

WHEN RECORDED MAIL TO:

FORT ORD REUSE AUTHORITY

100 12th STREET - BUILDING 2880

MARINA, CA 93933

ATTN: MICHAEL HOULEMARD, JR.

0600-BT

CERTIFIED COPY
ORIGINAL DOCUMENT
STEWART TITLE

JUN 23 2000

Time: 8:00

Series # 20072040124

THIS SPACE FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT

MEMORANDUM OF AGREEMENT

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Joseph F. Pitta
Monterey County Recorder
Recorded at the request of
Stewart Title

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FORT ORD REUSE AUTHORITY

100 12th STREET - BUILDING 2880

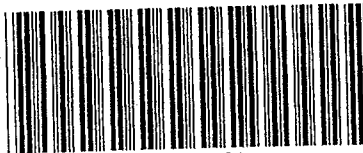
MARINA, CA 93933

ATTN: MICHAEL HOULEMARD, JR.

0600-BT

DOCUMENT: **2000040124**

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Fees....

Taxes...

Other... _____

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**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA,
ACTING BY AND THROUGH
THE SECRETARY OF THE ARMY,
UNITED STATES DEPARTMENT OF THE ARMY
AND
THE FORT ORD REUSE AUTHORITY
FOR THE SALE OF
PORTIONS OF THE FORMER FORT ORD
LOCATED IN
MONTEREY COUNTY, CALIFORNIA**

1 MEMORANDUM OF AGREEMENT
 2 BETWEEN
 3 THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE
 4 SECRETARY OF THE ARMY, UNITED STATES DEPARTMENT OF THE ARMY
 5 AND
 6 THE FORT ORD REUSE AUTHORITY
 7 FOR THE SALE OF PORTIONS OF THE FORMER FORT ORD
 8 LOCATED IN MONTEREY COUNTY, CALIFORNIA
 9

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DESCRIPTION OF THE PROPERTY:

- PARCEL 1 EXHIBIT A
- PARCEL X..... EXHIBIT A

IT IS CONTEMPLATED THAT THERE WILL BE MULTIPLE PARCELS
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DECISION DOCUMENTS EXHIBIT N

1 MEMORANDUM OF AGREEMENT
2 BETWEEN
3 THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE
4 SECRETARY OF THE ARMY, UNITED STATES DEPARTMENT OF THE ARMY
5 AND
6 THE FORT ORD REUSE AUTHORITY
7 FOR THE SALE OF PORTIONS OF THE FORMER FORT ORD
8 LOCATED IN MONTEREY COUNTY, CALIFORNIA
9

10
11 THIS MEMORANDUM OF AGREEMENT ("Agreement") is made as of the 20th day
12 of June, 2000 by and between the **United States of America**, acting by and through the
13 Secretary of the Army (hereinafter referred to as "Government"), and the **Fort Ord Reuse**
14 **Authority**, created under Title 7.85 of the California Government Code, Chapters 1 through 7,
15 inclusive, commencing with Section 67650, *et seq.*, and selected provisions of the California
16 Redevelopment Law, including Division 24 of the California Health and Safety Code, Part 1,
17 Chapter 4.5, Article 1, commencing with Section 33492, *et seq.*, and Article 4, commencing with
18 Section 33492.70, *et seq.*, and recognized as the Local Redevelopment Authority (hereinafter
19 referred to as "Authority") by the Office of Economic Adjustment on behalf of the Secretary of
20 Defense (collectively the "Parties").
21

22
23 RECITALS:
24
25

26 **WHEREAS:**
27

28 a. The Government is the owner of a portion of certain real property, improvements and
29 other rights appurtenant thereto together with all personal property thereon, located in Monterey
30 County, California, and commonly referred to as the former Fort Ord, which was utilized as a
31 military installation.
32

33 b. The former Fort Ord was closed on September 30, 1994 pursuant to and in accordance
34 with the Defense Base Closure and Realignment Act of 1990, as amended (Public Law 101-510;
35 hereinafter referred to as the "Base Closure Act").
36

37 c. In accordance with Section 2905(b)(4) of the Base Closure Act, as amended by
38 Section 2821 of the Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65 (1999), and
39 the implementing regulations of the Department of Defense (32 CFR Parts 90 and 91), the
40 Government desires to convey and the Authority desires to acquire portions of the former Fort Ord
41 consisting of approximately five thousand two hundred (5,200) acres of land, including all buildings,
42 personal property, appurtenances, rights-of-way, and drainage areas (the "Property" as hereinafter
43 defined), upon and subject to the terms and conditions set forth herein.
44

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 d. As soon as the Property, or discrete parcels thereof, may be conveyed consistent with
2 the requirements of the Comprehensive Environmental Response, Compensation and Liability Act
3 ("CERCLA"; 42 U.S.C. 9620[h]), as amended, and other legal and policy requirements, the
4 Government intends to convey to the Authority by one or more quitclaim deeds the Property or
5 parcels thereof, subject to any necessary restrictions, reservations, conditions, and exceptions at no
6 cost, as set forth below.

7 8 9 AGREEMENTS

10
11
12 NOW, THEREFORE, in consideration of the foregoing premises and the respective
13 representations, agreements, covenants and conditions herein contained, and other good and valuable
14 consideration, the receipt and sufficiency of which are hereby acknowledged, the Government and
15 the Authority agree as follows:

16 17 **ARTICLE 1. DEFINITIONS:**

18
19 When used herein, the following terms shall have the respective meanings set forth opposite
20 each such term:

21
22 1.01. Agreement. This Memorandum of Agreement, including the Exhibits attached hereto
23 which are incorporated herein by reference and made a part of this Agreement.

24
25 1.02. Adjusted Gross Proceeds. All revenues received by the Authority or the Authority
26 member jurisdictions from a sale, lease, or equivalent use of the Property (licenses, permits,
27 concession agreements, etc.) or portions of the Property to a Bona Fide Purchaser or Lessor minus
28 Direct Expenses as hereinafter defined.

29
30 1.03. Bona Fide Purchaser or Lessor. A non-governmental purchaser or Lessor of the
31 Property from the Authority or an Authority member jurisdiction.

32
33 1.04. Claims. Any and all losses, costs, liability, judgment, claims, proceedings, demands,
34 actions, fines, penalties, expenses, damages, or other fees.

35
36 1.05. Closing. The transactions during which portions of the Property transfer documents,
37 along with other documents, are executed and delivered by the Government and the Authority, and
38 the Government transfers a portion of the Property to the Authority. The Parties contemplate that
39 there will be multiple closings.

40
41 1.06. Closing Documents. Those documents required to be delivered by the Parties at
42 Closing as required herein.

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1
2 1.07. Deed. A recordable quitclaim deed substantially in the form of Exhibit B-1 and
3 ~~Exhibit B-2~~, conveying to the Authority all rights and title held by the Government in and to the
4 Property.
5

6 1.08. Direct Expenses. Those customary and usual expenses expended directly by the
7 Authority or by Authority member jurisdictions when selling or leasing the Property or portions of
8 the Property to a Bona Fide Purchaser or Lessor, including utilities, insurance, and applicable
9 Federal State and local taxes.
10

11 1.09. Environmental Baseline Survey. The investigative report entitled Environmental
12 Baseline Survey ("EBS") for the Property dated April 1992, prepared by the Government and any
13 supplements or amendments thereto.
14

15 1.10. FOSET. A Finding of Suitability for Early Transfer that represents a written
16 determination by the Government that a parcel of the Property containing areas of suspected
17 Hazardous Substances and contaminants may be transferred by Deed to the Authority before all
18 necessary remedial action has been taken pursuant to Section 120(h)(3)(C) of CERCLA.
19

20 1.11. FOSL. A Finding of Suitability to Lease that represents a written determination by
21 the Government that a parcel of the Property may be leased for the intended purpose to the Authority
22 in full compliance with all applicable laws and regulations.
23

24 1.12. FOST. A Finding of Suitability to Transfer that represents a written determination by
25 the Government that a parcel of the Property may be transferred by Deed to the Authority in full
26 compliance with Section 120(h)(3) or Section 120 (h)(4) of CERCLA, substantially in the form of
27 Exhibit C.
28

29 1.13. Lease. A lease instrument under which the Government agrees to lease the Property,
30 in whole or in part, to the Authority in accordance with Article 6 of this Agreement.
31

32 1.14. Lease Property. The portion of the Property, if any, which the Government agrees to
33 Lease to the Authority in accordance with Article 6 of this Agreement.
34

35 1.15. Parcel 1. The portion of the Property located on the former Fort Ord as shown on
36 Exhibit A.
37

38 1.16. Parcel X. The portion of the Property located on the former Fort Ord as shown on
39 Exhibit A.
40

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 1.17. Personal Property. The related personal property to be transferred by the Government
2 to the Authority listed in the Bill of Sale for Personal Property Conveyed to the Authority
3 substantially in the form of Exhibit G.

