

Creating Community – Military Partnerships on Cape Cod

INTRODUCTION/BACKGROUND

In 2005, The Cape Cod Commission (CCC) completed a Massachusetts Military Reservation (MMR) Joint Land Use Study (JLUS). The study was completed under contract with the Town of Sandwich through funding from the Department of Defense, Office of Economic Adjustment (OEA). In response to a nomination by the Army in 2011 to update this 2005 JLUS, OEA awarded funding in July, 2012, to the CCC to complete this update. Included among the update elements approved as part of OEA's grant to the CCC was an examination of the potential for shared services by the installations located on the Massachusetts Military Reservation and the surrounding towns.

BUDGET CONSIDERATIONS AND SEQUESTRATION

While the military services have been reviewing ways to expand sharing of public and municipal services between an installation and its surrounding communities for some years now, this issue has received increased focus as concern has grown about (a) the size of the overall Defense budget, and (b) the growth of the Federal Debt (compounded by growing budget deficits).

Current political and economic issues surrounding the passage of a US Federal 2013 Fiscal Year budget also bear on this issue. In accordance with the Budget Control Act of 2011, Congress mandated that the federal government cut \$1.2 trillion dollars in defense and non-defense spending by January 2, 2013. The federal government was facing "sequestration", a term used to describe a new fiscal policy procedure originally provided for in the Gramm-Rudman-Hollings Deficit Reduction Act (Reduction Act) of 1985. The Reduction Act was an effort to reform Congressional voting procedures concerning the federal government deficit. Basically, if appropriation bills passed separately by Congress provide for total government spending in excess of the limits Congress earlier laid down for itself in the annual Budget Resolution, and if Congress cannot agree on ways to cut back the total (or does not pass a new, higher Budget Resolution), then an "automatic" form of spending cutback takes place, known as "sequestration."

Under sequestration, an amount of money equal to the difference between the cap set in the Budget Resolution and the amount actually

appropriated is "sequestered" by the Treasury and not handed over to the agencies to which it was originally appropriated by Congress.

On January 1, 2013, Congress passed the American Taxpayer Relief Act, a measure which averted the fiscal cliff and reversed \$24 billion in government-wide spending reductions that were triggered by sequestration. The measure moved the time frame for sequestration back to March 1, 2013.

The potential effect this measure may have on the Defense budget is significant. The Department of Defense's current FY13 Continuing Resolution (CR) provides \$557 billion for the fiscal year. This amount exceeds the Defense spending cap imposed by the Budget Control Act by \$11 billion, potentially requiring a retroactive cut to DoD's current FY13 budget should sequestration go into effect on March 1, 2013.

Exacerbating this issue is the requirement for Congress to pass a budget appropriation for the remainder of the FY13 fiscal year by March 27, 2013. Should Congress be unable to pass a FY13 appropriation, DoD will be put on another CR for the remainder of FY13. The challenge this scenario presents for DoD is significant. Comparative levels of Defense spending between its investment (e.g. funding for weapons programs and other investment contracts) and operation & maintenance (O&M) accounts is "lumpy;" meaning, that it fluctuates from fiscal year to fiscal year. Accordingly, the FY12 DoD budget, the budget authorization approved for FY13 DoD CRs authorized more spending for DoD under its investment accounts than from its O&M accounts.¹ However, for FY13, DoD requested (and received, through the passage of the FY13 National Defense Authorization Act (NDAA)) authorization to spend more for O&M than for investment, anticipating greater O&M costs due to (among other events) the withdrawal of troops from Afghanistan and an overall US defense posture "pivot" to Asia. Since the start of the FY13 fiscal year (October 1, 2012) DoD has been expending its CR funding based on the spending authorities prioritized in the approved FY13 NDAA.

Due to the mismatch between these investment and O&M costs created by conflicting FY12 and FY13 authorizations and compounded by Federal budget effects such as sequestration, the Budget Control Act, and the Taxpayers Relief Act, should all of these effects come to pass (and all on March 27, 2013), DoD will be faced with a roughly \$11 billion budget shortfall.²

¹ U.S. Federal Budget 101: all budgets include two things: an authorization act and an appropriation. Without either, federal agencies cannot spend federal funding for that fiscal year.

² Panetta: Fiscal Crisis Poses Biggest Immediate Threat to DOD, Parish, Karen, American Forces Press Service, January 10, 2013

In a memorandum issued by the Deputy Secretary of Defense on January 10, 2013, Ashton Carter advised all Secretaries and Directors for the Department of Defense that “given the overall budgetary uncertainty faced by the Department, and in particular the immediate operational issues...it is prudent to take steps now to help avoid serious future problems. I thereby authorize all Defense Components to begin implementing measures that will help mitigate our budget execution risks.”³

ARMED FORCES RENEWABLE ENERGY INITIATIVES

In addition to these budget reduction measures, the Armed Services have set individual goals to reduce energy costs and increase energy security on military installations. The mission of the Army Energy Initiatives Task Force (AEITF) is to “Strengthen Army energy security and sustainability by developing a comprehensive capability, and planning and executing a cost-effective portfolio of large-scale renewable energy projects by leveraging private sector financing.”⁴ In accordance with Public Law 110-140, Section 431, Energy Independence and Security Act (EISA) established in December, 2007 the AEITF sets annual energy intensity reduction goals for federal buildings at 3% per year for FY 2008 through FY 2015. The overall goal is 30% reduction by FY 2015 using FY 2003 as a baseline year. While each installation should meet this goal individually, commands are responsible for meeting this goal on a command-wide basis and encouraged to exceed these minimum goals.⁵ The goal of the Task Force is to implement 1 GW of renewable energy by 2020 through solar, wind, biomass and geothermal projects on military installations to increase energy security without adding to the Defense Department budget.

The Department of the Air Force is facing a \$478B budget reduction including retiring aircraft and airmen with a pause in military construction. The Air Force has set a \$5 billion Enhanced Use Leasing goal to implement 1000 MW of alternative energy by 2016. The Department of the Navy has closed over 50% of its installations since the first BRAC in 1988.

