

No. 3955

**UNITED STATES OF AMERICA
and
CANADA**

Exchange of notes (with enclosed copy of a proposed contract) constituting an agreement relating to the construction and operation of housing units at Pepperrell Air Force Base, St. John's, Newfoundland. Ottawa, 18 and 19 April 1956

Official text : English.

Registered by the United States of America on 26 July 1957.

**ÉTATS-UNIS D'AMÉRIQUE
et
CANADA**

Échange de notes (avec, en annexe, un projet de contrat) constituant un accord relatif à la construction et à la gestion d'un groupe d'habitations à la base aérienne de Pepperrell (Saint-Jean de Terre-Neuve). Ottawa, 18 et 19 avril 1956

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 26 juillet 1957.

No. 3955. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA RELATING TO THE CONSTRUCTION AND OPERATION OF HOUSING UNITS AT PEPPERRELL AIR FORCE BASE, ST. JOHN'S, NEWFOUNDLAND. OTTAWA, 18 AND 19 APRIL 1956

I

The American Ambassador to the Canadian Secretary of State for External Affairs

No. 266

The Ambassador of the United States of America presents his compliments to the Secretary of State for External Affairs and has the honor to refer to informal conversations between representatives of the Canadian and United States Governments regarding the desire of the Northeast Air Command to arrange for the construction of family housing units at Pepperrell Air Force Base, St. John's, Newfoundland.

As explained in the discussions, the proposed installations will be located within the present boundaries of the Pepperrell Base, with the leasehold interest in all buildings and their installed equipment vesting in the United States. Accordingly, the development will constitute a United States Government project undertaken in accordance with the terms of the Leased Bases Agreement of March 27, 1941.²

The United States Government proposes to have the construction of this housing undertaken by a private contractor, in accordance with the guaranteed military family housing program of the United States Government. Designs and specifications, copies of which will be furnished to Canadian authorities upon request, will be drawn up by the United States Government and will be used as a basis for receiving bids from Canadian and United States contractors. The contract will be awarded to the contractor with adequate financial and technical resources who offers the best terms.

A copy of the proposed contract is attached,³ in order that interested Canadian authorities may have an opportunity to examine its terms. The Canadian Govern-

¹ Came into force on 19 April 1956 by the exchange of the said notes.

² League of Nations, *Treaty Series*, Vol. CCIV, p. 15.

³ See p. 8 of this volume.

ment will be consulted regarding any change which may be made in the contents of the contract prior to its signature by a prospective contractor. Such a procedure will be in keeping with the 1941 Agreement, which provides in the preamble that its terms shall be fulfilled in a "spirit of good neighborliness" and further anticipates, in other parts of its provisions, that there shall be constant cooperation between authorities of the two countries in exercising the terms of the Agreement.

In this regard, Article XXI of the 1941 Agreement provides a statement of procedure to be followed in the event that the United States should desire to abandon any portion of the base area and notes that the area abandoned would revert to the lessor (now the Government of Canada). While the United States has no present plans looking toward abandonment of any portion of the 99-year leased areas, the United States Government proposes that the Canadian Government permit the contractor of the housing project to continue his operation of the project for the full 20-year period granted to the contractor by the terms of the contract, in the event that the United States Government should abandon the area prior to the expiration of the twenty years.

During the total period of twenty years the contractor will be given the privilege of renting to tenants other than United States forces and their civilian components, only in the event that there are insufficient numbers of United States personnel to occupy the development, a condition which is not now contemplated, and provided that the Canadian Government is informed, for its approval, of other than United States personnel to be housed in the project.

With general regard to the proposed project, it is understood that the Canadian Government will not undertake to supply utilities and fire protection for the development in the event the United States should abandon the leased area. In the latter contingency, however, the Canadian Government would have the right to specify, on a priority basis, the tenants who might occupy the project.

The Ambassador proposes that this Note and the Secretary's reply thereto shall, as from the date of the reply, constitute an agreement between the two Governments.

Enclosure :

Contract, as stated.

