



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

JUN 25 2002

Assistant Secretary for Health
Office of Public Health and Science
Washington D.C. 20201

Mr. Joseph Whitaker
Acting Deputy Assistant Secretary of the Army
(Installations and Housing) OASA(I&E)
110 Army Pentagon
Washington, D.C. 20310-0110

Dear Mr. Whitaker:

Enclosed is the signed document transferring the Noble Army Hospital on Fort McClellan to the Department of Health and Human Services.

Sincerely yours,

Arthur J. Lawrence, Ph.D.
Acting Principal Deputy Assistant
Secretary for Health

Enclosure



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
INSTALLATIONS AND ENVIRONMENT
110 ARMY PENTAGON
WASHINGTON DC 20310-0110

February 6, 2002

The Honorable Arthur J. Lawrence, Ph.D.
Acting Principal Deputy Assistant Secretary for Health
Department of Health and Human Services
Hubert Humphrey Building, Room 716-G
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Mr. Secretary:

Pursuant to the power and authority contained in the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, as amended, and in accordance with the Federal Property and Administrative Services Act of 1949, as amended (41 CFR 101-47.203-7), subsequent delegation from the Administrator of the General Services Administration to the Office of the Secretary of Defense and re-delegations, I hereby transfer jurisdiction, custody and control over 18.81 acres of land on the former Fort McClellan to the Department of Health and Human Services (HHS), said land being more particularly described as follows:

A parcel of land situated in the Southeast Quarter of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 15, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; and being more particularly described as follows:

Commence at a brass disk found at the Northwest corner of Section 10, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; thence run **S 01°11'41" E** along the West line of said section, for a distance of **2653.78** feet to an axle found at the purported Northwest corner of the Southwest Quarter of said Section 10; thence run **S 00° 57' 45" E** along the West line of said section for a distance of **2669.91** feet to the northwest corner of said Section 15; thence run **S 00° 21' 39" W** along the West line of said Section 15 for a distance of **1558.03** feet; thence leaving said West line, run **Due East** for a distance of **1661.28** feet to the westerly boundary line of a proposed 50-foot right-of-way; said point also being the **POINT OF BEGINNING**; thence run **S 38°18'23" E** along said right-of-way line, less and except that portion of a retaining wall lying northeasterly of said right-of-way, for a distance of **1288.49** feet to the northerly boundary line of a proposed 50-foot right-of-way; thence run **S 51°53'50" W** along said right-of-way line, for a distance of **720.92** feet; thence leaving said right-of-way line, run **N 39°42'34" W** for a distance of **551.55** feet; thence



17328
TRACER

run **N 24°29'50" E** for a distance of **165.92** feet to the Point of Curvature of a non-tangent curve to the right, having a radius of **142.20** feet, a central angle of **27°23'19"**, a chord length of **67.33** feet and a chord bearing of **N 51°48'30" W**; thence continue along the arc of said curve for a distance of **67.97** feet to the Point of Tangency of said curve; thence run **N 38°06'51" W** for a distance of **244.87** feet to the Point of Curvature of a curve to the left, having a radius of **70.00** feet, a central angle of **35°05'13"**, a chord length of **42.20** feet and a chord bearing of **N 55°39'27" W**; thence continue along the arc of said curve for a distance of **42.87** feet to the Point of Tangency of said curve, thence run **N 73°12'03" W** for a distance of **16.65** feet to the easterly boundary line of a proposed 80-foot right-of-way; said point also being the Point of Curvature of a non-tangent curve to the left, having a radius of **640.00** feet, a central angle of **20°28'53"**, a chord length of **227.56** feet and a chord bearing of **N 01°52'21" E**; thence continue along the arc of said curve and said right-of-way line, for a distance of **228.78** feet to the Point of Tangency of said curve; thence run **N 08°22'06" W** along said right-of-way line, for a distance of **139.72** feet to the southerly boundary line of a proposed 80-foot right-of-way; thence run **N 51°45'49" E** along said right-of-way line, for a distance of **407.31** feet to the **POINT OF BEGINNING**; said described tract containing 819,256 square feet, (18.81 acres) more or less.

Together with the following improvements now located on the land: Building 292, a medical center/hospital (159,766 SF); Facility 293, a monument/memorial; Building 294, a refuse/garbage building (1,836 SF); Facility 294F, an underground fuel tank (8,000 gallons); Facility 297, a landing pad (484 SY); Facility NOVPK-02, a parking surface (23,400 SY); and Facility WALKS-02, sidewalks (4,039 SY).

This transfer is granted without consideration in keeping with OMB waiver of November 26, 2001, and is subject to the following conditions, restrictions, notifications, and covenants:

- a. The Army has prepared an Environmental Condition of Property (ECOP), dated November 29, 2000, for the property being transferred, and has furnished a copy to HHS, and HHS acknowledges receipt of the ECOP and knows the condition of the property.
- b. HHS is now in custody of the property and will accept jurisdiction and control upon execution of this document.
- c. Existing easements for public roads and utilities.