³ Memorandum, Handling Budget Uncertainty in Fiscal Year 2013, Carter, Ashton, January 10, 2013

⁴ <http://www.armyeitf.com/index.php/about-eitf/mission-and-vision>

⁵ [http://www.armyeitf.com/downloads/ASA\(IEE\)%20energy%20goal%20attainment%20policy%20\(24%20Aug%202012\).pdf](http://www.armyeitf.com/downloads/ASA(IEE)%20energy%20goal%20attainment%20policy%20(24%20Aug%202012).pdf)

GOVERNOR'S TASK FORCE ON MASSACHUSETTS MILITARY INSTALLATIONS

On February 27, 2012 as Acting Governor, Lt. Governor Tim Murray signed an Executive Order to create a Military Asset and Security Strategy Task Force. The Task Force to be chaired by the Lt. Governor formalizes the informal working group he has led over the last year, and calls for a long term initiative to support all military installations in Massachusetts in order to both protect them and explore opportunities to bring in new missions.

Among the six subcommittees established by the Task Force is to explore opportunities and efficiencies on military installations in the Commonwealth, including opportunities to share services and support renewable energy projects⁶. The role of the Task Force is to “analyze our military installations to determine where there are opportunities to fill vacant spaces, upgrade aging infrastructure, become more energy efficient, identify new missions, and build partnerships to bring more jobs and economic development at and around each site.”⁷ MassDevelopment is leading the effort statewide to explore opportunities and efficiencies on military installations across the Commonwealth, and has funded a Master Coordination Plan for the MMR to be completed concurrent with the MMR Joint Land Use Update and Community-Military Partnerships Study.

MMR – OWNERSHIP AND LAND USE HISTORY

The MMR has been subject to significant land use and ownership changes throughout its nearly 80-year history. The Commonwealth of Massachusetts established the MMR in 1935 as a National Guard training camp (Camp Edwards) with a landing strip and runways. Although the occupants and property boundaries have changed a number of times since MMR was established, the primary mission has always been to provide training and housing to Air Force or Army units.⁸

The Department of the Army leased the property in 1940, constructing buildings, roads, utilities, and ranges, in order to prepare for World War II (WWII), during which the airfield was expanded and dormitories for 70,000 troops were built. After WWII, the Department of the Air Force assumed control of the airfield, certain Army facilities, and site utilities to create Otis Air Force Base at the southern end of the original Camp

⁶ <http://www.mass.gov/governor/administration/lgtgov/lgcommittee/military/>

⁷ Id.

⁸ See *USCG Air Station Cape Cod Master Plan* dated September, 2012, p. 1-7

Edwards.⁹ After the war, most of the previous need for pre-deployment training and staging had evaporated. With the exception of Otis Air Force Base's use for long-range surveillance flights, the MMR was mostly vacant. Many of the wood-framed buildings fell into disrepair, leaving a patchwork of decaying infrastructure and antiquated facilities scattered across a large plot of land.¹⁰

In 1976, the Army granted a license to the Commonwealth of Massachusetts to use the land it leases from the Commonwealth to the Army National Guard.

Otis Air Force Base continued to expand during the Cold War with runway expansion and construction of 1,193 units of family housing. In 1968, the DoD agreed to allow the Coast Guard to utilize Otis Air Force Base on Cape Cod for a new USCG Air Station. From 1970 until 2005, the Massachusetts Air National Guard maintained a significant aviation presence on the airfield and managed all aspects of airfield operations¹¹, as well as the Base's wastewater treatment plant, water supplies, base roadways and other infrastructure. The 2005 Base Realignment and Closure (BRAC) resulted in redistribution of aviation resources to Barnes airfield in Westfield, MA and re-purposing the mission of Otis Air National Guard base to its current mission as the 102nd Intelligence Wing. Responsibility for airfield operations was transferred to the US Coast Guard in 2008. As a result of these mission changes, the Air National Guard's requirement for land and facilities has been significantly reduced.

As the DoD tenants of Otis Air Base realigned over the past 30 years, Coast Guard presence on the MMR continued to grow, emerging in the early 2000s as the largest active duty military representation on the MMR.¹² The US Coast Guard is changing its airframe at Air Station Cape Cod resulting in a new hangar, new fueling station and improvements to the airfield.

The force structure of the Massachusetts Army National Guard has changed considerably since the publication of the Community Working Group Master Plan [in 1998]. Since that time the force structure has changed from a predominantly mechanized force to a lighter force capable of deploying anywhere here in the commonwealth, across the nation, and overseas in a shortened amount of time. This lighter force structure almost eliminated track vehicles from the inventory. This has allowed units to train more frequently on more diverse mission sets at Camp

⁹ See *USCG AirStation Cape Cod Master Plan* dated September, 2012, p. 1-7

¹⁰ See Preliminary Draft Camp Edwards Site Consolidation Plan 2012 - 2017

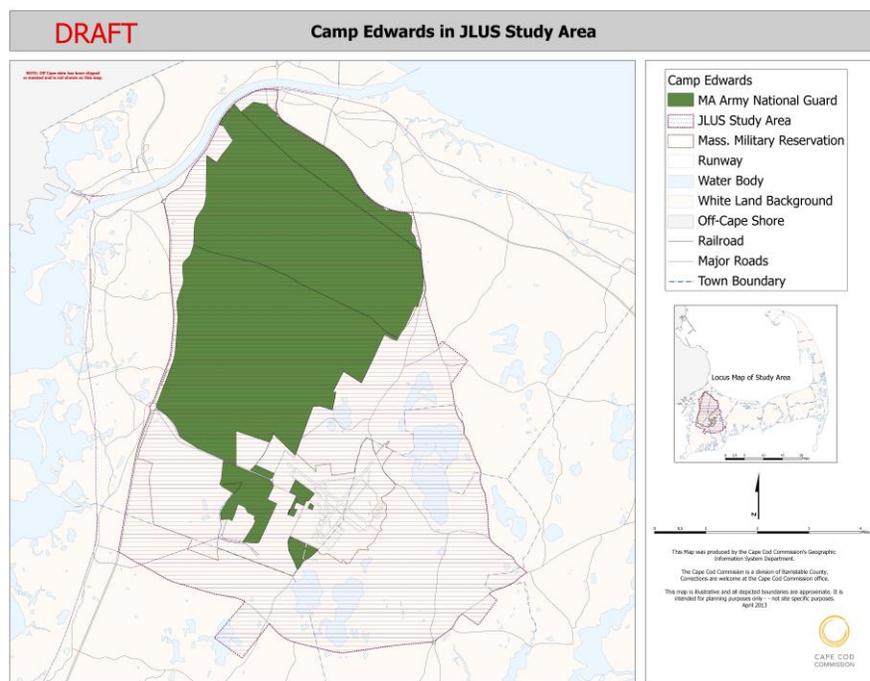
¹¹ See *USCG AirStation Cape Cod Master Plan* dated September, 2012, p. 1-7

¹² *Id.*

Edwards with reduced environmental impact in the Upper Cape Water Supply Reserve/Training Area.¹³

The MAARNG has approximately 6,375 soldiers who train on average one weekend per month and one two-week cycle during a training year. Units start planning their training several years in advance of the year in which they actually conduct their training. The unit leadership assesses the strengths and limitations of its personnel and begins to schedule training sites and resources to best support the training their units require. During the year prior (Training Year (TY) 2011) to the year of execution (TY 2012) units confirm geographical areas and training sites within those areas.