The Embassy of the United States of America
Ottawa, April 18, 1956

DEFERRED PAYMENT FAMILY HOUSING PROGRAM

CONSTRUCTION, OPERATION, MAINTENANCE AND MANAGEMENT CONTRACT

This agreement entered into this _____ day of _____ 1955 by the United States of America (hereinafter referred to as the "Government"), represented by the Contracting Officer executing this instrument and _____ (hereinafter referred to as the "Construction Agent"), the said Construction Agent for the purpose of this agreement electing as domicile _____

WITNESSETH

WHEREAS, the Government pursuant to the Leased Bases Agreement of 1941-1948 maintains and operates a military installation at St. Johns, Newfoundland, known as Pepperrell Air Force Base, at or in the vicinity of which there exists an acute shortage of housing for families of personnel assigned to duty at or near such military installation, and

WHEREAS, provision of such housing, as an integral part of Pepperrell Air Force Base, is essential for its continued maintenance and operation, and

WHEREAS, the Government is authorized to finance the construction and operation of such housing by guarantee, indemnity or other participation,

NOW THEREFORE, under the authority contained in the Act of 14 July 1952 (Public Law 534, 82d Congress), and in consideration of the premises, it is mutually agreed as follows :

Article I

PROJECT SITE

The Government hereby makes available the lands necessary, within the confines of Pepperrell Air Force Base, to construct, operate, maintain and manage the subject housing project for a period of twenty (20) years to permit the Construction Agent to comply with the terms of this agreement. This period shall commence on the completion date as set forth in Article II of this agreement. The land available for utilization for this project by the Construction Agent on Pepperrell Air Force Base is as set forth in Annex "A", appended hereto.¹

The leasehold interest in such lands and improvements thereto will remain in the Government subject to this agreement and the provisions of the Leased Bases Agreement of 1941 and Supplements thereto by which Pepperrell Air Force Base is leased to the United States Government for a period of 99 years from the 17th day of June 1941 to the 16th day of June 2040 by the Government of the United Kingdom, the Government of Canada having succeeded the Government of the United Kingdom as Lessor.

¹ Not printed by the Department of State of the United States of America.

Article II

CONSTRUCTION OF PROJECT

1. The Construction Agent agrees to construct the housing project for the Government, comprised of 500 units referred to herein, in accordance with the appended plans and specifications (Annex "B"). There shall be no change made in the plans and specifications without prior consent, in writing, of the Contracting Officer. Construction shall be commenced within sixty (60) days of receipt of a Government letter of acceptability. The entire 500 units shall be fully livable, operational and complete in every detail as set forth in the plans and specifications within _____ () calendar months from the date of the execution and delivery of the executed copy of this agreement to the Construction Agent. In the event of any delay occasioned by the construction of Government facilities, an extension of completion date as determined by the contracting officer will be allowed the Construction Agent.

2. The Government will provide project site improvement and construction as delineated in detail on appended plans and specification under "Annex C".

3. Title to all construction material passes to the United States upon delivery to water carriers for shipment to Newfoundland.

Article III

MANAGEMENT

1. The Construction Agent covenants and agrees to operate, maintain and manage the project for a period of twenty (20) years following completion of the project in accordance with the provisions of Article II, and to lease all units of the project to such U. S. military and U. S. national civilian employees of the Government as are designated by an authorized representative of the Government, (hereinafter referred to as designated U. S. personnel). Such designation of military personnel to occupy units in the project shall not, however, be considered an assignment to government quarters under the provisions of 37 U. S. C. 252 (a).

2. *a.* In the event an authorized representative of the government shall authorize, in writing, the Construction Agent to rent units in the project to personnel other than U. S. military and U. S. national civilian employees of the Government (hereinafter referred to as undesignated personnel) during the initial ten (10) years following completion of this project, the Construction Agent shall make every effort to lease such units as they become vacant at rents no lower than those charged to designated U. S. personnel unless lower rents are authorized by the Government, plus an amount equal to any deferred taxes levied on the units pursuant to Article VIII(2). Undesignated personnel permitted to occupy units in the project will be subject to airbase rules and regulations set forth by the base commander of Pepperrell Air Force Base. Rental of quarters to undesignated personnel will be subject to the approval of an authorized representative of the Canadian Government for the duration of this agreement. The Canadian Department of National Defense shall have the right of first refusal on the rental of any units to undesignated personnel.

b. The Construction Agent shall notify the Government's authorized representative of all vacancies or notices of intention to vacate the rented units. If the Government's

authorized representative fails to designate a new tenant within fifteen (15) days of receipt of such notification by the agent, such agent is authorized to lease the vacant unit to any reputable undesignated tenant, subject to the approval of the authorized representative of the Canadian Government.

c. The Construction Agent shall not be required to permit a prospective tenant to occupy a unit until a lease has been executed, the form of which will be approved by the authorized representative of the Government.

d. Use and occupation of the premises shall be subject to such rules and regulations as the authorized representative of the Government may from time to time reasonably prescribe for military requirements, for safety and security purposes, consistent with the use of the premises for housing.