4
5 1.18. Property. The Real Property and Personal Property.

6
7 1.19. Real Property. Approximately five-thousand one-hundred eighty-eight (5,188) acres
8 of land consisting of a number of parcels of land located in the bounds of the former Fort Ord,
9 Monterey County, California, which has been designated as surplus property, all as more particularly
10 described in Exhibits A, together with:

11
12 A. All buildings, facilities, roadways, and other infrastructure, including the storm
13 drainage systems and the telephone system infrastructure, and any other improvements
14 thereon (including all replacements or additions thereto between the date of this Agreement
15 and the date of conveyance of the Property to the Authority),

16
17 B. All appurtenant easements and other rights appurtenant thereto, including
18 easements and rights appurtenant thereto, permits, licenses, privileges and not otherwise
19 excluded herein,

20
21 C. All hereditaments and tenements therein and reversions, remainders, issues,
22 profits, privileges and other rights belonging or related thereto,

23
24 D. Irrevocable non-exclusive access easements over existing roads located on
25 portions of the Property awaiting conveyance to the Authority and contiguous real property
26 owned by the Government, including but not limited to access over North-South Road,
27 Monterey Avenue, Gigling Road, etc., all as set forth in Exhibit M,

28
29 E. All Mineral Rights, if approved by the Bureau of Land Management, and

30
31 F. All subject to the following reserved rights:

32
33 1. Access from the Bureau of Land Management area out Eucalyptus Road,
34 Watkins Gate Road, and Barloy Canyon Road to Reservation Road.

35
36 2. Access to public roads from the Presidio of Monterey Annex.

37
38 3. During the term of its existing franchise agreement, currently scheduled
39 to expire on November 19, 2005, a reserved right for USA Media Group, LLC
40 (formerly Coastside Cable TV), or its successor in interest, to occupy and use parcel
41 E20c1.2 (their antenna parcel) and a portion of parcel E2d.1 where their existing
42 office trailers are located together with continued access to their cable TV lines. It

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 is understood by the Parties that any relocation of USA Media Group, LLC, for
2 development purposes will be accomplished at the sole cost and expense of USA
3 Media Group LLC.
4

5 1.20. Reporting Period. A period of time beginning when the Government transfers
6 Property to the Authority by either deed or Lease in Furtherance of Conveyance and ending seven
7 (7) years thereafter. For reporting purposes, all reports required of the Authority or an Authority
8 member jurisdiction in a given year will be given once a year on or before December 31st of that
9 year.
10

11 1.21. Sale or Lease Proceeds. The Adjusted Gross Leasing Proceeds or Adjusted Gross
12 Sales Proceeds received by the Authority or Authority member jurisdiction minus the Direct Leasing
13 Expenses or Direct Selling Expenses, as the case may be.
14

15 1.22. Title Insurer. Such title insurance company as the Authority shall from time to time
16 designate.
17

18 1.23. Title Policy. An owner's title insurance policy and endorsements thereto, subject only
19 to the Permitted Title Exceptions, insuring the Authority's interest in the Real Property, which shall
20 be as fee simple owner to the Property conveyed to the Authority by the Deeds.
21

22 **ARTICLE 2. NO COST ECONOMIC DEVELOPMENT CONVEYANCE:**

23 2.01. No Cost Economic Development Conveyance.

24
25 A. In accordance with Section 2905(b)(4) of the Base Closure Act, as amended by Section
26 2821 of the Defense Authorization Act for Fiscal Year 2000, Pub. L. 106-65 (1999), and the
27 implementing regulations of the Department of Defense (32 CFR Parts 90 and 91), this Agreement
28 represents a contract whereby the Government agrees to convey to the Authority, and the Authority
29 agrees to acquire the Property, by means of a No Cost Economic Development Conveyance, for no
30 monetary consideration. The consideration for this Property is the Authority and the Authority
31 member jurisdictions' agreement to commit proceeds from the sale or lease of the Property toward
32 the economic development of the former Fort Ord for the benefit of the general public in accordance
33 with the terms of this Agreement.
34
35

36 B. Following the conveyance of the Property to the Authority, the Authority shall transfer
37 the Property, at no cost, to the Authority member jurisdiction with land use jurisdiction over such
38 portion of the Property. In lieu of transferring such portion of the Property to the Authority member
39 jurisdictions with land use jurisdiction over such portion of the Property, FORA, with the approval
40 of such Authority member jurisdiction, may transfer such portion of the Property to an entity
41 selected and designated by the Authority member jurisdiction in accordance with State and local law.
42

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 C. In accordance with appropriate State of California and local redevelopment laws and
2 regulations, the Authority or Authority member jurisdiction in possession of the Property may
3 transfer, sell or lease such parcel(s) of Property to a Bona Fide Purchaser or Lessor except for the
4 parcel(s) of Property that the Authority or Authority member jurisdiction utilizes for governmental
5 purposes, consistent with California law.
6

7 D. The Authority agrees that Sale or Lease Proceeds received by the Authority or Authority
8 member jurisdiction during the Reporting Period shall be used or obligated either on-site or off-site
9 to support the economic redevelopment of, or economic development related to, the former Fort Ord,
10 California ("Economic Development Uses"). In the event Congress enacts legislation, regarding the
11 Reporting Period after the date of this Agreement, the Army will in good faith exercise the authority
12 granted to modify the terms of this Agreement consistent with the intent thereof. Economic
13 Development Uses shall include, but are not limited to:
14

- 15 1. Road construction, operation, and maintenance.
- 16 2. Transportation infrastructure and management facilities construction, operation, and
17 maintenance.
- 18 3. Storm and sanitary sewer construction, operation, and maintenance.
- 19 4. Police, fire protection, and other public facilities and equipment to include
20 construction, operation, and maintenance.
- 21 5. Utility infrastructure construction, operation, and maintenance.
- 22 6. Building rehabilitation, including maintenance pending rehabilitation.
- 23 7. Historic property preservation, construction, operation, and maintenance.
- 24 8. Pollution prevention equipment or facilities construction, operation, and maintenance.
- 25 9. Demolition including maintenance of area for safety and health purposes pending
26 demolition.
- 27 10. Disposal of hazardous materials generated by demolition or rehabilitation.
- 28 11. Landscaping, grading and other site or public improvements to include habitat
29 management and related costs.
- 30 12. Planning for, or the marketing of, the redevelopment and reuse of the former Fort
31 Ord, including planning, design, environmental assessments, surveying, related
32 professional services, and financing costs associated with eligible activities.
33

34 Other activities related to those listed above would also be considered an appropriate
35 allowable Economic Development Use. In order for investments to be considered allowable
36 Economic Development Uses, the Authority or Authority member jurisdiction must demonstrate that
37 they are related to those listed above and benefit the Authority's economic redevelopment and long
38 term job generation efforts on the former Fort Ord.
39

40 E. Notwithstanding any other provision of this Agreement, the Government reserves the
41 right to recoup from the Authority, Sale or Lease Proceeds not utilized for Economic Development
42 Uses during the Reporting Period. The Government may challenge the use of the Sale or Lease