Camp Edwards today is the largest of five major training facilities in the Commonwealth. Military training activities in the Reserve [Camp Edwards] are tracked by Range Control based on training events and the number of personnel participating in each training event.



This method records the number of times each training area is utilized and the number of personnel and vehicles utilizing the areas for each event. The table below shows the utilization of training areas and ranges

¹³ See *Preliminary Draft Camp Edwards Site Consolidation Plan 2012 – 2017*, MA Army National Guard

in the Reserve as well as use of training support areas in the Cantonment Area of Camp Edwards.¹⁴

OVERVIEW OF TRAINING USE - TY 2012			
PERSONNEL			
Area	Training Days / Events	Military Personnel	Civilian Personnel
Ranges	61	2,003	53
Training Areas	232	13,532	122
Training Support Areas	824	63,210	691
TOTAL	1,117	78,745	866

In addition to the major commands on MMR, the base currently houses the Veteran's Administration (Massachusetts National Cemetery), Cape Cod Air Force Station and US Coast Guard Antenna Station, PAVE PAWS, Barnstable County Jail and House of Correction, and many smaller tenants from Federal, State and Local agencies.¹⁵

OWNERSHIP/LAND USE CHANGES PRESENT OPPORTUNITIES FOR SHARED SERVICES

The Air National Guard, in its role as host tenant on the MMR, provides basic services to all MMR tenants, including electricity, water sewerage, communications infrastructure, fire protection, and maintenance of main roads. The Air National Guard maintains 70 miles of electric utility lines, 2,068 utility poles and 610 transformers, as well as 57 miles of sewage lines and a wastewater treatment facility. In addition, the Air National Guard personnel maintain 27 miles of MMR roadways. As part of its strategic reduction, the Air National Guard will be divesting of its utility and public works responsibilities.¹⁶

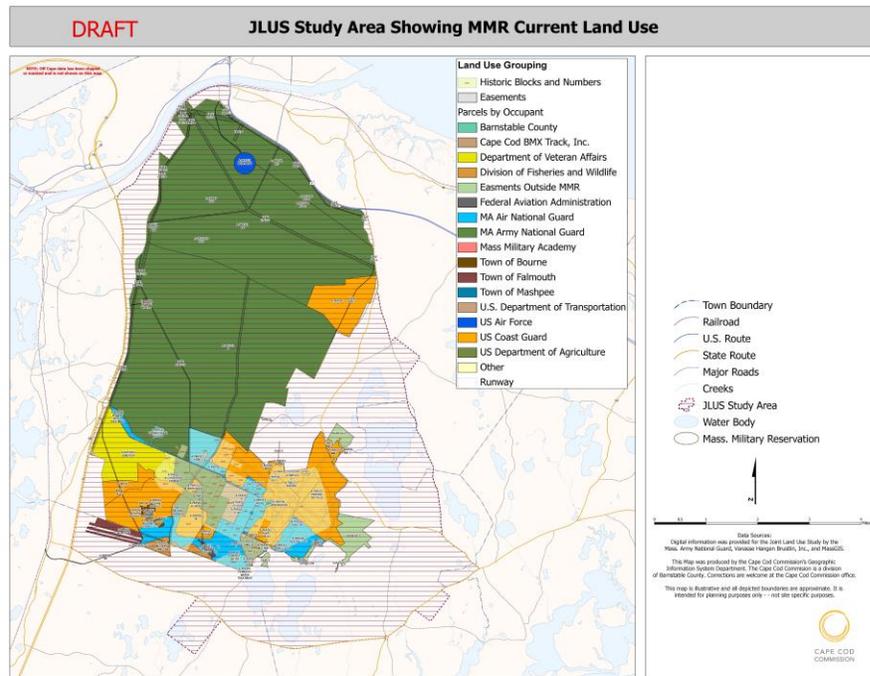
As a result of changes in mission, land transfer, and current training requirements, the US Coast Guard, Air National Guard, and Army National Guard have completed or are in the process of preparing master plans to address future needs and space requirements. In addition, the DoD Office of Economic Adjustment funded an assessment in 2012 of future options for the Base's wastewater treatment facility, including 3rd party contract operation providing service to MMR and wholesale service

¹⁴ See *Final State of the Reservation Report - Training Year 2012*, Massachusetts National Guard Environmental & Readiness Center, p. 61-62

¹⁵ See *Draft General Plan for Space Re-Utilization for the Otis Air National Guard Base* by the 102nd Intelligence Wing dated October 10, 2012, p. 4

¹⁶ See *USCG AirStation Cape Cod Master Plan* dated September, 2012, p. 2-36

to towns, and sale/transfer of the existing system and service to MMR and towns.



Base planning efforts completed or underway at MMR present a variety of opportunities for shared services among tenants, private developers, and/or communities. For example, the Otis ANG plan includes consideration of an Enhanced Use Lease (EUL) that would allow a private developer to lease available federal land and/or facilities.¹⁷ One such project is a proposed photovoltaic array on the capped landfill site. The Brightfield Solar Project, proposed for the capped landfill at MMR, will connect to the base's grid behind the meter, and will be used to provide cheap, renewable electrical power to the base reducing the base's dependence on commercial power. The contract will be for a Power Purchase Agreement, where the land will be leased to a private developer who will install, own, and operate the system, with Otis ANGB being the sole customer.¹⁸

Options for creative agreements and projects between the ANG, Commonwealth of Massachusetts, local communities and the private sector extend beyond EULs. The ANG is also considering alternatives to

¹⁷ See *Draft General Plan for Space Re-Utilization for the Otis Air National Guard Base* by the 102nd Intelligence Wing dated October 10, 2012, p. 20

¹⁸ Memorandum, Massachusetts Air National Guard/Defense Logistics Agency, Brightfield Solar Project, undated

their current transportation access to the base to divest in the road network and/or consider an enhanced use lease that provides public works services.¹⁹ The Army National Guard draft plan proposes to acquire lands and other property declared excess by the Air National Guard to support installation and training needs.

