA's prior written approval, which approval shall not be unreasonably withheld. Licensee shall be solely responsible for providing any meters or other devices for the measurement of utilities to the Licensed Premises.

The Licensee shall during its occupancy of the Licensed Premises pick-up and secure any and all trash or debris observed on the Licensed Premises. All trash and debris shall be removed from the Licensed Premises on a daily basis.

PDA shall have no obligation to bring or to cause utility lines to be brought to the Licensed Premises. PDA makes no representation with respect to the capacity of utility lines existing as the execution date of the License Agreement. Licensee shall not at any time overburden or exceed the capacity of the mains, feeders, ducts, conduits, or other facilities by which such utilities are supplied to, distributed in or serve the Licensed Premises.

During the term of this License, PDA shall not be responsible for providing any meters or other devices for the measurement of utilities supplied to the Licensed Premises. Licensee shall install or make application and arrange for the installation of all such meters or other devices and Licensee shall be solely responsible for and promptly pay, as and when the same become due and

payable, all charges for water, sewer, electricity, telephone and any other utility used or consumed in the Licensed Premises and supplied by PDA, any public utility or authority or any other person, firm or corporation.

5. Licensee shall, at its own expense, promptly repair or replace to the satisfaction of the PDA any PDA, State of New Hampshire or Air Force property damaged or destroyed by Licensee incident to the exercise of the privileges granted herein. Alternatively, if required by PDA, Licensee shall pay PDA money in an amount sufficient to compensate for the loss sustained by PDA or State of New Hampshire for damage to or destruction of PDA, State of New Hampshire or Air Force property.

6. No addition, alteration, change, or improvement (including erection of signage) to the Licensed Premises shall be made without the prior written consent of PDA, which consent shall not be unreasonably withheld or delayed. PDA reserves the right to impose conditions on any such work to the extent such conditions are consistent with applicable governmental regulations, codes, standards or other requirements, including fire, safety and building codes and Land Use Controls promulgated by PDA, applicable provisions of the FFA and Condition 10.16 of the Master Lease.

7. Licensee will at all times during the existence of this License, promptly observe and comply, at its sole cost and expense, with the provisions of all applicable federal, state and local laws, rules, regulations and standards, and in particular those provisions concerning the

protection and enhancement of environmental quality, pollution control and abatement, safe drinking water, and solid and hazardous waste.

a. Responsibility for compliance with such laws, rules, regulations and standards rests exclusively with Licensee. PDA assumes no enforcement or supervisory responsibility except for matters committed to its jurisdiction. Licensee shall assume responsibility for and pay all costs relating to (i) any modification required to meet applicable federal, state and local standards relative to on-site sewage treatment or compliance with other applicable laws, regulations, or standards, or (ii) associated with compliance, defense of enforcement actions or suits, payment of fines, penalties, or other sanctions and remedial costs.

b. This condition does not constitute a waiver of Federal Supremacy or State or federal sovereign immunity. Only laws and regulations applicable to the Licensed Premises under the Constitution and statutes of the United States and State of New Hampshire are covered by this condition.

8. PDA or any other agency of the State of New Hampshire, their officers, agents, employees, and contractors may enter upon the Licensed Premises, upon reasonable prior notice, to inspect the Licensed Premises for compliance with environmental, safety and occupational health laws and regulations, whether or not PDA is responsible for enforcing them and Licensee shall have no claim on account of such entries against PDA, the State of New Hampshire or any officer, agent, employee, or contractor thereof.

a. Licensee acknowledges that Pease has been identified as a National Priority List (NPL) Site under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. Licensee acknowledges that PDA has provided it with a copy of the FFA entered into by the EPA, NHDES, and the Air Force on April 24, 1991 and Modification No. 1 thereto, effective March 18, 1993 and agrees that it will comply with the terms of the FFA to the extent the same may be applicable to the Licensed Premises and that should any conflict arise between the terms of the FFA or the provisions of this License, the terms of the FFA will take precedence.