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 Proceeds in accordance with subsection D only if such challenge is set forth in writing and delivered
2 to the Authority within one hundred and eighty (180) days after the submission to the Government
3 of the certified annual financial statement showing such Economic Development Uses (the
4 "notification"). The Authority shall have sixty (60) days from the date of the Notification to remit
5 the amount due to the Government, unless the Parties agree to other arrangements for the payment
6 of the amount due or the Authority objects to such Notification pursuant to the Contract Disputes
7 Article of this Agreement. These payments must be paid on or before they are due in order to avoid
8 sanctions imposed by the Debt Collection Act of 1982, 31 U.S.C. 371.
9

10 F. The Authority shall prepare and submit to the Government the Authority's annual
11 statement and an annual financial statement certified by an independent Certified Public Accountant
12 that identifies the use of the Sale or Lease Proceeds ("Accounting System"). The Authority shall
13 enter into individual agreements with each Authority member jurisdiction ("Implementation
14 Agreements") to insure that Authority member jurisdictions shall use the Accounting System and
15 otherwise comply with this Agreement for all matters related to the Property.
16

17 2.02. Conveyance in Phases. The Government will convey and the Authority will accept
18 transfer of the Property in phases, through multiple Closings, as soon as the Army is able to execute
19 a FOST or FOSET, as appropriate, and in accordance with Article 4. As parcels are conveyed, the
20 Cooperative Agreements effective as of the 1st day of July, 1999 with the Army shall be null and
21 void as to such parcels.
22

23 2.03. Environmental Remediation Level.

24
25 A. Unless a deferred covenant transfer through a FOSET is requested by the
26 Authority, the Government shall:
27

28 1. except for unexploded ordnance, environmentally remediate the Property
29 prior to its conveyance in accordance with the decision documents listed in Exhibit
30 "N" and their supportive documents to a level supportive of the uses delineated in
31 the Final FORA Base Reuse Plan dated July 1997, in accordance with the schedule
32 set forth in Exhibit L; and
33

34 2. with regard to unexploded ordnance, use all reasonable effort to remediate
35 the Property to a level supportive of the uses delineated in the Final FORA Base
36 Reuse Plan dated July 1997, in accordance with the schedule set forth in Exhibit L.
37

38 B. The Government recognizes the ongoing interest of the Authority in the
39 environmental remediation of the property, and agrees to include the Authority or its
40 designated representative in meetings of the BRAC Clean-Up Team, as appropriate, to
41 ensure the Government is informed of the Authority's concerns prior to the Government
42 making final decisions.

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

ARTICLE 3. CLOSING:

3.01. Closing Schedule. The Parties agree that the Property shall be conveyed in accordance with the schedule for conveyance of the Property as set forth in Exhibit K; should an action described in this section not take place by the date or time frame identified in the appropriate subsection, all subsequent dates or time frames for all subsequent actions, with the agreement of the Parties, shall be deferred on a day-for-day basis.

3.02. Requirements for Initial Closing and for All Subsequent Closings.

A. Time and Place.

1. Initial Closing. The Parties will use their best efforts to consummate the Initial Closing no later than two (2) months after the later of:

- a. the execution of this Agreement or the completion of a FOST for Parcel 1 by the Government,
- b. such other time as the Parties may mutually agree, or
- c. the execution of the Habitat Management Plan by the Authority and all Authority member jurisdictions.

2. Subsequent Closings. Subsequent Closings shall take place within forty-five (45) days after the Government completes the FOST or FOSET for the portion of Property to be conveyed to the Authority.

3. Place. Closings shall be consummated at the offices of the Title Insurer, or such other place as the Parties may mutually agree.

B. Government Deliveries. The Government shall deliver to the Initial Closing and Subsequent Closings, as appropriate, the following documents reasonably satisfactory to the Authority and in a form previously reviewed and approved by the Authority:

1. Executed Deed(s) conveying fee ownership to the Authority to Parcel 1 and to all other Parcels for which a FOST or FOSET has been executed, substantially in the form set forth in Exhibit B.

2. Final FOST or FOSET, as appropriate, for each Parcel conveyed to the Authority at the Closing.

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 3. Executed Bill of Sale for the Personal Property to be conveyed to the
2 Authority at the Closing with the Parcel conveyed to the Authority at the Closing
3 substantially in the form set forth in Exhibit G.

4 4. Executed Lease in Furtherance of Conveyance, if any, in a manner set
5 forth in Article 6.

6 5. Any permits, leases or licenses transferred or assigned relating to the
7 Parcel conveyed to the Authority at the Closing.

8 6. A listing of the location of copies of all existing construction drawings,
9 reports, and documents concerning as-built conditions of the facilities as well as
10 identification of the location of the repository for all environmental reports, studies,
11 tests and records relating to each parcel as provided for in Article 9.03.

12 7. Certificate confirming that the representations and warranties of the
13 Government set forth in this Agreement are true and correct as of the date of the
14 Closing in substantially the form set forth in Exhibit D-1.

15 8. Such additional documents as might be required by California law, the
16 Title Insurer, or the Authority.

17 C. Authority Deliveries. The Authority shall deliver to the Initial Closing and
18 Subsequent Closings, as appropriate, the following documents reasonably satisfactory to the
19 Government and in a form previously reviewed and approved by the Government:

20 1. Executed Lease in Furtherance of Conveyance, if any, in a manner set
21 forth in Article 6.

22 2. A legal opinion stating that the Authority has the legal authority to execute
23 this Agreement and accept conveyance and transfer of the Property.

24 3. Certificate confirming that the representations and warranties of the
25 Authority set forth in this Agreement are true and correct as of the date of the Closing
26 in substantially the form set forth in Exhibit D-2.

27 4. Such additional documents as might be required by California law, the
28 Title Insurer, or the Government.

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ARTICLE 4. PERSONAL PROPERTY:

4.01. Personal Property. In addition to the conveyance of the Real Property, the Government shall transfer to the Authority the Personal Property which the Parties agree is related to and necessary to use the Real Property, as specified and identified in and pursuant to the terms and conditions in the Bill of Sale substantially in the form set forth in Exhibit G.

ARTICLE 5. WATER AND SEWER RIGHTS:

5.01. Marina Coast Water District. Immediately following the execution of this Agreement, the Government shall transfer to the Marina Coast Water District (the "District") the water and wastewater collection systems on the Property and the Presidio of Monterey Annex, including their respective water rights and wastewater discharge rights as defined in and pursuant to a no cost Public Benefit Conveyance ("PBC") in response to the application filed by the District dated August 26, 1997.

5.02. Government. The Authority understands that in the assignment of the water rights to the District, the Government reserves 1729 acre feet per year ("afy") of water exclusively for Government use ("Government Water Rights"). Also, the Government will retain ownership of 1.08 million gallons per day ("mgd") of wastewater discharge rights ("Government Wastewater Discharge Rights"). If the Authority or any other entity, at its own cost and expense, installs water conservation devices on the property not transferred to the Authority, resulting in decreased Government requirements for water or wastewater discharge, or the Government does not utilize all of the Government Water Rights or Government Wastewater Discharge Rights, the Authority shall have the right to negotiate with the Government for use of the Government Water Rights or Government Wastewater Discharge Rights not utilized by the Government (collectively "Unutilized Government Water/Wastewater Rights"). The Government and the Authority agree to meet and confer regarding the Unutilized Government Water/Wastewater Rights two (2) years following the completion of the installation of water meters at the Presidio of Monterey Annex ("POMA"). The Government shall determine the amounts of unutilized Government Water/Wastewater Rights on an annual basis and will consult with the Authority regarding this determination on an annual basis. In the event of a proposed transfer of Government Water Rights or Government Wastewater Discharge Rights to a third party, the Authority shall have the first right of refusal to any such transfer rights.

5.03. Equitable Allocation of Water. The Authority, and its successors and assigns, shall cooperate with the Marina Coast Water District, Monterey County Water Resources Agency and grantees of former Fort Ord Property to establish and apply a fair process to ensure that all grantees of former Fort Ord property will be provided an equitable supply of the water at the former Fort Ord.