The US Coast Guard master plan is focused on the most effective and efficient use of land and facilities to provide the greatest program benefit while minimizing cost. This requires maximizing the use of existing on-site land and facilities. Opportunities for reuse of existing facilities, including MMR partner facilities should also be explored.²⁰ The Coast Guard master plan includes an inventory of existing facilities, including housing and recreational facilities that may be consolidated, repurposed or demolished for other uses.

These and other existing and ongoing planning efforts indicate a willingness on the part of the 3 major tenants on MMR to explore how future military and community needs could be met and efficiencies created through exploration of community-military partnerships for shared infrastructure, utilities, and other services.

FUTURE BRAC ROUNDS AND IMPLICATIONS FOR REALIGNMENT AND/OR CLOSURE

Although the last rounds of BRAC, or Base Realignment and Closure, occurred in 2005, installations must be mindful and active in planning for the future. “In the current environment of fiscal constraints (both in DoD and in local and state government), mission encroachment due to urban sprawl, [endangered] species issues, the new boom in renewable energy, and rapidly evolving national security threats, installations and their host communities can no longer afford NOT to communicate. Robust sharing of information, active cooperation in master planning activities inside and outside of fence lines and partnership to deliver facilities and services are the new imperatives of military/community interaction”.²¹

MILITARY FOCUS ON CORE MISSIONS

An additional consideration to the pursuit of community-military partnerships is the fact that the engagement of the communities in the provision of services allows the military to focus its resources, both

¹⁹ Id.

²⁰ See *USCG AirStation Cape Cod Master Plan* dated September, 2012, p. 1-1

²¹ Association of Defense Communities BRAC Workshop: Using Lessons Learned to Address the Resource Challenges of Today, August 7, 2012

monetary and manpower, on its core missions. This falls directly in line with guidance issued by the Deputy Director of Defense, who notes that operating portions of the budget should:

- Exempt all military personnel from sequestration reductions
- Fully protect funding for wartime operations;
- Fully protect Wounded Warrior programs
- Protect programs most associated with the new defense strategy.²²

GOAL OF THIS REPORT – ECONOMIES OF SCALE

With the knowledge that the goal of the Department of Defense is the exploration of the economies of scale that shared services may provide, the purpose of this report is to:

- Examine what comprises a community-military partnership;
- Examine policies that enable or disallow community – military partnerships;
- Provide examples of existing community – military partnerships in the U.S.;
- Provide examples of existing partnerships/shared services on MMR;
- Identify stakeholder roles, responsibilities and challenges of implementing military – community inter-municipal agreements;
- Identify initial opportunities for further discussion in workshops for shared services on MMR.

WHAT IS A COMMUNITY-MILITARY (PUBLIC - PUBLIC) PARTNERSHIP?

A community-military partnership is a construct between two or more parties that combines resources, either monetary or in-kind to achieve common goals and objectives. A partnership should include the following elements:

- Create mutual value that is greater than partners could achieve on their own;

²² Memorandum, Department of Defense Handling Budget Uncertainty in Fiscal Year 2013, Carter, Ashton, January 10, 2013

- Leverage resources;
- Address common issues; and,
- Share the risk associated with these resources.

COMMON TYPES OF PUBLIC - PUBLIC PARTNERSHIPS

The most common types of partnerships include the following:

- Inter-local support agreements between military and civilian fire and police forces;
- Facility-use agreements for the sharing of facilities;
- Provision of water, sewer and energy utility infrastructure; and,
- Use of real property resources for renewable energy.

Shared services are important to consider because common interests exist between military installations and surrounding communities, and redundancy is no longer affordable. In today's military, a garrison commander is tasked with many responsibilities that are also served by towns. Both have the goals of serving their populations while being cost effective. Some examples include the following:

- Maintenance of infrastructure such as streets, buildings and sewer treatment facilities;
- Maintenance of personnel to maintain that infrastructure;
- Redundant contracting services such as custodial cleaning and telecommunications.

POLICIES THAT ENABLE OR DISCOURAGE COMMUNITY-MILITARY PARTNERSHIPS

There are several policies and initiatives that affect community-military partnerships, including the recent passage of the Defense Authorization Act of 2013, force protection/antiterrorism requirements, encroachment and the existing legal and land use framework on the MMR.

DEFENSE AUTHORIZATION ACT OF 2013

Some key developments have recently surfaced which further enable community –military partnerships. Specifically, the recent passage of the Defense Authorization Act of 2013 provides specific authorization for community-military partnerships.

Section 331, entitled “Intergovernmental Support agreements with State and Local Governments”, amended chapter 137 of 15 Title 10, United States Code, provides the following:

The secretary concerned may enter into an intergovernmental support agreement with a state or local government to provide, receive or share installation-support services if the secretary determines that the agreement will serve the best interests of the department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs.²³

The section further provides that “notwithstanding any other provision of law, an intergovernmental support agreement...

- May be entered into on a sole-source basis;
- May be for a term not to exceed five years; and
- May use, for installation-support services provided by a state or local government, wage grades normally paid by that state or local government.²⁴

There are few limitations on this authority. The intergovernmental support agreement “may only be used when the secretary concerned or the state or local government...providing the installation support services already provides such services for its own use”. Further, the secretary concerned must ensure that these agreements are not used to circumvent the requirements of the Office of Management and Budget circular A-76 regarding private-public competitions.²⁵

The measure specifically states that this authority is not intended to revoke, preclude or interfere with existing or proposed mutual-aid agreements or arrangements.²⁶

These agreements are required to be paid out of funds available for operation and maintenance. The costs of agreements may be paid using annual appropriations made available for that year. Funds received by the secretary on behalf of an installation must be credited to the appropriation or account charged with providing installation support.²⁷

The term “installation-support services” is defined as “those services, supplies, resources and support typically provided by a local government

²³ 15 United States Code 10, Chapter 137, section 1226.