3. The rights of the Construction Agent may be made subject to a mortgage, lien or other encumbrance, without affecting the rights of the Government set forth in this Article III.

Article IV

RENTS FOR FACILITIES

1. From the date of the first occupancy to the end of the initial ten (10) year period as hereinafter set forth in Article X, the rents to be collected from the designated tenants by the Construction Agent in accordance with the terms of this agreement shall be as follows :

Two bedroom row-type unit for officers	US \$——per month
Three bedroom row-type units for officers	US \$——per month
Four bedroom row-type units for officers	US \$——per month
Two bedroom row-type units for airmen	US \$——per month
Three bedroom row-type units for airmen	US \$——per month

All rentals scheduled above shall be the total amount to be charged the tenant for all unit space with all utilities furnished, such as unit space, heat, hot and cold running water, electricity for lighting, cooking, laundry and the use of normal household appliances.

2. The rents set forth in paragraph 1 hereof, may be modified to accommodate variable rental conditions at the request of the Government's authorized representative at any time during the initial ten (10) year period. The total amount of the rents to be collected from the project as a whole during the initial ten (10) year period shall not, however, be decreased by reason of such modification.

a. The rents to be collected from tenants designated by the Government during the period of ten (10) years following the initial ten (10) year period shall be at lower rentals mutually agreed upon annually by the Government and the Construction Agent.

b. Rent shall be paid monthly in advance by each tenant to the Construction Agent and in no event later than the tenth of each month.

c. The Construction Agent shall notify the authorized representative of the Government of the failure of any designated tenant to pay his or her rent.

Article V

MAINTENANCE AND OPERATION

1. The project shall be maintained and operated as residential dwellings. Specifically, the Construction Agent shall without additional charge to the tenants :

a. Supply maintenance services including painting and grounds maintenance to all units and "on-site" public areas.

b. Supply adequate garbage and waste containers for all units.

c. Repair damage in any part of project constructed by Construction Agent resulting from normal wear and tear, and from defects in construction, or acts or omissions of the Construction Agent, its agents or employees.

d. Supply adequate amounts of cold water at all times.

e. Supply adequate amounts of hot water at all times in accordance with the hot water heating equipment outlined in the specifications.

f. Paint such interior and exterior surfaces of the units as may be necessitated by normal wear and tear, but in no event shall complete redecoration of any unit be required more than once every _____ () years. All interior and exterior surfaces shall, however, be painted at least once every _____ () years.

g. Supply electricity for all normal household appliances, to include _____, _____, _____ and _____.

h. Supply heat to each unit of project to provide 70° F inside temperature year round on a 9,000 degree day basis.

i. Cut grass of entire project.

j. Repair all equipment installed by the Construction Agent and maintain adequate service organization for this purpose.

k. Maintain "on-site" parking areas, play areas, sidewalks, and grounds.

2. The Government will furnish to the Construction Agent on a reimbursable basis :

a. Garbage and trash collection from each unit at a maximum charge of \$1.00 per unit per month for 500 units.

b. Bulk water at approximately \$0.1153 per 1,000 gallons.

c. Sewage disposal at \$3.00 per living unit per year for 500 units.

d. Fire protection at \$7.00 per hour for two Government fire department companies for time actually spent at fires on the project.

3. The Government will furnish to the Construction Agent the following services on a non-reimbursable basis :

a. Snow removal from public roads and parking areas.

b. Road maintenance of public roads.

4. Each designated tenant will be responsible or liable, as the case may be, for the following :

- a. Internal and external cleanliness of each unit which the tenant occupies.
- b. The removal of snow and ice from unit sidewalks.
- c. For the cost of the repair of any damage caused by actions of the tenant or tenant's family to any part of the structures of the project as set forth in the terms of the individual lease.