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1 5.04. Wastewater Discharge Rights. The Authority, and its successors and assigns, shall
2 cooperate with the Marina Coast Water District, the Monterey Regional Water Pollution Control
3 Agency and grantees of former Fort Ord Property to establish and apply a fair process to ensure that
4 all grantees of former Fort Ord property will enjoy equitable utilization of the existing sewage
5 treatment capacity, including existing connections to the former Fort Ord sewage collection system.
6

7 **ARTICLE 6. LEASE IN FURTHERANCE OF CONVEYANCE:** 8

9 6.01. Lease. In furtherance of and pending conveyance of the Property, at the Authority's
10 request and to the extent the Government can honor such request, the Government agrees to lease
11 the Property, in whole or in part, to the Authority, and the Authority agrees to accept such lease or
12 leases in furtherance of conveyance, pursuant to the terms, covenants, and conditions mutually
13 agreed to by the Parties as provided for in the FOSL. The Lease shall be executed by the
14 Government and the Authority as soon as the Agreement and a FOSL are executed.
15

16 **ARTICLE 7. EFFECT OF TRANSFER OF TITLE AND CONTINUING** 17 **OBLIGATIONS OF THE GOVERNMENT:** 18

19 7.01. Effects of Deeds. The delivery of the executed Deeds pursuant to this Agreement from
20 the Government to the Authority shall be deemed full performance by the Government of its
21 obligations hereunder with regard to the portions of the Property conveyed by each Deed other than
22 any obligations of the Government which are required by this Agreement or by law (including
23 without limitation any obligations under CERCLA Section 120(h) and under Section 330 of the
24 Department of Defense Authorization Act of 1993) to be performed after the delivery of each such
25 Deed.
26

27 7.02. As-is. Where-is. Except as provided herein, all of the Property conveyed or leased
28 hereunder will be in an "as-is where-is" condition and without any representation or warranty
29 whatsoever and without any obligation on the part of the United States of America except as
30 expressly provided for by law or in this Agreement.
31

32 7.03. Liabilities. 33

34 A. The Government shall remain responsible for all liabilities, claims, demands, judgments,
35 suits, litigation, amounts payable (collectively, "Pre-Closing Obligations") against the Government
36 or the Property attributable to Government activity on the Property, including activities of the
37 Government's contractors, lessees, licenses and others acting under Government authority, prior to
38 the conveyance or lease of each parcel of the Property to the Authority. The Authority shall notify
39 the Government of the existence or occurrence of any such Pre-Closing Obligations and shall
40 cooperate with the Government in the payment, settlement and disposition thereof.
41

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1 B. The Authority agrees to indemnify and hold harmless the Government, its employees and
2 agents for activities conducted by the Authority, its agents, employees or contractors under the Lease
3 or any Right-of-Entry authorized and granted pursuant by the Government to the Authority.
4

5 ARTICLE 8. TITLE: 6

7 8.01. Title. The deed for each parcel of Property (the "Deeds") shall convey all right and
8 title held by the United States of America in and to the Property, subject to and free from
9 encumbrances, covenants, conditions, restrictions, limitations on use or notices except those that are
10 imposed under this Agreement (including the Exhibits attached hereto), or which are recorded as a
11 matter of public record in the Recorder of Deeds Office, Monterey County, California, as of the date
12 of execution of this Agreement. The Authority reserves the right to review the title as conveyed by
13 each Deed. Except as otherwise provided for in this Agreement, the Government agrees not to grant,
14 after the date set forth in this section, any encumbrances, covenants, conditions, restrictions,
15 limitations on use or notices concerning the Property without the specific consent of the Authority.
16

17 8.02. Title Evidence. Any title insurance that may be desired by the Authority will be
18 procured at its sole cost and expense. The Government will, however, cooperate with the Authority
19 or its authorized agent, and will permit examination and inspection of any documents relating to the
20 title of the Property as it may have available. It is understood that the Government will not be
21 obligated to pay for any expense incurred in connection with title matters. The Authority may, at
22 its sole cost and expense, on or before the conveyance date order such searches as it deems
23 appropriate confirming the absence of Additional Title Exceptions.
24

25 ARTICLE 9. GOVERNMENT'S OBLIGATIONS PRIOR TO CONVEYANCE: 26

27 9.01. Restrictions. From the Effective Date of this Agreement to the Closing, the
28 Government shall not do, permit, or agree to do, any of the following:
29

30 A. Sell, encumber or grant any interest in the Property or any part thereof in any
31 form or manner whatsoever or otherwise perform or permit any act which will diminish or
32 otherwise affect the Authority's interest under this Agreement or in or to the Property or
33 which will prevent the Government's full performance of its obligations hereunder, unless
34 the Authority is first informed.
35

36 B. Remove or alter any fixtures or Personal Property from the Property listed on
37 Exhibit G, unless the Authority is first notified and agrees to such removal or alteration.
38

39 C. Knowingly undertake any action, legal or otherwise, that may impact the
40 Government's ability to convey the Property to the Authority, without first notifying the
41 Authority in a timely manner and seeking the Authority's consultation.
42

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1 9.02. Zoning, Annexation and Assessment. The Government acknowledges the Authority's
2 beneficial ownership interest in the Property, as outlined in this Agreement, and recognizes the
3 Authority's role in the economic development of the Property. The Government authorizes the
4 Authority to take such land use planning activities as the Authority deems necessary to implement
5 the FORA Base Reuse Plan. The Government agrees that it will not interfere with or protest or
6 challenge any annexation, zoning petition or application or the imposition of any land-based
7 financing district over the Property.

8
9 9.03. Delivery Requirements. Upon the Authority's written request, the Government shall
10 make available to the Authority, not later than thirty (30) calendar days following the date of this
11 Agreement, or as soon thereafter as they become available, true, correct and complete copies of the
12 following, if not previously delivered to the Authority:

13
14 A. All non-proprietary information in Licenses and Contracts including all
15 amendments relating to any portion of the Property;

16
17 B. Plans and specifications for the improvements on the Property;

18
19 C. Drawings of above and below ground utilities (including gas, sewer, well, septic,
20 water, telephone and electrical service cables) located under or on the Property, wherever
21 available;

22
23 D. Essential records with respect to the Property (including any records relating to
24 transactions with taxing authorities, governmental agencies, utilities, and others with whom
25 the Authority may be dealing following its acquisition of the Property);

26
27 E. The Environmental Baseline Survey and any maps, amendments or
28 correspondence related thereto;

29
30 F. The available FOSTs and FOSETs, as appropriate, issued as to the Property; and

31
32 G. All documents required elsewhere to be delivered pursuant to this Agreement.

33
34 9.04. Notification of Changes. The Government shall notify the Authority if the
35 Government becomes aware of any transaction or occurrence prior to the Closing which would make
36 any of the representations of the Government contained in this Agreement not true in any respect.

37
38 9.05. Maintenance of the Property. The Government shall maintain or cause to be
39 maintained the Property in accordance with the Federal Property Management Act and Regulations,
40 subject to the availability of funds until such time as the Property is conveyed or leased to the
41 Authority through the full performance of its obligations under the Cooperative Agreements
42 effective as of July 1, 1999.

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ARTICLE 10. AUTHORITY'S OBLIGATIONS PRIOR TO CONVEYANCE:

10.01. Habitat Management Plan.

A. The Authority shall execute the Installation-Wide Multispecies Habitat Management Plan ("HMP") for the Former Fort Ord, California, dated April 1997, concurrent with the execution of this Agreement.

B. The Authority member jurisdictions shall execute the HMP within ninety (90) days following the execution of this Agreement.

ARTICLE 11. GOVERNMENT REPRESENTATIONS:

The Government hereby represents to the Authority on and as of the Effective Date of this Agreement and as of the Closing as follows:

11.01. Execution of Agreement. The Government has full capacity, right, power and authority to execute, deliver, and perform this Agreement and all documents to be executed by the Government pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. This Agreement and all documents to be executed pursuant hereto by the Government are and shall be binding upon and enforceable against the Government in accordance with their respective terms.

11.02. Complete Information. To the best of the Government's knowledge, information and belief, the information included in the Exhibits hereto and the documents to be delivered to the Authority pursuant to this Agreement or previously delivered to the Authority are true, correct and complete in all material respects, and the same do not omit any material information required to make the submission thereof fair and complete.