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Id.

for its own needs and without regard to whether such services, supplies, resources and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions.²⁸

The term local government is also broadly defined as “includ(ing) a county, parish, municipality, city, town, township, local public authority, school district, special district and any agency or instrumentality of a local government.”²⁹

FORCE PROTECTION/ANTITERRORISM

Force protection or *FP* is a term used by the United States military to describe preventive measures taken to mitigate hostile actions in specific areas or against a specific population, usually Department of Defense (including, but not limited to, family members and chaplains), resources, facilities, and critical information.³⁰

Force protection/antiterrorism standoffs refer to setback requirements for inhabited structures and gathering places from the installation’s exterior boundary to reduce the vulnerability of service personnel to terrorist attacks. Force protection can also include procedures as basic as checking identification cards at the entrance to an installation and requiring credentials to get inside a building. However, when necessary, force protection procedures can become as stringent as inspecting every vehicle, person and bag entering an installation.

There are four levels of force protection applied to every military installation. The Commander of the US Northern Command determines what the minimum level of force protection that will be applied for installations in the continental United States. Individual facility and installation commanders may increase their force protection levels as they feel is necessary.³¹

Further, the Department of Defense Antiterrorism standards require Terrorism Vulnerability Assessments and use of the Joint Antiterrorism Guide in planning. Tenants on installations are also required to

²⁸ Id.

²⁹ Id.

³⁰ Department of Defense Dictionary of Military and Associated Terms, 12 April 2001, as amended through 12 July 2007

³¹ [USNORTHCOM sets force protection for military installations](#), Brayman, Gail, NORAD and USNORTHCOM Public Affairs, July 3, 2007

coordinate their AT program and plan requirements with the host installation.³²

MMR is a secure Federal military facility, and public access is limited. MMR is open to those with military IDs, military dependent IDs, and retired military IDs. Facilities open to these ID holders include the Falcon Golf Course, movie theater, Kaehler Clinic, Exchange, Mini-mart, Chapel, and bowling alley. Other limited facilities are available for use with prior authorization and coordination.³³

The Department of Defense Antiterrorism Force Protection Policies and Standoff Distances are a key consideration when considering intergovernmental support agreements because they may restrict both the location of development on the Massachusetts Military Reservation as well as public access to it.³⁴

ENCROACHMENT

Encroachment is a term to describe a deliberate action by any governmental or non-governmental entity or individual that does, or is likely to inhibit, curtail or impede current or future military activities within the installation complex or mission footprint or is likely to be incompatible with the use of a community's resources.

A key consideration of any community-military partnership should always be whether the proposal, either on its face or by implication, would result in encroachment upon any of the military missions located on the MMR. An example of encroachment at MMR is residential development in close proximity to the base boundary, in particular active firing ranges. The 2005 MMR Joint Land Use Study also examined the potential conflict of personal wireless services or other tall structures within flight paths of US Coast Guard search-and-rescue missions. This study recommended adoption of a wireless facility corridor overlay district by the towns to limit the height of these facilities to reduce potential conflicts.

³² DOD Instruction, DoD Antiterrorism (AT) Standards, Number 2000.16, October 16, 2006

³³ See *USCG AirStation Cape Cod Master Plan* dated September, 2012, p.1-25

³⁴ See *Draft General Plan for Space Re-Utilization* for the Otis Air National Guard Base by the 102d Intelligence Wing dated October 10, 2012 (identifying Department of Defense Antiterrorism Force Protection Standoff Distances at figure 18 and 19; *USCG AirStation Cape Cod Master Plan* dated September, 2012;

CURRENT LICENSES, LEASES AND ENCUMBRANCES ON THE LAND AT THE MASSACHUSETTS MILITARY RESERVATION (MMR)

A key consideration in any and all planning discussions for the MMR must be the current licenses, leases, encumbrances and legal constraints that exist for that property. Discussed below is a brief summary of those requirements.

Of the 22,000 acres on the MMR, 19,000 acres are owned by the Commonwealth of Massachusetts, leased to the federal government, and then licensed back to the Commonwealth of Massachusetts for National Guard training and support.³⁵ The portions of MMR subject to the licensing agreements are primarily between the U.S. Air Force and U.S. Army for the National Guard units on MMR. The National Guard is both a federal and state entity subject to the authority of both the Governor and federal officers. It is funded by the federal government and subject to federal regulation.

In 1976, the Army granted a license to the Commonwealth to use the land it leases from the Commonwealth for “year round training and support of the Massachusetts Army National Guard”. The license is for the entire term of the Army’s lease. The license is “revocable at will” by the Army and the Commonwealth may relinquish the license with thirty days’ notice. The Air National Guard also holds a similar license.

The MMR also includes 1,100 acres owned in fee by the U.S. Air Force at Otis Air National Guard base. The Veterans Administration owns 749.29 acres, upon which the National Cemetery is located.

The northern 15,000 acres of the base, also called the Upper Cape Water Supply Reserve, where the majority of the Army National Guard training occurs, was protected through a Memorandum of Agreement (MOA) and an Executive Order in 2001. The MOA was codified into law in 2002. Activities in the Reserve are subject to Environmental Performance Standards that were enacted to ensure the permanent protection of the Cape’s drinking water supply and wildlife habitat in that area.³⁶ The Environmental Management Commission (“EMC”) of the MMR consists of three members: the Commissioner of the Department of Fish and Game, the Commissioner of Department of Conservation and Recreation, and the Commissioner of the Department of Environmental Protection. Their responsibility is to ensure the permanent protection of the drinking water supply and wildlife habitat of the reserve and to ensure all military

³⁵ See Report on Legal Control Over Land Use at the MMR, Harshbarger, Scott, March 1998 and July 1998

³⁶ Chapter 47 of the Acts of 2002

and other activities in those 15,000 acres are consistent with the Environmental Performance Standards.³⁷

The EMC is assisted by the Community Advisory Council (“CAC”), which consists of the following members: one from Falmouth, Bourne, Sandwich and Mashpee; one family member resident of the MMR; two representatives from the military, one from the Cape Cod Commission, one from the Wampanoag Tribe and five other members. All members are appointed by the Governor. ³⁸

The EMC is also advised by the Science Advisory Council (“SAC”), which consists of between five and nine scientists/engineers who are experts in public health, water protection, wildlife habitat management and land use management. The EMC is also supported by the Environmental Officer, who is a state employee and whose role is to monitor the impact of activities and uses of the northern 15,000 acres.³⁹

A significant portion of the northern training area of the MMR was once part of the Shawme-Crowell State Forest and was initially leased to the federal government in 1940. The original statutes transferred most of the state forest to the Military Reservation Commission (MRC) and subsequently the care, custody, and control of the land was transferred to the Massachusetts Division of Fisheries and Wildlife in accordance with Chapter 47.⁴⁰

Each lease to the federal government, as represented by their relevant armed service maintains the right to the use the MMR “for such military use as the Government may require and such other Governmental uses as the parties hereto from time to time mutually agree in writing”.⁴¹ Subject to certain restrictions in the Reserve associated with the MOA and Chapter 47, the federal government also has broad rights to construct buildings or make improvements on the property. It also owns those buildings and may remove, abandon or dispose of them at their option at the conclusion of the agreement.