Article VI

INSPECTION

1. During construction, the project may be inspected at all reasonable times by authorized representatives of the Government to assure compliance with the plans and specifications. In particular, no foundation, plumbing, electrical or heating system, or portions thereof, shall be covered prior to inspection and approval by such representatives.

2. Each progress inspection, each inspection of units for the purpose of acceptance for occupancy, and the final inspection of the entire project shall be completed, and the Construction Agent advised in writing of the results, thereof, promptly after notification of readiness for inspection given by the Construction Agent.

3. The Government shall have the right, after acceptance of any unit or units for occupancy, to inspect the premises at all reasonable times to assure itself that the Construction Agent is complying with the terms of this agreement.

Article VII

ACCEPTANCE FOR OCCUPANCY

If, after inspection, the Government's authorized representative shall determine that a building group is suitable for occupancy, he shall so advise the Construction Agent that such building group is acceptable for occupancy for all the purposes of this agreement.

Article VIII

TAXES AND CHARGES

1. Inasmuch as the project falls within the exemption provisions of the Leased Bases Agreement of 1941-48, construction, operational and maintenance materiel utilized on the project will be exempt from all Canadian Federal customs or sales or excise taxes on original importation.

2. To the extent that units in the project may be occupied by undesignated personnel pursuant to Article III, an equitable portion of the customs and excise taxes which would have been levied on materials imported for construction of such quarters in the absence of tax exemption pursuant to the Leased Bases Agreement, may be charged the Construction Agent by the Canadian Government during any period such undesignated personnel occupy units of the project. The amount of such tax payments shall be determined at the time Canadian permission for such occupancy is given. Such taxes may be included in the rent to be charged undesignated personnel.

3. The Construction Agent shall assume and pay all taxes, assessments and charges, if any, levied against the Construction Agent of the project, other than those exempted in this agreement.

4. The Construction Agent shall pay for services rendered by the Government as outlined in paragraph 2 of Article V, Maintenance and Operation, of this agreement, except services listed in paragraph (3) of Article V.

Article IX

INSURANCE

1. The Construction Agent shall secure and maintain, at his own expense, insurance in appropriate amounts, satisfactory to the Government's authorized representative, covering the liability of tenants, their families and servants toward third parties, arising out of fire and explosion other than that caused by the results of hostilities or accidents resulting from off-site base activities.

2. The Construction Agent shall secure and maintain, at his own expense, appropriate amounts of public liability insurance.

Article X

TERMS OF PERIODIC PAYMENTS TO THE CONSTRUCTION AGENT

1. In consideration of the Construction Agent constructing, operating, maintaining and managing the project and holding the same available for tenancy as provided under Article III herein, and, subject to the continuing and satisfactory performance by the Construction Agent of each and all of his obligations under this contract, the Government of the United States guarantees that for a period of ten (10) years, commencing on the 15th day after the construction period as set forth in Article II above, subject to final acceptance for occupancy of all individual units, in accordance with Article VII above, the Government of the United States will make a minimum annual payment or provide equivalent annual monetary receipts, in an amount equal to the deficiency, if any, between (a) the amounts which the Construction Agent shall have in fact received in payment of rents as provided in subparagraph 1 of Article IV herein during the applicable annual accounting period and (b) 95% of the amount the Construction Agent would have derived during the applicable annual accounting period under the agreed rent schedule set forth in subparagraph (c) of Article IV, computed as if the project were fully occupied. Said guarantee of the Government of the United States is given without reservation.

2. Whenever the Construction Agent retains rents for his own account pursuant to Article IV during any one year in the total amount of \$(95%) or more (not including any amounts received from undesignated tenants to cover charges levied by the Canadian Government in accordance with the Article VIII (2) tax provision), such retained rents shall constitute full payment in satisfaction of the obligations of the Government under paragraph 1 above, for such year. Whenever total rentals received from designated tenants and rents received and due from undesignated tenants (not including amounts collected to cover Article VIII(2) taxes) amount to a total sum less than \$(95%) during any of the first ten (10) years after the project was first made available for 100% occupancy, the Construction Agent shall have the responsibility of notifying the authorized representative of the Government within thirty (30) days after the end of the applicable annual

accounting period requesting a supplemental payment in such amount as may be required to provide a total annual payment (including retained rents but not amounts collected to cover Article VIII (2) taxes) to the Construction Agent of \$(95%). Such supplemental payments will be made in U. S. dollars to a bank or financial institution designated by the Construction Agent and approved by the Government's authorized representative, within thirty (30) days following such notification and request.