11.03. Possession. To the best of the Government's knowledge, information and belief, the information included in the Exhibits hereto and the documents to be delivered to the Authority pursuant to this Agreement or previously delivered to the Authority acknowledge any leases in existence or persons who have possessory rights or any claims in respect to the Property that will survive Closing.

11.04. Claims. The Government will notify the Authority on or before each Closing and effective at such Closing of any claims, causes of action or other litigation or proceedings pending or threatened with respect to the ownership or operation of the Property or any part thereof (including disputes with mortgagees, governmental authorities, utilities, contractors or adjoining land owners).

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1 11.05. Notice. To the best of the Government’s knowledge, information and belief, the
2 Government has not received any notice of (and is not otherwise aware of) any violations of any
3 legal requirements with respect to the Property which have not been entirely corrected or are in the
4 process of being corrected.
5

6 11.06. Environmental Baseline Survey. The Environmental Baseline Survey, and if
7 available, the appropriate FOST, FOSET, and/or FOSL reflects all information in the possession or
8 control of the Government with respect to the presence, or suspected presence, or any condition on
9 or associated with the Property that presents, or could present, a risk to human health or the
10 environment. Further, the Environmental Baseline Survey has been prepared, under the direction
11 of the Government, in full compliance with all material requirements of all applicable directives,
12 guidance documents, and other policies, and is based on thorough and comprehensive investigations
13 and analyses of the historical uses and current conditions of the Property.
14

15 11.07. Contracts, Leases or Licenses. To the best of the Government’s knowledge,
16 information and belief, the information included in the Exhibits hereto and the documents to be
17 delivered to the Authority pursuant to this Agreement or previously delivered to the Authority
18 acknowledges any contracts, leases or licenses with respect to the Property that will survive Closing.
19

20 **ARTICLE 12. AUTHORITY REPRESENTATIONS:**

21
22 12.01. Representations. The Authority hereby represents to the Government on and as of
23 the date of this Agreement and on and as of the Closing, that the Authority has full capacity, right,
24 power and authority to execute, deliver and perform this Agreement and all documents to be
25 executed by the Authority pursuant hereto, and all required action and approvals therefor have been
26 duly taken and obtained. The individuals signing this Agreement and all other documents executed
27 or to be executed pursuant hereto on behalf of the Authority shall be duly authorized to sign the same
28 on the Authority’s behalf and to bind the Authority thereto. This Agreement and all documents to
29 be executed pursuant hereto by the Authority are and shall be binding upon and enforceable against
30 the Authority in accordance with their respective terms.
31

32 **ARTICLE 13. SHARING OF SERVICES, UTILITIES AND ROADS:**

33
34 13.01. Sharing of Services. The Government and the Authority shall grant to the other at
35 no cost such easements or licenses as may be required (a) for the use of roads, utilities and other
36 services necessary or desirable for the enjoyment and benefit of those portions of the Property owned
37 by the other Party as shown on Exhibit M, and (b) for ingress and egress as may be necessary, as
38 shown on Exhibit M.
39
40
41
42

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ARTICLE 14. RIGHT OF ENTRY:

14.01. Right of Entry. From the Effective Date of this Agreement to the Final Closing, the Government agrees to issue a license, right of entry, or other appropriate document to the Authority in the form set forth as Exhibit J, for Authority representatives, agents, employees, lenders, contractors, appraisers, architects and engineers designated by the Authority, access to and entry upon the Property and the improvements thereon to examine, inspect, measure, conduct infrastructure improvements, demolish infrastructure, hazardous and other material disposal and removal, construction of infrastructure and test the Property except where such entry would conflict or jeopardize personal safety or interfere with remediation activities. In exercising the right of entry granted by this section, the Authority shall: 1) provide reasonable notice to the Government of the date, time, and purpose of the entry; 2) obtain the Government's prior written consent to any infrastructure demolition, land-disturbing testing, including the taking of core samples, and hazardous and other material disposal; 3) ensure that any activities on the Property do not interfere with Government operations or activities; and 4) comply with terms and conditions specified by the Government (including reasonable insurance requirements), which the Government agrees it shall not unreasonably impose.

A. Any work and improvements by the Authority shall be subject to terms, conditions, and restrictions deemed necessary by the Government and set forth in the license, Right of Entry, or other appropriate document. The cost of said improvements shall be borne entirely by the Authority, and shall remain the property of the Government if the transfers anticipated herein do not occur. The Authority shall indemnify and hold the Government harmless from all claims, liability, loss, cost, environmental contamination, or damage that may occur as a result of the undertaking by the Authority of said improvements or site preparation, except where such claims, liability, loss, cost, environmental contamination, or damage is the result of the gross negligence or willful misconduct of the Government or its employees, agents, or contractors. It shall be the responsibility of the Authority at its expense to obtain all governmental permits and clearances and complete any environmental analysis or documentation required for the undertaking of said improvements or site preparation, including but not limited to:

1. permits and clearances from the Army, the U.S. Environmental Protection Agency, and the California Department of Toxic Substance Control ("DTSC"), related to the ongoing environmental cleanup required under the Federal Facility Agreement for the former Fort Ord;

2. air quality analysis and documentation; and

3. any permits, analysis, and/or documentation required by the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, the Endangered Species Act, the Coastal Zone Management Act, the Clean Air Act

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1 and Amendments, the Clean Water Act, and other applicable Federal, state and local
2 laws and regulations.

3
4 B. The Government shall cooperate with the Authority as necessary to obtain said
5 permits, provided that the Authority shall discharge any expense or liability of the
6 Government in connection therewith.

7
8 **ARTICLE 15. ENVIRONMENTAL PROVISIONS:**

9
10 15.01. Environmental Condition of the Property.

11
12 A. For those Parcels where the Government has determined that no further
13 remediation is necessary, the Government and the Authority hereby agree to be bound by the
14 terms and conditions of the Deed, substantially in the form set forth in Exhibit B.

15
16 B. For those Parcels to be conveyed with a deferred covenant as permitted by
17 Section 120(h)(3)(C) of the CERCLA, the Government and the Authority hereby agree to
18 be bound by the terms and conditions of a Deed that shall contain, at a minimum, the
19 following (upon the mutual agreement of the Parties, the Deed(s) may be modified as
20 necessary):

21
22 1. Government Finding of Suitability: Finding by the Government that the
23 Property is suitable for transfer for the intended use as set forth in the FOSET, and
24 that the Government believes that the requirements of CERCLA Section
25 120(h)(3)(C) have been satisfied with the supporting evidence being provided in the
26 FOSET package.

27
28 2. Property Description: A description of the Real Property to be transferred.
29 A map should also be attached.

30
31 3. Nature and Extent of Contamination: A description of the nature and extent
32 of the contamination that impacts the parcel of Property being transferred. The
33 Department of Defense Environmental Condition Category of the Property should
34 also be included. An extract from the EBS or a supplement to the EBS, which
35 accurately delineates the areas of contamination shall be attached to the FOSET
36 packet.

37
38 4. Analysis of Future Use: A description of the intended use of the Property and
39 a determination of whether the anticipated reuse is reasonably expected to result in
40 exposure to CERCLA hazardous substances. If it is determined that exposure to
41 hazardous substances is likely, the analysis must discuss restrictive measures
42 contemplated or required (i.e., institutional and other controls), to prevent exposure

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during the remediation of the Property. These restrictions must also be included in the deed for the Property.

5. Response/Corrective Action and Remedial Action-Operations Requirements:

A description of any ongoing or planned remedial or corrective actions. The schedule for such actions, including the dates of certain milestones (e.g., the implementation of the remedy) should be included. The schedule should also contain the dates for the operation and maintenance of the remedy or response action.

6. Deed Language: Environmental remediation information that will be required in either the deed or contract for sale of the parcel of Property for review as follows:

(i). Notice: a copy of the notice language required by CERCLA Section 120(h)(1) and (3) that will be inserted in the deed identifying: the type and quantity of hazardous substances on the Property; the time at which storage, release or disposal took place, and a description of the remedial action taken, if any. This information may be displayed in matrix form for ease of use.