The Air Force lease assigns responsibility for “maintenance, management and operation” of the leased property to the federal government to be carried out by a single designated federal “host agency”. The Coast Guard lease designates the Commander, First Coast Guard district, as the

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹- See Report on Legal Control Over Land Use at the MMR, Harshbarger, Scott, March 1998 and July 1998

federal officer in charge of managing the leased property. The lease also allows the federal host agency to contract with the Commonwealth to maintain/operate the premises.

Changes in the lease arrangements between the Commonwealth and its federal lessees would require either an action by Congress, consent by the Air Force, Army or Coast Guard, or federal consent at the request of the Commonwealth.

POLICIES FOR COMMUNITIES IN MASSACHUSETTS THAT PROHIBIT OR ENABLE SHARED SERVICES

Home Rule

Massachusetts is subject to the home rule amendment to its constitution. The purpose of the Home Rule Amendment is to preserve the right of municipalities to self-government in essentially local matters by allowing them to adopt and amend their own charters, while preserving Commonwealth's right to legislate with respect to state, regional and general matters.⁴²

Under the Home Rule Amendment, the legislature is restricted from passing a special law, i.e., statute that is applicable to only one city or town, unless affected municipality requests legislature to do so by means of petition approved either by its voters or its mayor and city council, or unless legislature acts on recommendation by governor with two-thirds vote of each branch of legislature.⁴³

While the Home Rule Amendment was not intended to prevent the Legislature from “reassign[ing] functions among levels of government as changing times may require,”⁴⁴ it is a consideration when examining a town’s ability to enter into some aspects of shared service agreements and the source of legislative authority to do so.

INTER-MUNICIPAL AGREEMENTS

Chapter 188 of the Acts of 2008

⁴² M.G.L.A. [Const. Amend. Art. 2, § 8](#) as amended by Amend. Art. 89.

⁴³ Id.

⁴⁴ First Report of the Special Commission on Implementation of the Municipal Home Rule Amendment to the State Constitution, 1966 Sen.Doc. No. 846, at 9.

In 2008, the Massachusetts Legislature amended [Chapter 40, § 4A](#) (the “inter-municipal agreement law”) by shifting the authority necessary to approve such agreements in municipalities with a town form of government from town meeting to the board of selectmen. Cities are still required to obtain the approval of the city council and mayor.

This change makes it easier for the Commonwealth’s municipalities to enter into these agreements and, thus, reap the benefits of collaboration – which can include reduced costs, improved service delivery, increased efficiencies, and the availability of services, equipment and personnel that a municipality could not otherwise obtain on its own.

As a result, inter-municipal agreements are becoming a popular tool for sharing resources between municipalities and other governmental units. With some foresight and careful planning, municipal leaders can use these agreements to improve services and reduce costs while also promoting collaboration and regionalization.

Types of Inter-Municipal Agreements

There are three basic types of inter-municipal agreements: (1) formal contracts; (2) joint service agreements, and (3) service exchange arrangements.

Formal contracts

The most common method of intergovernmental contracting, these are written contracts between two or more municipalities, under which one local government agrees to provide a service to another local government for an agreed upon price.

An example of a formal contract is the sharing of personnel, such as an animal control officer, traffic engineer, or public health official.

Joint service agreements

These are agreements between two or more municipalities to join forces to plan, finance and/or deliver a service within the boundaries of all participating communities. A joint service agreement gives local governments the broad flexibility to tailor the agreement to reflect the unique needs of the service provided.

Public works is the most common subject of joint service agreements; for example, joint ownership of new equipment and shared solid waste disposal/refuse districts.

Service exchange arrangements

These are agreements under which local governments agree to lend services to one another, generally without any payment required.

The most common example of a service exchange arrangement is mutual aid for emergency services, often used by municipal police and fire departments faced with limited time and constraints on budget and staff.⁴⁵

EXAMPLES OF EXISTING COMMUNITY – MILITARY PARTNERSHIPS

THE MONTEREY MODEL – JOINT POWERS AGREEMENT

A successful community-military partnership was established between the Cities of Monterey and Seaside, California, and the Army Defense Language Institute at the Presidio and the Naval Postgraduate School. Proposed for closure under 2005 BRAC, the Army sought ways to reduce costs on its military base.

The partnership was initially enabled by FY04 Defense Authorization Bill, which enabled “public works, utility and other municipal services needed for the operation of any department of Defense asset in Monterey County, California, to be purchased from government agencies in that county”.⁴⁶

In 2004, the cities of Monterey and Seaside, California entered into a Joint Powers agreement (JPA) and formed the Presidio Municipal Service Agency (PMSA) as a non-profit organization. The City of Monterey provides service to the Presidio of Monterey, while the City of Seaside provides service to the Fort Ord Military community. The purpose of these agreements by the Monterey City Council was to reduce costs to operate the military base.

The City entered into a contract for base operations and maintenance. The City’s maintenance philosophy was to “improve – save-innovate”; improve the quality of life and enhance mission, save taxpayer dollars, and introduce new ideas and thinking.

The City provides the Garrison commander full access to any city service on a cost-reimbursable basis. These services include the following:

- Facility maintenance and repair;
- Fire detection and alarm system;

⁴⁵ Metropolitan Area Planning Council, *Inter-Municipal Agreements Resource Guide*, <http://www.mapc.org/resources/intermunicipal-agreements>

⁴⁶ H.R. 1588, as reported (FY04 Defense Authorization Bill)

- Street and storm water system maintenance;
- Elevator, generator, HVAC system repairs;
- Capital improvement projects;
- Locksmith;
- Pest control;
- Tree maintenance.