b. The Air Force, the EPA, and NHDES and their officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to Licensee, to enter upon the Licensed Premises to conduct investigations and surveys, including, where necessary drilling, testpitting, borings, and any other response or remedial action related to the Pease Air Force Base Installation Restoration Program (IRP) or FFA. These inspections, surveys or other response or remedial actions will, to the extent practicable, be coordinated with a representative designated by Licensee. Licensee agrees to comply with the provisions of any health or safety plan implemented by any person during the course of such response or remedial action. Licensee shall have no claim on account of such entries against the United States or the State of New Hampshire or any officer, agent, employee, or contractor thereof except for any intentional or negligent act or omission by PDA or any of PDA's officers, agents, employees, contractors and subcontractors.

c. Licensee must maintain and make available to the PDA, the Air Force, EPA and NHDES all records, inspection logs, and manifests that track the generation, handling, storage, treatment, and disposal of hazardous waste, as well as all other records required by

applicable laws and requirements. The Air Force and PDA reserve the right to inspect the Licensed Premises and Burlington's records for compliance with Federal, State, local laws, regulations, and other requirements relating to the generation, handling, storage, treatment, and disposal of hazardous waste, as well as the discharge or release of hazardous substances. Violations will be reported by the Air Force to appropriate regulatory agencies, as required by applicable law. Licensee will be liable for the payment of any fines and penalties which may accrue as a result of the actions of Licensee.

9. PDA shall not be responsible for damage to property or injuries to persons which may arise from or be attributable or incident to the exercise of the privileges granted under this License (including the condition or state of repair of the Licensed Premises and its use and occupation by Licensee), or for damage to the property of Licensee, or for damage to the property or injuries to the person of Licensee's officers, employees, servants, agents, contractors, or others who may be on the Licensed Premises at their invitation or the invitation of any one of them, arising from governmental activities on the Licensed Premises.

a. Licensee agrees to assume all risks of loss or damage to the Licensed Premises including any building(s), improvements, fixtures or other property and bodily injury or death to persons by reason of the exercise of the privileges granted herein, and will settle and pay any claims arising out of the use and occupancy of the Licensed Premises. Licensee expressly waives all claims against PDA, the State of New Hampshire and the United States of America, including the Air Force, for any such loss, damage, personal injury or death caused by or occurring by reason of or incident to the possession and/or use of the Licensed Premises or as a consequence of the conduct of activities or the performance of responsibilities under this License.

b. Licensee agrees to indemnify, save, hold harmless, and defend PDA, the State of New Hampshire (the "State") and the Air Force, their officers, employees, and agents from and against all suits, claims, or actions of any sort resulting from, related to or arising out of any activities conducted under this License and any costs, expenses, liabilities, fines, or penalties resulting from discharges, emissions, spills, releases, storage, disposal of any substance or matter, or any other action by Licensee giving rise to PDA, the State or Air Force liability, civil or criminal, or responsibility under federal, state or local environmental laws. This provision shall survive the expiration or termination of this License and Licensee's obligations hereunder shall apply whenever PDA, the State or the Air Force incur costs or liabilities for Licensee's actions of the types described herein.

c. Licensee shall bear all risk of loss or damage to the Licensed Premises, including any building(s), improvements, fixtures or other property thereon, arising from any causes whatsoever.

d. During the entire period this License shall be in effect, the Licensee at its expense will carry and maintain comprehensive general liability coverage on an occurrence basis for "personal injury", including without limitation bodily injury, death and property damage insurance occurring on, in or about the Licensed Premises; workers' compensation and employee's liability insurance in an amount and form which meets all applicable labor laws of the State of New Hampshire, as amended from time to time, and which specifically covers the persons and risks involved in this License; and automobile liability insurance coverage for owned, hired and non-owned automobiles, for any loss, damage, personal injury or death caused by or occurring by reason of or incident to the possession and /or use of the Licensed Premises or as a consequence of the

conduct of activities or the performance of responsibilities under this License. Limits of liability shall not be less than two million dollars (\$2,000,000) per incident.

e. All policies or certificates issued by the respective insurers shall name the PDA and the United States of America ("United States") as additional insureds, provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Air Force or PDA or any other person, provided that the insurer shall have no right of subrogation against the United States or PDA, and be reasonably satisfactory to the PDA in all other respects. In no circumstances will the Licensee be entitled to assign to any third party rights of action which licensee may have against PDA. Licensee shall deliver or cause to be delivered to PDA a certificate of insurance evidencing the insurance required by the license prior to occupancy of the Licensed Premises.