(ii). Covenant: a copy of the covenant language required by CERCLA Section 120(h)(3)(A)(ii)(II) stating, with respect to hazardous substances existing on the Property as of the date of transfer, that: "any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States."

(iii). Right of Access: a copy of the language required by CERCLA Section 120(h)(3)(A)(iii) granting the United States access to the Property if remedial action or corrective action is found to be necessary after the date of Property transfer, as well as providing access to the Property to perform the cleanup for which the deferral is being sought.

(iv). Response Action Assurances: a copy of the response action assurances required by CERCLA Section 120(h)(3)(C)(ii) (listed below) that will be included in the contract for sale of the parcel of Property and the Deed. These assurances are included in the contract for sale of the parcel of Property and the Deed to ensure that the transfer does not delay remedial activities; the reuse does not pose a risk to human health and the environment; and that the Government will request adequate funds to address schedules for investigation and completion of all response actions.

(a) provide for any necessary restrictions on the use of the Property to ensure the protection of human health and the environment;

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1 (b) provide that there will be restrictions on the use necessary to
2 ensure that required remedial investigations, response action, and oversight
3 activities will not be disrupted;

4
5 (c) provide that all necessary response action will be taken and
6 identify the schedules for investigation and completion of all necessary
7 response action as approved by the appropriate regulatory agency; and
8

9 (d) provide that the transferring Federal agency responsible for
10 the Property subject to transfer will submit a budget request to the Director
11 of the Office of Management and Budget that adequately addresses schedules
12 for investigation and completion of all necessary response action, subject to
13 congressional authorizations and appropriations.
14

15 7. Attachments: To demonstrate that the Government has requested adequate
16 funding for all response activities, a schedule and associated funding profile for
17 response actions shall be attached to the FOSET. Any specific language required to
18 ensure that cleanup activities will not be disrupted, and to implement institutional or
19 other controls or impose use restrictions during the remediation period and that may
20 be required by the final remedy decision, can either be included in or attached to the
21 FOSET.
22

23 15.02. Schedule. The Government shall use its best efforts to complete the environmental
24 remediation of the Property in the time schedule set forth in Exhibit L.
25

26 15.03. Ordnance and Explosives ("OE"). The former Fort Ord is a former military
27 installation with a history of OE use and, therefore, there is a potential for OE to be present on the
28 Property. In the event the Authority, its successors and assigns, should discover any ordnance on
29 the Property, it shall not attempt to remove or destroy it, but shall immediately notify the local police
30 department and the Directorate of Law Enforcement at the Presidio of Monterey. A competent
31 Government or Government designated explosive ordnance professional will be dispatched promptly
32 to dispose of such ordnance properly at no expense to the Authority, whenever OE may be
33 discovered.
34

35 15.04. Covenants Relating to Retention of Environmental Documents. The original
36 administrative record, and all environmental documents relating thereto, concerning the
37 environmental conditions of the Property shall be maintained in an accessible repository so that such
38 records will be available for inspection, review and copying by the Authority and its successors and
39 assigns. The Authority and its successors and assigns, at their own expense, shall have the right to
40 inspect, review and copy such records with twenty-four (24) hour prior notice. The Government
41 shall use its best efforts to locate the repository at or near the Property.
42

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ARTICLE 16. LEAD-BASED PAINT (LBP):

16.01. Disclosure. The Lead-Based Paint (hereinafter referred to as "LBP") Disclosure required by 24 CFR Part 35 (FR March 6, 1996) is shown as an Exhibit in the Deed.

16.02. Disclosure Removal. The parties agree that the Authority, or its successors or assigns, will seek approval of a procedure through the California DTSC, whereby once the LBP is removed from the Property in compliance with Federal and State standards, the LBP Disclosure can be removed from the Deeds. The Government agrees to cooperate with such procedure, and sign amended Deeds as necessary, provided, however, that such amendments shall be at no cost to the Government.

16.03. Liability. The Parties agree, that prior to occupancy for residential habitation, of any existing structure, the Authority will comply with the applicable lead based paint inspection and abatement provisions of 24 C.F.R. Part 35. The Government assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the Authority, its successors and assigns, sublessees or to any other person, including members of the general public, arising out of exposure to lead-based paint in connection with the Authority's possession and/or use of any portion of the Property containing lead-based paint. The Authority, its successors and assigns, further agree to indemnify and hold harmless the Government, its officers, agents and employees, from and against all suits, claims, demands or actions liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, personal injury, death or property damage resulting from, related to, caused by or arising out of exposure to lead-based paint or lead-based paint hazards on the Property after the date of the conveyance of the Property, if used for residential purposes.

ARTICLE 17. ASBESTOS:

17.01. Disclosure. The Authority is hereby informed by the Government and does acknowledge that asbestos or asbestos-containing materials (ACM) have been found on the Property, as described in the Diagnostic Environmental, Inc. (now ATC Environmental, Inc.) report, Asbestos Survey Report, U.S. Army Corps of Engineers - Fort Ord Installation, Fort Ord, California, dated April 26, 1993. Appropriate disclosure statements for each parcel of Property will be included in each Deed.

17.02. Disclosure Removal. The parties agree that the Authority, or its successors or assigns will seek approval of a procedure through the California DTSC, whereby once the ACM is removed from the Property in compliance with Federal and State standards, reference to ACM can be removed from the Deeds. The Government agrees to cooperate with such procedure, and sign amended Deeds as necessary, provided, however, that such amendments shall be at no cost to the Government.

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1 17.03. Liability. The Government shall be responsible for the remediation of all damaged
2 friable and accessible ACM which exists on the Property at the time of its conveyance to the
3 Authority; the Authority shall be responsible for the remediation of all damaged friable and
4 accessible ACM which becomes damaged friable and accessible ACM after the time of the
5 conveyance of the Property to the Authority. The Authority further agrees to indemnify and hold
6 harmless the Government, its officers, agents and employees, from and against all suits, claims,
7 demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner
8 predicated upon, exposure to asbestos on any portion of the Property after this conveyance of the
9 Property to the Authority or any future remediation or abatement of asbestos or the need therefor.
10 The obligation of the Authority hereunder shall apply whenever the United States incurs costs or
11 liabilities for actions giving rise to liability under this section.

12
13 **ARTICLE 18. NOTICE OF HISTORIC PRESERVATION:**

14
15 18.01. Historic Places. In accordance with an agreement by and between the Department
16 of the Army, the Advisory Council on Historic Preservation, and the California State Historic
17 Preservation Officer ("SHPO") regarding Fort Ord, California ("Programmatic Agreement"; Exhibit
18 F), certain areas of the Property are under consideration for eligibility for listing on the National
19 Register of Historic Places. If a site is determined to be eligible for listing on the National Register
20 of Historic Places, the Authority agrees, on behalf of itself and its successors and assigns, to consult
21 with the SHPO and maintain and preserve the Historic Site as appropriate in accordance with the
22 Programmatic Agreement.

23
24 **ARTICLE 19. GOVERNMENT CONSENT TO SUBDIVISION OF**
25 **PROPERTY/DEDICATION OF ROADS:**

26
27 19.01. Subdivision of Property. The Government, as permitted by Federal statute, shall not
28 unreasonably delay or withhold its consent to the recording by the Authority or the Authority
29 member jurisdictions, of all documents necessary to subdivide all or portions of the Property,
30 approve assessments, adopt redevelopment project areas, dedicate public roads, easements, and open
31 spaces, and record covenants, conditions and restrictions regarding the future development and use
32 of the Property, in accordance with the FORA Base Reuse Plan, or the recording of any subdivision
33 plat, dedication plat, or declaration of covenants, conditions and restrictions concerning the Property.
34 The Government agrees that it will not interfere with or protest or challenge any subdivision petition
35 or application over the Property. Additionally, the Government acknowledges the Authority's role
36 in the economic development of the Property and, as permitted by Federal statute, authorizes the
37 Authority to vote in any election on the Property or otherwise indicate its views in such matters as
38 the owner or contract purchaser of the Property, as the Authority deems appropriate.