(1) In the event of disposal, sale, lease, or transfer to another eligible agency, all of the provisions of this transfer, including environmental provisions, shall be contained in such disposal, sale, lease, or transfer documents. The Army shall not incur liability for response action or corrective action found to be necessary after the date of transfer in any case in which the person or entity to whom the property is transferred, or other non-Army entities, is identified as the party responsible for contamination of the property.

(2) Except as otherwise provided herein, after the date of transfer, the Army shall be solely responsible for, and shall conduct all necessary response action, corrective action or remediation (including the requirement to obtain any necessary permits or approvals) of all contamination of the property, whether on the property or off the property and whether known at the time of transfer or subsequently discovered, attributable to the use, management, storage, release or disposal of hazardous materials, substances, wastes, or petroleum products during the Army's occupancy and use of the property. The term "hazardous substance" as used here includes any substance or material that is identified as a hazardous substance, pollutant or contaminant under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601, et seq.

e. CERCLA ACCESS CLAUSE

The U.S. Army Environmental Protection Agency (EPA) and Alabama Department of Environmental Management (ADEM) and their officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to HHS, to enter upon the Premises in any case in which a response action or corrective action is found to be necessary after the date of transfer of the property or such access is necessary to carry out a response action or corrective action on adjoining property, including, without limitation, the following purposes:

(1) To conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, testing-pitting, test soil borings and other activities;

(2) To inspect field activities of the U.S. Army and its contractors and subcontractors;

(3) To conduct any test or survey related to the environmental conditions at the transferred property or to verify any data submitted to the EPA or ADEM by the U.S. Army relating to such conditions;

(4) To construct, operate, maintain or undertake any other response or remedial actions as required or necessary, including, but not limited to, monitoring wells, pumping wells and treatment facilities.

f. NOTICE OF THE PRESENCE OF ASBESTOS-CONTAINING MATERIALS (ACM) AND COVENANT

(1) HHS is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing material (ACM) has been found in Building 292, as described in the EBS and in the Reisz Engineering Asbestos Surveys and Management Plans, FMC, Alabama. Except as provided for in (2) below, the ACM on the property does not currently pose a threat to human health or the environment.

(2) Building 292 has been determined to contain friable and non-friable asbestos that may pose a threat to human health. Laboratory analysis determined asbestos is present in three types of friable materials: (a) cementitious hand-formed pipe fitting insulation, (b) hot water tank insulation, and (c) steam pipe insulation found in the kitchen area. All friable asbestos has been labeled for maintenance personnel to take appropriate precautions while working in this area. Three types of non-friable ACMs were identified by laboratory testing as follows: (a) vinyl floor tile, both 12x12 and 9x9, (b) mastics associated with vinyl floor tile, and (c) pipe insulation mastic. Detailed information is contained in the EBS and referenced asbestos surveys (~~Attachment 2~~). The U.S. Army has agreed to transfer Building 292 to HHS, prior to remediation of asbestos hazards, in reliance upon the express representation and promise that HHS will, prior to use or occupancy of said buildings, agree to undertake any and all abatement or remediation that may be required under CERCLA 120h(3) or any other applicable law or regulation. HHS acknowledges that the consideration for Transfer of the Property was negotiated based upon HHS's agreement to the provision contained in this Subsection.

(3) HHS covenants and agrees that its use and occupancy of the property will be in compliance with all applicable laws relating to asbestos; and that the U.S. Army assumes no liability for future remediation of asbestos or damages for personal injury, illness, disability, or death to employees of HHS, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos or ACM on the property, whether HHS, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. HHS agrees to be responsible for any future remediation of asbestos found to be necessary on the property. HHS assumes no liability for

damages for personal injury, illness, disability, death or property damage arising from any exposure or failure to comply with any legal requirements applicable to asbestos on any portion of the property arising prior to the U.S. Army's transferring of such portion of the property to HHS pursuant to this Letter of Transfer.

(4) Unprotected or unregulated exposure to asbestos in product manufacturing, shipyard, and building construction workplaces have been associated with asbestos-related diseases. Both the Occupational Safety and Health Administration (OSHA) and EPA regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

(5) HHS acknowledges that it has inspected the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto prior to accepting the responsibilities imposed upon HHS under this section. The failure of HHS to inspect, or to be fully informed as to the asbestos condition of all or any portion of the property, will not constitute grounds for any claim or demand against the U.S. Army, or any adjustment under this Letter of Transfer.

g. NOTICE OF THE POTENTIAL FOR PRESENCE OF POLYCHLORINATED BIPHENYL (PCB) AND COVENANT

(1) PCBs have been used widely as nonflammable insulating fluid in transformers, capacitors, and other electrical equipment like fluorescent light ballast. PCBs are harmful because once released into the environment they are persistent (do not breakdown into other chemicals) and bio-accumulate in organisms throughout the environment. EPA considers PCBs to be possible cancer-causing chemicals. PCBs at concentrations of 50 ppm or greater, when removed from service, must be stored and disposed according to regulations published in 40 CFR, Part 761, Subpart D.