10. On or before the date of expiration of this License, or within two (2) business days thereafter, Licensee shall vacate the Licensed Premises, remove all its personal property therefrom and restore and return the Licensed Premises to PDA, broom clean and in the same or better condition than their condition at the commencement of the term of this License, damages by fire or other casualty and reasonable wear and tear excepted. If Licensee shall fail or neglect to remove its personal property and to restore the premises, then at the option of PDA, such property shall either become the property of PDA without compensation therefor, or PDA may cause the property to be removed and the premises to be so restored at the expense of Licensee, and no claim for damage against PDA or its officers, employees or agents shall be created by or made on account of such removal and restoration work.

11. This License is effective only insofar as the rights of PDA in the property involved are concerned, and Licensee shall obtain such permission as may be necessary on account of any other existing rights. Licensee acknowledges that PDA is subject to certain restrictions on the use of the Licensed Premises in accordance with Conditions 10, 17, 23 and 25 of the Master Lease. Notwithstanding any other provisions of this License, Licensee shall also comply with and be subject to the restrictions in Conditions 10, 17, 23 and 25 of the Master Lease to the extent applicable to the Licensed Premises or to any rights granted to Licensee under this License in the same manner and to the same extent as PDA is obligated in its capacity as Lessee under the Master Lease.

12. This License shall not be transferred or assigned.

13. No notice, order, direction, determination, requirement, consent and/or approval under this License shall be of any effect unless it is in writing. All notices to be given pursuant to this License shall be sent by certified mail, postage prepaid, return receipt requested; addressed, if to PDA:

Pease Development Authority  
360 Corporate Drive  
Portsmouth, NH 03801  
Attn: Executive Director

and if to Licensee to:

City of Portsmouth, N.H.  
Fire Department  
170 Court Street  
Portsmouth, NH 03801  
Attn: Chief



or at such other address or addresses as PDA or Licensee may from time to time designate by notice given by certified mail.

Every notice, demand, request or communication hereunder sent by mail shall be deemed to have been given or served as of the third (3rd) business day following the date of such mailing.

14. In addition to notices required in Paragraph 14, Licensee acknowledges that this License is granted for a non-exclusive use of the Licensed Premises.

15. Licensee shall not discriminate against any person or persons or exclude any persons from participation in Licensee's operations, program, or activities conducted on the Licensed Premises because of race, color, age, sex, handicap, national origin or religion. Licensee, by acceptance of this License, hereby gives assurance that the provisions of Title VI of the Civil Rights Act, as amended (42 U.S.C. 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) and the Department of Defense Directive 5500.11, May 27, 1971, as amended 32 CFR pt 300) will be complied with.

16. This License shall be construed and enforced in accordance with the laws of the State of New Hampshire and may only be modified or amended by mutual agreement of the parties in writing signed by a duly authorized representative of each of the respective parties hereto.

17. This License may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

18. This License is subject and subordinate to any agreements heretofore or hereafter made between PDA and the United States or the Air Force, the execution of which is required to enable or permit transfer of rights or property to PDA for airport purposes or expenditure of federal grant funds for airport improvement, maintenance or development, including, without limitation, the Application, the Acceptance, Master Lease and FFA. Licensee shall abide by requirements of any agreement between PDA and the United States or the Air Force applicable to the Licensed Premises or Licensee's activities at the Airport and shall consent to amendments and modifications of this License if required by such agreements or as a condition of PDA's entry into such agreements.

19. The rights of Licensee under this License shall be subordinate to PDA's rights to manage the airfield and other common areas and roadways, which rights shall include, without limitation, the right to impose, reasonable rules and regulations relating to use of the airfield common areas and roadways and the right to add, delete, alter or otherwise modify the designation and use of all airfield facilities and parking areas, entrances, exits, roadways and other areas of the Airport, to the extent all of the foregoing are not part of the Licensed Premises.