3. The Government of the United States agrees, at the written request of the Construction Agent made upon the commencement of or during said ten (10) year guarantee period, to confirm in writing said guarantees as provided in subparagraphs 1 and 2 above to the bank or other financial institution designated by the Construction Agent; and to confirm in writing any assignment by the Construction Agent of his claims hereunder, to said bank or other financial institution, made as provided in Article XXI hereof.

4. If, before the commencement of the guarantee period, set forth above, as a result of causes beyond the control and without the fault or negligence of the Construction Agent, his agents, employees, associates or financiers it should be mutually determined that the completion of all units of the project is precluded, the guarantees as provided in subparagraphs 1 and 2 above shall become effective as to all units accepted for occupancy, as of the date of the acceptance of the last unit accepted for occupancy. Should any units be accepted after such date, such units shall then be included within said guarantee for the balance of the ten (10) year period.

5. If, after the commencement of the guarantee period, the project shall become unfit for occupancy under the terms of this Contract in whole or part, except for causes arising directly out of international hostilities or Acts of God, the scope of the guarantee as provided in paragraph 2 above, shall be pro rata reduced during such period of unfitness to cover only the units of the project which are fit for occupancy.

6. If any rents are received by the Construction Agent after the annual period in which they were due, they shall be treated as rents received by the Construction Agent during such annual accounting period for the purpose of crediting the Government of the United States with payments, if any, made under the guarantees as provided under paragraphs 1 and 2 above.

7. If any rents that were due the Construction Agent prior to commencement of the guarantee period are received by him after commencement of such period, such rents shall not be included in the amount of rents received by the Construction Agent for the purposes of the guarantees as provided in paragraphs 1 and 2 above.

Article XI

DEFAULT AND DELAYS

1. Except as otherwise provided in Article X (1) of this agreement, the right of the Government to terminate this agreement or the guarantee herein, for failure or delay of the Construction Agent attributable to the fault or neglect of the Construction Agent to perform all the terms and conditions herein, shall not be exercised if the Construction Agent cures such failure or delay within a period of ten (10) days from occurrence or date

of government notification or such longer period as may be specified by the Government's authorized representative.

2. Except as otherwise provided in Article X (1) of this agreement, the right of the Government to terminate this Agreement or the guarantee herein for failure or delay of the Construction Agent to perform all the terms and conditions herein, shall not be exercised if such failure or delay arises out of causes beyond the control and without the fault of the Construction Agent. Such causes include, but are not restricted to, acts of God, hostilities, acts of any government, fire, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, unusually severe weather, and defaults of subcontractors due to any of such causes unless the Government's authorized representative shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Construction Agent to comply with the terms of this agreement and the guarantee herein. In the event a failure or delay of the Construction Agent arises as set forth in this paragraph, the Construction Agent shall take all reasonable steps to eliminate or nullify the cause, and shall proceed, as quickly as possible, to comply with the terms of the agreement and the guarantee herein.

3. As used in this Article, the term Construction Agent shall include its assignee or assignees, its agents, employees, associates (other than subcontractors) or financial institutions.

Article XII

NOTIFICATIONS BY CONSTRUCTION AGENT

All notifications by the Construction Agent under this agreement shall be addressed to the Contracting Officer, or such representative or successor of the Contracting Officer, as shall be designated, in writing, by the Contracting Officer.

Article XIII

DISPUTES BETWEEN CONSTRUCTION AGENT AND TENANT

The Contracting Officer shall be advised by the Construction Agent of any dispute between the Construction Agent and any tenant and he shall have the right to investigate such dispute in order to ascertain whether the Construction Agent is complying with the terms and conditions of this agreement.

Article XIV

ANNEXES¹

All annexes and attachments to this agreement are wholly incorporated herein and made a part hereof.

¹ Not printed by the Department of State of the United States of America.

Article XV

WAIVER

No waiver of any terms or conditions of this agreement shall be binding on the Government, unless made in writing by an authorized Contracting Officer of the Government. The waiver by the Government of any term or condition of this agreement shall not be construed to be the waiver of any other term or condition.