(2) HHS is hereby informed that fluorescent light ballast containing PCBs may be present on the property. These ballasts do not currently pose a threat to human health or the environment and are presently in full compliance with applicable laws and regulations.

(3) HHS agrees that its continued possession, use, and management of these ballasts (PCB equipment) will be in compliance with all applicable laws relating to PCBs and PCB equipment, and that the U.S. Army shall assume no liability for the future

remediation of PCB contamination or damages for personal injury, illness, or disability or death to employees of HHS, its successors or assigns, or to any other person, including members of the general public, arising from or incident to future use, handling, management, disposition or any activity causing or leading to contact of any kind whatsoever with PCB equipment.

(4) HHS agrees to be responsible for any remediation of PCBs found to be necessary on the premises resulting from its use or possession thereof.

h. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE

(1) The property does not contain structures or buildings suitable for residential dwellings. HHS is hereby informed and does acknowledge that Buildings 292 and 294 on the property that were constructed prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Exposure to lead from lead-based paint may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

(2) Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Environmental Baseline Survey. Additionally, the Lead-Based Paint Risk: Assessment Report (1995) pertaining to lead-based paint and/or lead-based paint hazards is included as Attachment 3. HHS has been provided with the federally approved pamphlet on lead poisoning prevention. HHS hereby acknowledges receipt of all of the information described in this subparagraph.

(3) HHS acknowledges that it has received the opportunity to conduct its own risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this document.

(3) HHS covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the property as Residential Real Property, without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to

permitting the occupancy of the property where its use subsequent to sale is intended for residential habitation, HHS specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992) (hereinafter Title X).

HHS shall, after consideration of the guidelines and regulations established pursuant to Title X: (a) perform a reevaluation of the Risk Assessment if more than 12 months have elapsed since the date of the last Risk Assessment; (b) comply with the joint HUD and EPA Disclosure Rule (24 CFR 35, Subpart H, 40 CFR 745, Subpart F), when applicable, by disclosing to prospective purchasers the known presence of lead-based paint and/or lead-based paint hazards as determined by previous risk assessments; (c) abate soil-lead hazards in pre-1978 residential real property, in accordance with the procedures in 24 CFR 35; (d) abate lead soil hazards following demolition and redevelopment of structures in areas that will be developed as residential real property; (e) comply with the EPA lead-based paint work standards when conducting lead-based paint activities (40 CFR 745, Subpart L); (f) perform the activities described in this paragraph within 12 months of the date of the lead-based paint risk assessment and prior to occupancy or use of the residential real property; and (g) send a copy of the clearance documentation to the U.S. Army.

In complying with these requirements, HHS covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the property found to be necessary as a result of the subsequent use of the property for residential purposes. HHS covenants and agrees to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of lead-based paint abatement activities.

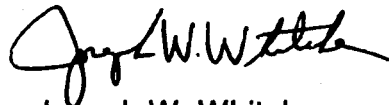
(5) The U.S. Army shall assume no liability for the future remediation of LBP contamination or damages for personal injury, illness, or disability of death to employees of HHS, its successors or assigns, or to any other person, including members of the general public arising from or incident to future use, handling, management, disposition or any activity causing or leading to contact of any kind whatsoever with LBP.

h. ORDNANCE AND EXPLOSIVES (OE)

Based on a review of existing records and available information, the Former Noble Army Community Hospital Complex and the surrounding land is not known or suspected to contain ordnance and explosives. In the event HHS, its successors, and assigns, should discover any ordnance on the Property, it shall not attempt to remove

or destroy it, but shall immediately notify the local Police Department and competent Government or Government designated explosive-ordnance personnel will be dispatched promptly to dispose of such ordnance.

Sincerely,

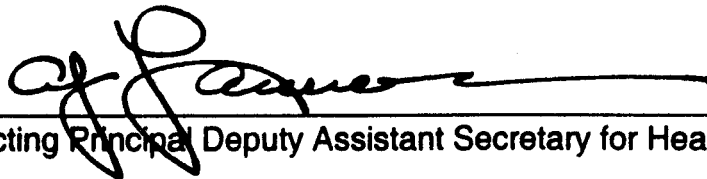


Joseph W. Whitaker
Acting Deputy Assistant Secretary of the Army
(Installations and Housing)
OASA(I&E)

The transfer of the above-mentioned jurisdiction, custody, and control of the property described herein is hereby accepted and agreed to by the Department of Health and Human Services.

DATED THIS 25th day of JUNE, 2002

DEPARTMENT OF HEALTH AND HUMAN SERVICES



Acting Principal Deputy Assistant Secretary for Health