PDA also reserves the right to further develop the Airport, or such portion of the Airport as is owned or controlled by PDA, as it sees fit, regardless of the desires or views of Licensee and without interference or hindrance.

Licensee shall comply with all federal, state and local laws, rules and regulations which apply to the conduct of the use contemplated, including rules and regulations promulgated by PDA. Licensee shall pay to PDA an amount equal to all fines levied by the FAA against PDA for

any breach of FAA requirements by Licensee or any of its contractors, agents, servants or invitees. Licensee acknowledges and agrees that the uses authorized herein are not granted on an exclusive basis and that PDA may enter into licenses, leases or other agreements with tenants and/or other users of the Airport for similar, identical or competing uses.

20. For so long as the MSA dated effective July 1, 1998 by and between PDA and the City of Portsmouth shall be in full force and effect, Licensee shall not be required to pay PDA a license fee for the granting of this License.

OPERATIVE PROVISIONS

IN WITNESS WHEREOF, I have hereunto set my hand this 30<sup>th</sup> day of JUNE, 1998, by  
authority of the Pease Development Authority.

PEASE DEVELOPMENT AUTHORITY

By: George R Meyer  
George R. Meyer, Executive Director

This License, together with all terms and conditions thereof, is hereby accepted and executed  
by Licensee, City of Portsmouth, N.H. Fire Department, this 17<sup>th</sup> day of JULY, 1998.

CITY OF PORTSMOUTH, N.H.  
FIRE DEPARTMENT

By: [Signature]  
Title: CHAIRMAN - PORT. FIRE COMMISSION

**EXHIBIT A  
LICENSED PREMISES**

BLDG  
63

RYE STREET

FIRE  
STATION

RUNOFF

COIL  
PAD

STORAGE  
SHED

MHI

ABOVE GROUND  
HEATING LINE

EDGE OF ROW.