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

ARTICLE 20. BROKERAGE; CONTINGENT FEES:

20.01. Contingent Fees. The Authority warrants that it has not employed or retained any party under an agreement or understanding for a commission, percentage, brokerage, or contingent fee tied to the successful conveyance of the Property from the Government to the Authority. Breach of this warranty shall give the Government the right to recover from the Authority the amount of such commission, percentage, brokerage or contingent fee in addition to the consideration herewith set forth actually paid by the Government to any such party retained by the Authority. This warranty shall not apply to commissions payable by the Authority upon the contract being secured or made through bona fide established commercial agencies maintained by the Authority for the purpose of doing business. A bona fide established commercial agency has been construed to include licensed real estate brokers engaged in the business generally.

ARTICLE 21. DESTRUCTION OR DAMAGE:

21.01. Destruction or Damage. In the event of significant damage or destruction of all or a portion of the Property prior to the Closing, the Authority retains the right to renegotiate the consideration and terms of this Agreement with regard to such damaged portion of the Property.

ARTICLE 22. NOTICES:

22.01. Notices. Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally (including by messenger) or sent by United States registered or certified mail, return receipt requested, postage prepaid or by courier, postage prepaid and addressed to the parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or by messenger or two business days after deposit in the mail if mailed. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to the Authority: Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
100 12th Street, Building 2880
Marina, California 93933
Phone: (831) 883-3672
Facsimile: (831) 883-3675

If to the Government: U.S. Army Corps of Engineers, Sacramento District
1325 J Street
Sacramento, California 95814
Attn: Kenneth L. Fox, Chief,

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

Management and Disposal Branch
Phone: (916) 557-6870
Facsimile: (916) 557-7855

ARTICLE 23. ENTIRE AGREEMENT, AMENDMENTS AND WAIVER:

23.01. Entire Agreement. This Agreement contains the entire agreement and understanding of the Parties in respect to the purchase and sale of the Property, and may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the Party to be bound thereby. The Parties hereto shall not be bound by any terms, conditions, statements, warranties or representations, oral or written, not contained herein.

ARTICLE 24. CONTRACT DISPUTES:

24.01. Disputes. This Agreement is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the Parties to this Agreement to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this Agreement shall be a dispute to be resolved in accordance with Federal law. The Authority and the Government shall proceed diligently with performance of this Agreement, pending final resolution of any dispute arising under the Agreement.

ARTICLE 25. SURVIVAL AND BENEFIT:

25.01. Survival and Benefit. The Authority may not transfer or assign its rights and interests under this Agreement, without the written consent of the Government. All representations, warranties, agreements, obligations and indemnities of the Parties shall, notwithstanding any investigation made by any Party hereto, survive Closing and the same shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement otherwise shall be construed as creating any rights of enforcement by any person or entity that is not a Party hereto, nor any rights, interest, or third party beneficiary status for any entity or person other than the Parties hereto.

ARTICLE 26. INTERPRETATION:

26.01. The headings and captions herein are inserted for convenient reference only and the same shall not limit or construe the paragraphs or sections to which they apply or otherwise affect the interpretation hereof.

26.02. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms shall refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this Agreement.

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 26.03. Words of the masculine, feminine or neuter gender shall mean and include the
2 correlative words of other genders, and words importing the singular number shall mean and include
3 the plural number and vice versa.
4

5 26.04. Words importing persons shall include firms, associations, partnerships (including
6 limited partnerships), trusts, corporations and other legal entities, including public bodies, as well
7 as natural persons.
8

9 26.05. The terms "include," "including" and similar terms shall be construed as if followed
10 by the phrase "without being limited to."
11

12 26.06. This Agreement and any document or instrument executed pursuant hereto may be
13 executed in any number of counterparts each of which shall be deemed an original, but all of which
14 together shall constitute one and the same instrument.
15

16 26.07. Whenever under the terms of this Agreement, the time for performance of a covenant
17 or condition falls upon a Saturday, Sunday or holiday observed by the performing Party, such time
18 for performance shall be extended to the next business day. Otherwise, all references herein to
19 "days" shall mean calendar days.
20

21 26.08. This Agreement shall be governed by and construed in accordance with Federal law
22 and the laws of the State of California, as applicable.
23

24 26.09. Time is of the essence of this Agreement.
25

26 26.10. If any term or provision of this Agreement or the application thereof to any person
27 or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement,
28 or the application of such term or provision to persons or circumstances other than those as to which
29 it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision
30 of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
31

32 **ARTICLE 27. OFFICIALS NOT TO BENEFIT:** 33

34 27.01. Officials Not To Benefit. The Authority acknowledges that no member of, or
35 delegate to the Congress, or resident commissioner, shall be permitted to share any part of the
36 contract of sale, or to receive any benefit that may arise therefrom. This provision shall not be
37 construed to extend to the contract of sale if made with a corporation for its general benefit.
38

39 **ARTICLE 28. NON-DISCRIMINATION:** 40

41 28.01. Non-Discrimination. With respect to activities related to the Property, the Authority
42 hereby agrees that it will comply with the requirements of Title VI of the Civil Rights Act of 1964

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 (Public Law 88-352) and all requirements imposed by or pursuant to the regulations issued under
2 that Act and now in effect, to the end that, in accordance with such Act and regulations, no person
3 in the United States shall, on the ground of race, color, national origin, sex or handicap be excluded
4 from participation in, be denied the benefits of, or otherwise be subjected to discrimination under
5 any program or activity of the Authority, its successors and assigns.

6 7 **ARTICLE 29. FURTHER ASSURANCES:**

8
9 29.01. Further Assurances. The Government shall, upon the reasonable request of the
10 Authority, execute, cause to be executed, acknowledged or delivered any and all such further
11 instruments and documents as may be necessary or proper, in order to carry out the intent and
12 purpose of this Agreement.

13 14 **ARTICLE 30. NO RIGHT OF RESCISSION:**

15
16 30.01. No Right of Rescission. There shall be no right of rescission in the Government as
17 to the Property, or any portion thereof, once conveyed to the Authority. The foregoing shall not be
18 interpreted to limit any future exercise of the power of eminent domain by the Government.

19 20 **ARTICLE 31. ANTI-DEFICIENCY ACT:**

21
22 31.01. Anti-Deficiency Act. The Government's obligation to pay or reimburse any money
23 under this Agreement is subject to the availability of appropriated funds, and nothing in this
24 Agreement shall be interpreted to require obligations or payments by the Government in violation
25 of the Anti-Deficiency Act, Public Law 97-258, as amended.

26 27 **ARTICLE 32. EFFECTIVE DATE:**

28
29 32.01. Effective Date. This Agreement shall be final and binding upon the Parties following
30 certification by the Authority that it has complied with the California Environmental Quality Act.
31 Such certification shall be in writing and delivered to the Government no later than sixty (60) days
32 after the execution of the Agreement by the Authority. Following execution of the Agreement by
33 the Parties, the Agreement, and all exhibits thereto, may be released to the public.

34
35 **[SIGNATURE PAGES FOLLOW]**

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

In Testimony Whereof, witness the signature of the Government, acting by and through the Secretary of the Army, United States Department of the Army, under and pursuant to the authority provided in Section 2905(b)(4) of the Base Closure Act, and the implementing regulations of the Department of Defense (32 CFR Parts 90 and 91), this 20th day of June, 2000.