The FY 2012 contract is for approximately \$8.2 million. Installation customers submit “service orders” directly to PMSA, through its DPW. As it is a cost reimbursable contract, the Army only pays for its actual costs and services.

Today, the City maintains 2.2 million square feet of the Presidio, including 160 facilities in Monterey and 24 facilities on Camp Roberts. They process 19,000 work orders annually. By providing all materials and supplies to the installation at cost, the city has saved the installation over \$500,000 over the life of its contract. Through warranty tracking on everything from roofs, boilers, generators to materials used for DPW projects, the City has estimated its cost savings to be more than \$1,500,000. The City has been successful in obtaining energy rebates totaling \$1,577,310 to date.

Through the use of its dashboard technology, which is both a work and asset management system, the City is able to provide real-time cost data to the installation on an as needed basis. This ability to measure both progress and savings has enabled both the City of Monterey and the Army to quantify a 41% savings compared to previous federal and private service providers.⁴⁷

OTHER PARTNERSHIPS WITH THE CITY OF MONTEREY

The city of Monterey also entered into a lease agreement with the Army for a historic park and nature preserve within the Presidio. As consideration for the use of this land, the City of Monterey maintained the historic properties and walking trails on the land, as well as provided police patrol and fire protection, cost of utilities, insurance and pesticide, water and sanitary maintenance.

There is also a license granted from the Army to the City of Monterey for the development, improvement and joint use of three baseball fields, a running track and a soccer field at the Presidio of Monterey. The consideration was the construction, operation and maintenance of the

⁴⁷ 2000 Triple A audit findings

premises for the general public for use of those fields, payment of utilities, and insurance costs.

The Army also leased the Presidio of Monterey child care facility to the City of Monterey. Consideration for this lease included the reservation of 41 child care slots exclusively for children of the Army.

OTHER EXAMPLES OF COMMUNITY – MILITARY PARTNERSHIPS

The following are examples of other types of community – military partnerships illustrating the various types of services, utilities, and infrastructure that are currently shared in the U.S. between military installations and host communities.

TRANSPORTATION INFRASTRUCTURE

Libby Army Airfield

Located at Fort Huachuca, Libby Army Airfield consisted of three runways on 900 acres of military land. The city of Sierra Vista, Arizona became a partner with the Army when it leased 29 acres of land adjacent to the airfield. This partnership has enabled the city to secure grant funding for safety and capacity improvements to Libby Army Airfield, including: a \$250,000 automated weather observation system, a \$1 million fiber optic cable between the city's taxiway lights and the Army's lighting system, and construction of a \$2million, 100 foot wide, 1400 long reinforced concrete taxiway from the Army's main runway to the city's side of the airfield.

WATER SUPPLY AND WASTEWATER INFRASTRUCTURE AND ELECTRIC/GAS UTILITIES

Brooks City-Base Redevelopment

The United States Air Force partnered with the City of Antonio through a cooperative agreement between the Air Force and the city's Brooks Development Authority (BDA). The high operating costs of Brooks AFB made it vulnerable when it was placed on the 1995 BRAC list of

recommendations. Installation and local officials sought ways to reduce operating costs and build public-public and public-private partnerships.⁴⁸

In the Fiscal Year 200 Defense Appropriations Act, the Air Force was authorized to conduct a demonstration project at Brooks AFB allowing conveyance of the Brooks AFB property. Texas Senate Bill 911 (amended Chapter 378) allowed for the creation of economic development authorities at base efficiency project locations. The San Antonio City Council enacted an ordinance establishing Brooks Development Authority to manage, lease and sell the real property of Brooks City-Base.

In July 2002, all of the Brooks property was conveyed by deed to the BDA. The Air Force leased back only the property it needed to accomplish its missions, through a 20 year lease with four 20-year extension options. Through legislation, the property had to be transferred at Fair Market Value (FMV), which was established through a joint appraisal to be worth \$ 64.24 million dollars. The parties agreed FMV was reached through the Air Force's rent abatement over the term of the lease; the Air Force sharing its future development revenues; and the municipal services that the BDA would provide in support of the Air Force's missions.

Utility transfers were accomplished through a Bill of Sale. BDA then transferred electric and gas utilities to the city's municipally owned electric and gas company, City Public Service. BDA transferred the water and sanitary sewer systems to the San Antonio water system. Upgrades continue to be made to the water and wastewater systems and improvements have been made to the campus storm drainage system by the City of San Antonio.

From the land not needed for Air Force missions, the BDA sold 28 acres upon which a state of the art, 81 bed hospital resides. The City of San Antonio constructed a 40,000 square foot Fire and Police Emergency Dispatch (911) center. The BDA is jointly developing a \$27 million dollar apartment project on campus.

South Dakota Ellsworth Development Authority (SDEDA)

SDEDA has been working to reduce encroachment surrounding the Ellsworth Air Force base. In addition to building a multi-use development to house residents and businesses currently incompatible with Ellsworth Air Force Base, SDEDA is building a regional wastewater

⁴⁸ Association of Defense Communities Annual Conference: Navigating Change, August 8, 2012

treatment plant that will serve both Ellsworth and the City of Box Elder, saving the Air Force an estimated \$8 million dollars.⁴⁹

Nellis Air Force Base

The Nellis Air Force base in Nevada and City of North Las Vegas is another successful public-public partnership. In this case, enhanced use leasing authority was utilized for 41 acres. On this land, the City of North Las Vegas redeveloped land on the base for a water reclamation facility. As consideration for the land, the city provided in-kind facilities including a fitness center and water supply infrastructure. In return, the city was provided space to build a 25 million gallon/per/day facility as well as the ability to expand (double its size) for future growth.

Tyndall Air Force Base

Bay County, Florida was in need of an area to handle future capacity for its wastewater treatment facilities. Tyndall Air Force base had a 40 acre site where a new advanced wastewater treatment facility could be built. Together, they formed a partnership in which Tyndall leased the land to Bay County. The area municipalities were the joint owners of the plant and charged users for use of the plant. Tyndall AFB received the benefit of the plant as a customer and also used the effluent to water the base's golf course.