PLANTER

UTILITY POLE

INTERNATIONAL DRIVE

LIMITS OF  
LICENSED PREMISES

LICENSED  
PREMISES

COMMON  
DRIVEWAY

NOT TO SCALE

PEASE DEVELOPMENT AUTHORITY  
SUITE 1, 601 SPAULDING TURNPIKE  
PORTSMOUTH, NH 03801-2833

FIRE STATION  
PLAN  
BUILDING 62

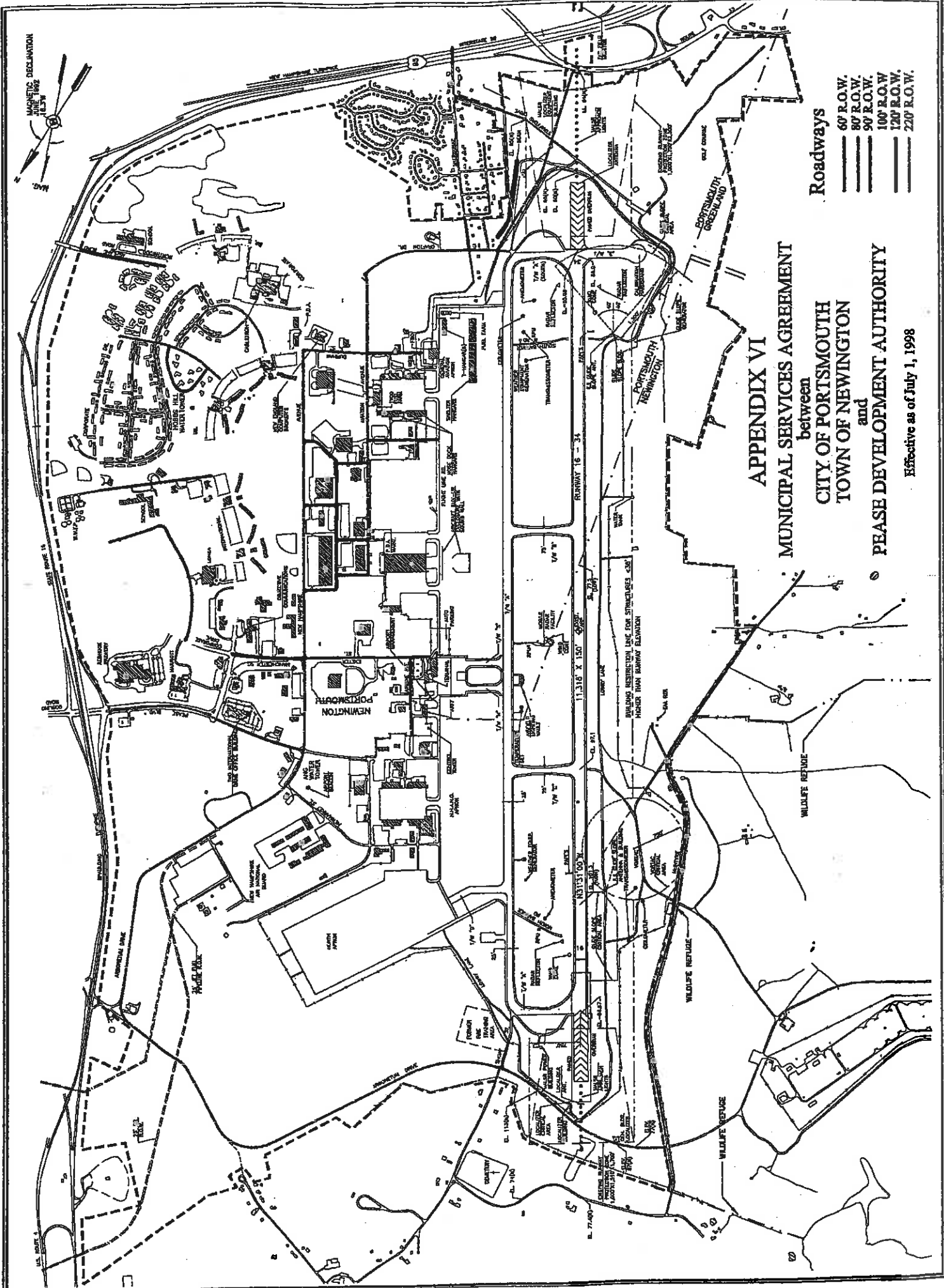
## Appendix V

RESERVED

## Appendix VI

### Roadways





- ROADWAYS
- 60' R.O.W.
  - 80' R.O.W.
  - 90' R.O.W.
  - 100' R.O.W.
  - 120' R.O.W.
  - 220' R.O.W.

APPENDIX VI  
MUNICIPAL SERVICES AGREEMENT  
between  
CITY OF PORTSMOUTH  
TOWN OF NEWINGTON  
and  
PEASE DEVELOPMENT AUTHORITY