Article XVI

EXAMINATION OF RECORDS

1. The Construction Agent agrees that the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine any pertinent books, documents, papers, and records of the Construction Agent involving transactions related to this agreement.

2. The Construction Agent agrees to insert the provisions of this article, including this paragraph, in all pertinent subcontracts or assignment approved by the Government.

Article XVII

DEFINITIONS

1. The term "Government's authorized representative," or "authorized representative of the Government," means the Contracting Officer executing this instrument, or his successor, or such representatives of the contracting officer, as shall be designated in writing by him.

2. The term "unit" shall mean a single family living unit.

3. The term "row-type unit" shall mean a two-story single family living unit constructed in a building group of two-story single family units.

4. The term "building group" shall mean an integral group of two-story single family living units.

5. The term "Annex "A","¹ as used herein shall mean the metes and bounds description and plan of the site available for this project.

6. The term "Annex "B","¹ as used herein shall mean the plans, specifications and conditions under which the family housing project is to be constructed.

7. The term "Annex "C","¹ as used herein shall mean the plans, specifications and conditions under which the Government will provide appropriated funds for the cost of certain site preparation and the construction of on-site or off-site utilities required for the family housing project.

Article XVIII

DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of by agreement shall be decided

¹ Not printed by the Department of State of the United States of America.

by the Contracting Officer (or his duly authorized representative or successor) who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Construction Agent. Within thirty (30) days from the date of receipt of such copy, the Construction Agent may appeal by mailing or otherwise furnishing to the Contracting Officer (or his duly authorized representative or successor) a written appeal addressed to the Secretary of the Air Force, and the decision of the Secretary, or his duly authorized representative for the hearing of such appeals shall, unless determined by a Court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, be final and conclusive; provided that, if no such appeal is taken within thirty (30) days, the decision of the Contracting Officer (or his duly authorized representative or successor) shall be final and conclusive. In connection with any appeal proceeding under this Article, the Construction Agent shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Construction Agent shall proceed diligently with the performance of the agreement and in accordance with the Contracting Officer's (or his duly authorized representative or successor) decision.

Article XIX

OFFICIALS NOT TO BENEFIT

No member or delegate to Congress shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend this agreement if made with a corporation for its general benefit.

Article XX

COVENANT AGAINST CONTINGENT FEES

The Construction Agent warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

Article XXI

ASSIGNMENT OF CLAIMS

1. No claims arising under this agreement shall be assigned by the Construction Agent except as follows:

Pursuant to the Provisions of the Assignment of Claims Act of 1940 (31 U.S. Code 203, 41 U.S. Code 15), if this agreement provides for payments aggregating \$1,000.00 or more, claims for money due the Construction Agent from the Government under this agreement may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institutions. Any such assignment or reassignment shall cover all amounts payable under this agreement and not already paid, and shall not be made to more than one party as agent or trustee for two or more parties participating in such financing. The assignees

shall file written notice of the assignment, together with a true copy of the instrument of assignment, with the Contracting Officer or his authorized representative.

Article XXII

ASSIGNMENT OF AGREEMENT

1. The Construction Agent herein named may wholly assign or transfer this agreement subject to approval, in writing, by the Government's authorized representative of the assignee and the instrument of assignment or transfer. Any such assignee or transferee shall thereafter stand in the place and stead of the Construction Agent herein named.

2. In considering approval of the assignment or transfer, the Government's authorized representative shall take into account what arrangements have been made by the prospective assignee or transferee for retention of the services of the Construction Agent herein named until the end of the guarantee period.

Article XXIII

SURETY

1. Prior to the execution of this agreement, the Construction Agent at its own expense, shall furnish to the Government, a surety bond or other guarantee satisfactory to the Government assuring that the Construction Agent will complete construction of the project in accordance with the terms of this agreement.

2. The Construction Agent shall, at its own cost, comply with all applicable laws, decrees, and regulations with regard to construction, sanitation, maintenance and other matters related to the project, and shall, at its own cost, obtain all necessary licenses and permits.

Article XXIV

PAYMENT TO CONSTRUCTION AGENT

Other than it is provided in paragraphs 1 and 2 of Article X, the Government shall be under no obligation to make any additional payment to the Construction Agent for constructing and operating, maintaining and managing the project for the Government.