US Army Fort Huachuca

The Army has entered into a partnership agreement with the city in which the Army is replacing the post's outdated and under-resourced library with the City's modern, state of the art facility. Also underway is a partnership between the Army and Huachuca City, in which untreated effluent from the city is being pumped to the post's wastewater treatment plant, reducing municipal treatment costs and contributing 65 million gallons to the annual recharge effort.⁵⁰

RENEWABLE ENERGY

Joint Military Base McGuire-Dix Lakehurst in New Jersey

⁴⁹ Association of Defense Communities Annual Conference: Navigating Change, August 8, 2012.

⁵⁰ Id.

In January, 2013, the U.S. military announced approval of a 12.3 MW installation at the Joint Military Base McGuire-Dix Lakehurst in New Jersey. This project would be the largest military community-based solar installation across the roofs of privatized family housing on the joint military base.⁵¹

The U.S. Air Force granted its support and consent for the solar power plant to provide electricity at a reduced rate for a period of 20 years to the privatized military family housing community at Joint Base McGuire-Dix-Lakehurst, the U.S. military's only tri-service installation, consisting of McGuire Air Force Base, Fort Dix and neighboring Naval Air Station Lakehurst. With 12.3 megawatts of rooftop power generation, the solar plant will establish Joint Base McGuire-Dix-Lakehurst as one of the largest solar-powered military communities in the nation.⁵²

SOLID WASTE AND RECYCLING

The Fort Hood Recycling Program was first started in 1992 and has developed and improved so much that it now boasts the largest recycling facility in the U.S. Army. The program has outgrown its original 17,500 square foot processing facility and in recent years added an abundance of high tech recycling equipment, which has in turn saved the installation thousands of dollars and gained Fort Hood positive national attention.

Housed under the Directorate of Public Works, Fort Hood's Recycling Program is executed by an environmental division of 40 personnel, who focus their efforts primarily on recycling and solid waste diversion. At the beginning of the recycling program in 1992, Fort Hood sold a total of 600 tons of recyclable material. In fiscal 2008 and 2009, Fort Hood upped that to 17,132 tons of recyclable material, nearly 30 times more than their starting levels. The program uses a large indoor storage capacity to collect raw materials, process and market them after quality assurance. The team has also carefully mapped out several collection routes to maximize the amount of recycling on the installation. The goal of the program is to collect 100 percent of all cardboard generated annually on Fort Hood, including cardboard generated during permanent change or station move-ins.

⁵¹ http://www.pv-magazine.com/news/details/beitrag/us-military-continues-to-invest-in-pv_100009780/#axzz2Lev5mziw

⁵² <http://www.prnewswire.com/news-releases/true-green-capital-management-brings-123-megawatts-of-solar-energy-to-joint-base-mcguire-dix-lakehurst-185862372.html>

The team's goal is to educate and inform those living and working on and off the installation to pitch in with the recycling program and Fort Hood's other environmental initiatives. The team's success is now being recognized nationwide as they are being asked to reach out to other Army installations in hopes of helping them improve their recycling programs.⁵³

EXISTING PARTNERSHIPS/SHARED SERVICES ON MMR

Currently, there are existing shared services on the MMR in the form of a mutual aid agreement among all the towns of Cape Cod for major emergencies and fire-rescue assistance.

On December 22, 2006, a Memorandum of Agreement was entered into between the United States Coast Guard, National Guard Bureau and the Commonwealth of Massachusetts establishing the Massachusetts Military Reservation Installation Partnership.

This agreement recognized that at the time of endorsement, the United States Coast Guard Air Station Cape Cod, Otis Air National Guard Base (Otis ANGB) of the Massachusetts Air National Guard, and Camp Edwards of the Massachusetts Army National Guard together comprise nearly 20,000 acres of contiguous Department of Homeland Security and Department of Defense facilities at the MMR. It also recognized that Air Force policy to align real property resources to support military operational requirements. As a result of this agreement, management of the MMR Airfield, utilities and fire and emergency services was transitioned to three stakeholders: United States Coast Guard, the Massachusetts Air National Guard and the Commonwealth of Massachusetts.

The airfield was transferred by permit to the United States Coast Guard, which is responsible for airfield management services, including necessary maintenance or repair and utility infrastructure.

The Massachusetts Air National Guard assumed operation of the common utility services for the MMR of electricity, water, sewage, and telecommunications as required supporting its operational facilities and operational facilities of tenant users.

The Commonwealth of Massachusetts ensures the maintenance, operation and support of a fully functioning Fire Department that

⁵³ <http://www.army.mil/article/43563/fort-hood-asks-have-you-recycled-lately/>

provides fire and emergency services to local, state and federal users of the MMR.

The partnership also delegated authority to their subordinated Commanders and Agencies to enter into Memoranda of Agreement, and Interagency Support Agreements to accomplish the shared goals of the agreement.

STAKEHOLDER ROLES/RESPONSIBILITIES AND CHALLENGES IN EXECUTING PARTNERSHIPS

While there are many challenges to executing partnerships, this should not deter stakeholders from pursuing these advantageous opportunities. Practices which have overcome obstacles in the past include the following:

- Consistent and clear communication about real needs among multiple levels of local and state government and base personnel from a variety of functions;
- Full understanding by the communities of the needs of military missions by its host communities and the place of the mission in the fabric of the community by the base;
- Full understanding by the military of the capabilities and functions available in the communities, which can result in unnecessary duplication on the installations;
- No assumption on the part of the communities and state that the “base will always be there”;
- Tie base master planning processes with local and state government planning with an emphasis on capacity planning; and
- Creation of creative partnerships to address needs.

Some questions that should be examined for discussion include:

- How can communities and installations make each other more sustainable?
- What obstacles prevent closer communication, cooperation and partnerships between installations and municipalities?

- How can the Master Planning process facilitate increased coordination between installation and communities?
- How can installations best partner with municipalities and states to address resource limitations and mutual needs?⁵⁴

NEXT STEPS

The Cape Cod Commission completed a tabletop exercise in February 2013 between local and state officials and MMR Technical Advisory Committee members to explore potential public-public partnerships on the MMR. A second workshop is scheduled for May 2, 2013 to explore the top priority partnerships in further detail. Based on these workshops, the Commission will develop preliminary recommendations for 3 -5 potential community-military partnerships for further analysis.

⁵⁴ ADC BRAC Workshop: Using Lessons to Address the Resource Challenges of Today, August 7, 2012