Effective as of July 1, 1998

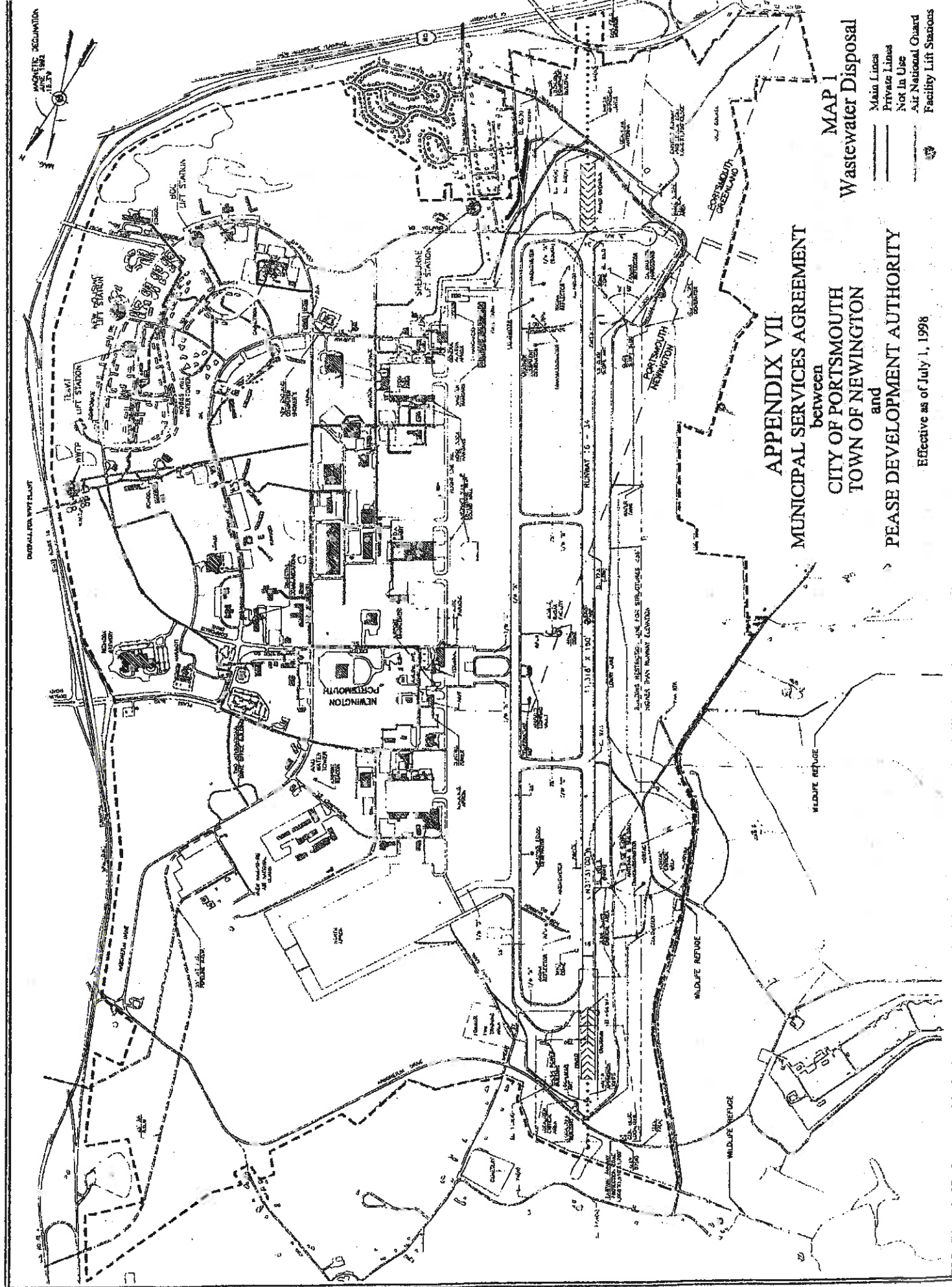
## Appendix VII

### Wastewater Disposal and Water Distribution Facilities

The description below describes the Facilities in general and is not intended to be a legal description. The Facilities are graphically depicted on the Plan of Existing Wastewater Disposal and Water Distribution Facilities (Appendix 5 of the Wastewater Disposal and Water Service Agreement):

1. The water and sewer systems at Pease, and all facilities and appurtenances associated therewith (the "Systems"), exclusive of the utility systems within the New Hampshire Air National Guard Cantonment Area as described in Exhibit A, Section III of the Master Lease as amended by the Supplements dated August 4, 1992, July 15, 1993 and June 27, 1997 (collectively the "Master Lease") and the Systems within the Great Bay National Wildlife Refuge property west of McIntyre Road.
2. All subsurface water rights to all portions of the real property transferred to PDA pursuant to the Master Lease.
3. Parts and Equipment as agreed by the Parties;

The above description is subject to all reservations, restrictions and conditions as are set forth in Exhibit A, Section IV of the Master Lease.