Article XXV

MANAGEMENT PERSONNEL

1. The Construction Agent shall hire a qualified resident manager and other necessary personnel to supervise the operation, maintenance and management of the project.

2. The Government may allow the Construction Agent to erect a dwelling for such resident manager within the confines of the development area of the project.

3. The Government may allow the Construction Agent to erect acceptable permanent office, repair shop and storage buildings on the project necessary for the operation and maintenance of the project.

4. The Construction Agent shall hire sufficient qualified personnel to repair, maintain, and operate all Construction Agent installed equipment and structures to keep the entire project in clean, neat, livable, operative and attractive condition.

5. All the Construction Agent employees will be subject to security and other regulations set forth by the Government for persons working and living on U. S. military installations.

Article XXVI

OPTION TO TERMINATE CONSTRUCTION AGENT MANAGEMENT

1. The Government of the United States reserves the right, at any time during the period of this contract to utilize the project by furnishing to United States military personnel the housing units constructed pursuant to this contract as public quarters, and to assume all the responsibilities of the Construction Agent set forth in Articles III, IV, V, IX and XXV of this contract. In such event, rental payments shall not be collected by the Construction Agent, and the operation of Article IV shall be suspended.

2. In the event the United States begins the exercise of the rights reserved under paragraph (1) during the first ten (10) year period, the Construction Agent (i) shall be thereafter paid an annual amount for the balance of such period equal to 97-1/2% of the sum of \$_____ (which could otherwise be collected as rents and retained by the Construction Agent under Article IV) reduced by an amount equal to the average annual amount, as evidenced by the official records of the Construction Agent, previously expended by the Construction Agent in performing its obligations for maintenance and operation in keeping with the standards established by this agreement, particularly Articles III and V. During any year of the second ten (10) year period in which the United States exercises the rights under paragraph (1) above, the Construction Agent (ii) shall be paid an annual amount equal to 95% of the total rentals authorized for such year under Article IV (2) (a) of this agreement, reduced by an amount equal to the average annual amount, as evidenced by the official records of the Construction Agent, previously expended by the Construction Agent in performing its obligations for maintenance and operation in keeping with the standards established by this agreement, particularly Articles III and V.

Article XXVII

EXPIRATION OF THE CONSTRUCTION AGENT'S RIGHTS

1. Upon termination of the twenty (20) year period, all the Construction Agent's rights, title and interest of every kind or nature whatsoever in and to the project shall cease and the Government of the United States will thereupon take over management, control and operation of the project.

2. The Construction Agent covenants that said project, upon termination of its interest therein, as in this Article provided, shall be free and clear of all liens, encumbrances or charges of every kind and nature whatsoever. The Construction Agent further covenants that it will execute all documents which may be necessary to effectuate the purpose of this article.

3. The succession by the Government of the United States to all Construction Agent's rights, title and interest in said project, free and clear of all liens, encumbrances and changes shall be binding on the successor and assignees of the Construction Agent.

Article XXVIII

COVENANT AGAINST CONTINGENT FEES

The Construction Agent warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting *bona fide* established commercial or selling agencies maintained by the Construction Agent for the purpose of securing business. For breach or violation of this warranty, the Government of the United States subject to its guaranty without reservation as set forth in Article X (1) shall have the right to annul this agreement without liability or in its discretion to deduct from the sum or sums to be paid by the Government of the United States, if any, the full amount of such commission, percentage, brokerage, or contingent fee.

II

The Canadian Secretary of State for External Affairs to the American Ambassador

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

No. DL-93

The Secretary of State for External Affairs presents his compliments to His Excellency the Ambassador of the United States of America, and has the honour to refer to the Ambassador's Note No. 266 of April 18, 1956, proposing certain arrangements to govern the construction and operation of family housing units at Pepperrell Air Force Base, St. John's, Newfoundland.

2. The Secretary of State for External Affairs is pleased to inform the Ambassador that the Canadian Government concurs in this project, and in the arrangements to govern it as proposed in the Ambassador's Note. It is noted, in particular, that the Canadian Government will be consulted regarding any change which may be made in the contents of the draft contract between the United States Government and the contractor who is to construct and operate the project, prior to its signature.

3. The Secretary of State for External Affairs agrees that the Ambassador's Note and this reply shall, as from this date, constitute an agreement between the two governments.

L. B. P.
Ottawa, April 19, 1956