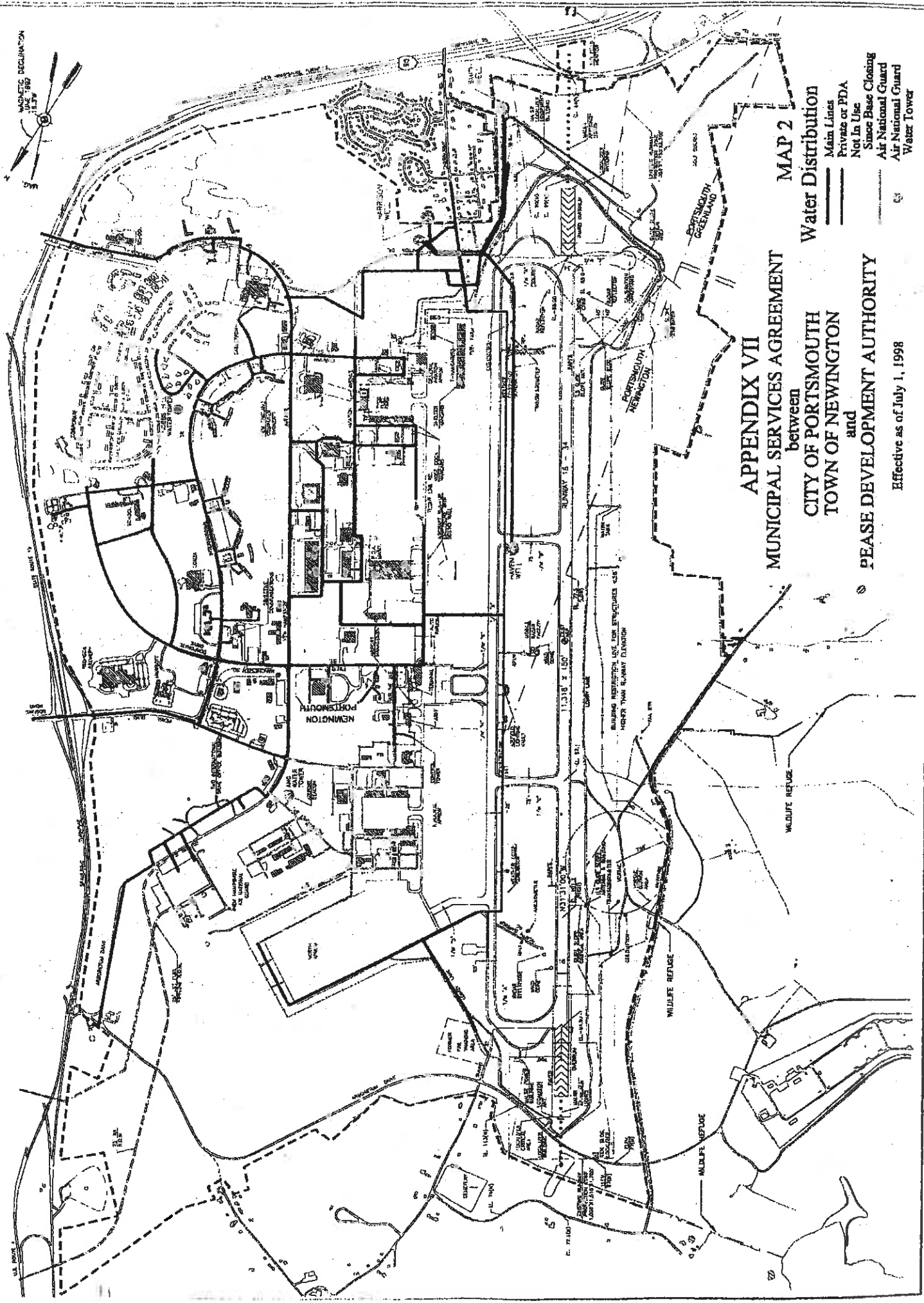
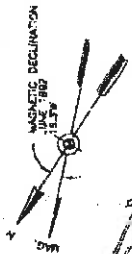


APPENDIX VII  
MUNICIPAL SERVICES AGREEMENT  
between  
CITY OF PORTSMOUTH  
TOWN OF NEWINGTON  
and  
PEASE DEVELOPMENT AUTHORITY

MAP 1  
Wastewater Disposal

Main Lines  
Private Lines  
Not In Use  
Air National Guard  
Facility Lift Stations

Effective as of July 1, 1996



MAP 2

Water Distribution

- Main Lines
- Private or PDA
- Not In Use
- Since Base Closing
- Air National Guard
- Water Tower

APPENDIX VII  
MUNICIPAL SERVICES AGREEMENT  
between  
CITY OF PORTSMOUTH  
TOWN OF NEWINGTON  
and  
PEASE DEVELOPMENT AUTHORITY

Effective as of July 1, 1998