UNITED STATES OF AMERICA

By: Paul W. Johnson
Deputy Assistant Secretary of the Army (I&H)

COMMONWEALTH OF VIRGINIA)
) ss
COUNTY OF ARLINGTON)

On 20 June 2000 before me, the undersigned, a Notary Public in and for said state, personally appeared Paul W. Johnson personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Yvonne A. Cooper
Notary Public, Commonwealth of Virginia

MY COMMISSION EXPIRES
November 30, 2002

FORT ORD ECONOMIC DEVELOPMENT CONVEYANCE AGREEMENT

1 In Testimony Whereof, witness the signature of the Fort Ord Reuse Authority, an
2 organization organized and existing under the laws of the State of California under the Fort Ord
3 Reuse Authority Act created under Title 7.85 of the California Government Code, Chapters 1
4 through 7, inclusive, commencing with Section 67650, *et seq.*, and selected provisions of the
5 California Redevelopment Law, including Division 24 of the California Health and Safety Code,
6 Part 1, Chapter 4.5, Article 1, commencing with Section 33492, *et seq.*, and Article 4, commencing
7 with Section 33492.70, *et seq.*, this 7th day of June 2000.
8
9

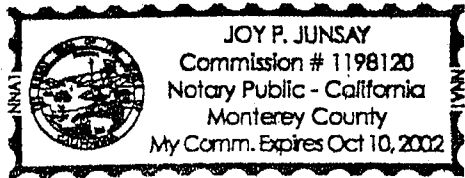
10 **FORT ORD REUSE AUTHORITY**
11 **LOCAL REDEVELOPMENT AUTHORITY**
12

13
14 By: Edith Johnsen
15
16 Edith Johnsen
17 Chair
18
19

20) STATE OF CALIFORNIA)
21) ss
22) COUNTY OF MONTEREY)
23

24 On JUNE 7, 2000 before me, the undersigned, a Notary Public in and for said
25 state, personally appeared Edith Johnsen. personally known to me (or proved to me on the basis of
26 satisfactory evidence) to be the person whose name is subscribed to the within instrument and
27 acknowledged to me that she executed the same in her authorized capacity, and that by her
28 signature on the instrument the person, or the entity upon behalf of which the person acted,
29 executed the instrument.
30

31 WITNESS my hand and official seal.



32
33
34
35
36 J. P. Junsay

DESCRIPTION OF PROPERTY
EXHIBIT A

EXHIBIT "A"
DESCRIPTION OF PROPERTIES

Search Results: Click Back Button on Browser to Search Again.

Parcels Database last updated on: 10/4/99 1:54:42 PM

Total Acreage from Query is: 5188.101 Acres

COE Number	Parcel Name	Acreage	Jurisdiction	Recipient	Transfer Status
E11a	Habitat management	154.5	County	EDC	in progress
E11b.1	development / mixed use /ac limit	24.7	County	EDC	in progress
E11b.2	development / mixed use-ac limit	41.7	County	EDC	in progress
E11b.3	sewer treatment facility / development mix	6.2	County	EDC	in progress
E11b.4	water tank 147	0.1	County	EDC	in progress
E11b.6	development / mixed use-aac limit	129.4	County	EDC	in progress
E11b.7	development / mixed use-ac limit	255.3	County	EDC	in progress
E11b.8	ASP / development mixed use	58.8	County	EDC	in progress
E15.1	ROW / retail	49.1	Seaside	EDC	in progress
E15.2	open space	28.7	Seaside	EDC	in progress
E18.1	housing future	73	Seaside	EDC	in progress
E18.2.1	ROW Gigling road	4.9	Seaside	EDC	in progress
E18.2.2	ROW Gigling road	0.1	County	EDC	in progress
E18.3	ROW Normandy/Parker Flats	6.2	Seaside	EDC	in progress
E18.4	water tank	2.2	Seaside	EDC	in progress
E19a.1	housing SFD low density	265.7	County	EDC	in progress

E19a.2	housing SFD low density	218.4	County	EDC	in progress
E19a.3	housing SFD low density	209.3	County	EDC	in progress
E20b	housing Stilwell	101.8	Seaside	EDC	in progress
E20c.1.1.1	housing future	75	Seaside	EDC	in progress
E20c.1.1.2	housing future	113.9	Seaside	EDC	in progress
E20c.1.2	Cable TV area	0.3	Seaside	EDC	in progress
E20c.1.3	ROW N/S road	10.4	Seaside	EDC	in progress
E20c.2.1	housing future	92.5	Seaside	EDC	in progress
E20c.2.2	water tanks/pumps	2.3	Seaside	EDC	in progress
E21a	housing SF low density	138.7	County	EDC	in progress
E21b.1	housing SFD low density	156.7	County	EDC	in progress
E21b.2	housing SFD low density	134.2	County	EDC	in progress
E21b.3	housing SFD low density	58.5	County	EDC	in progress
E23.1	ROW / retail	47.5	Seaside	EDC	in progress
E23.2	ROW / housing future SFD med density	72.6	Seaside	EDC	in progress
E24	ROW / housing future SFD med density	197.1	Seaside	EDC	in progress
E29	BP/LI/O//R&D	34.5	County/Monterey	EDC	in progress
E29a	visitor center / bus park	273.3	Del Rey Oaks	EDC	in progress
E29b.1	ROW future Hwy 68 / habitat	34.5	Del Rey Oaks	EDC	in progress
E29b.2	ROW/BP/LI/O/R&D	30.1	County/Monterey	EDC	in progress

E29b.3	BP/LI/O/R&D	28.4	County/Monterey	EDC	in progress
E29e	ROW/future Hwy 68/OP/R&D	9.5	County/Monterey	EDC	in progress
E2a	development / mixed use	63.7	Marina	EDC	in progress
E2b.1.1.1	development / mixed use	24	Marina	EDC	in progress
E2b.1.1.2	development / mixed use	1.2	Marina	EDC	in progress
E2b.1.2	ROW road	10.6	Marina	EDC	in progress
E2b.1.3	development / mixed use	33.6	Marina	EDC	in progress
E2b.1.4	ROW road	2.2	Marina	EDC	in progress
E2b.1.5	development / mixed use	12.2	Marina	EDC	in progress
E2b.2.1	development / mixed use	71.1	Marina	EDC	in progress
E2b.2.2	ROW road	0.8	Marina	EDC	in progress
E2b.2.3	ROW road	4.4	Marina	EDC	in progress
E2b.2.4	development / mixed use	7.5	Marina	EDC	in progress
E2b.2.5	2/12 Pump and Treat Facility	1.5	Marina	EDC	in progress
E2b.3.1.1	development / mixed use	108.6	Marina	EDC	in progress
E2b.3.1.2	CID Building	1.6	Marina	EDC	in progress
E2b.3.2	ROW 8th St	0.1	Marina	EDC	in progress
E2c.1	development / mixed use	13.2	Marina	EDC	in progress
E2c.2	OU2 Pump and Treat Facility	1.1	Marina	EDC	in progress
E2c.3.1	development / mixed use	10	Marina	EDC	in progress








E2c.3.2	ROW road	13.8	Marina	EDC	in progress
E2c.3.3	development / mixed use	31.7	Marina	EDC	in progress
E2c.4.1.1	ROW road	8.9	Marina	EDC	in progress
E2c.4.1.2	ROW road	2.8	Marina	EDC	in progress
E2c.4.2.1	development / mixed use	13.1	Marina	EDC	in progress
E2c.4.2.2	development / mixed use	2.4	Marina	EDC	in progress
E2c.4.3	ROW road	1.9	Marina	EDC	in progress
E2c.4.4	ROW road	1.1	Marina	EDC	in progress
E2d.1	development / mixed use	15.2	Marina	EDC	in progress
E2d.2	ROW	5.4	Marina	EDC	in progress
E2d.3	development / mixed use	46.6	Marina	EDC	in progress
E2e.1	ROW 6th Ave / 8th St Road	6.1	Marina	EDC	in progress
E2e.2	ROW Intergarrison road	0.2	County	EDC	in progress
E31a	bus park /LI/O/R&D	5.2	Del Rey Oaks	EDC	in progress
E31b	bus park /LI/O/R&D	3.1	Del Rey Oaks	EDC	in progress
E31c	bus park /LI/O/R&D	4.2	Del Rey Oaks	EDC	in progress
E34	ROW / housing future SFD med density	94.7	Seaside	EDC	in progress
E36	bus park /LI/O/R&D	6.3	Del Rey Oaks	EDC	in progress
E4.1.1	housing lower Patton	154	Marina	EDC	in progress
E4.1.2.1	housing lower Patton	13	Marina	EDC	in progress

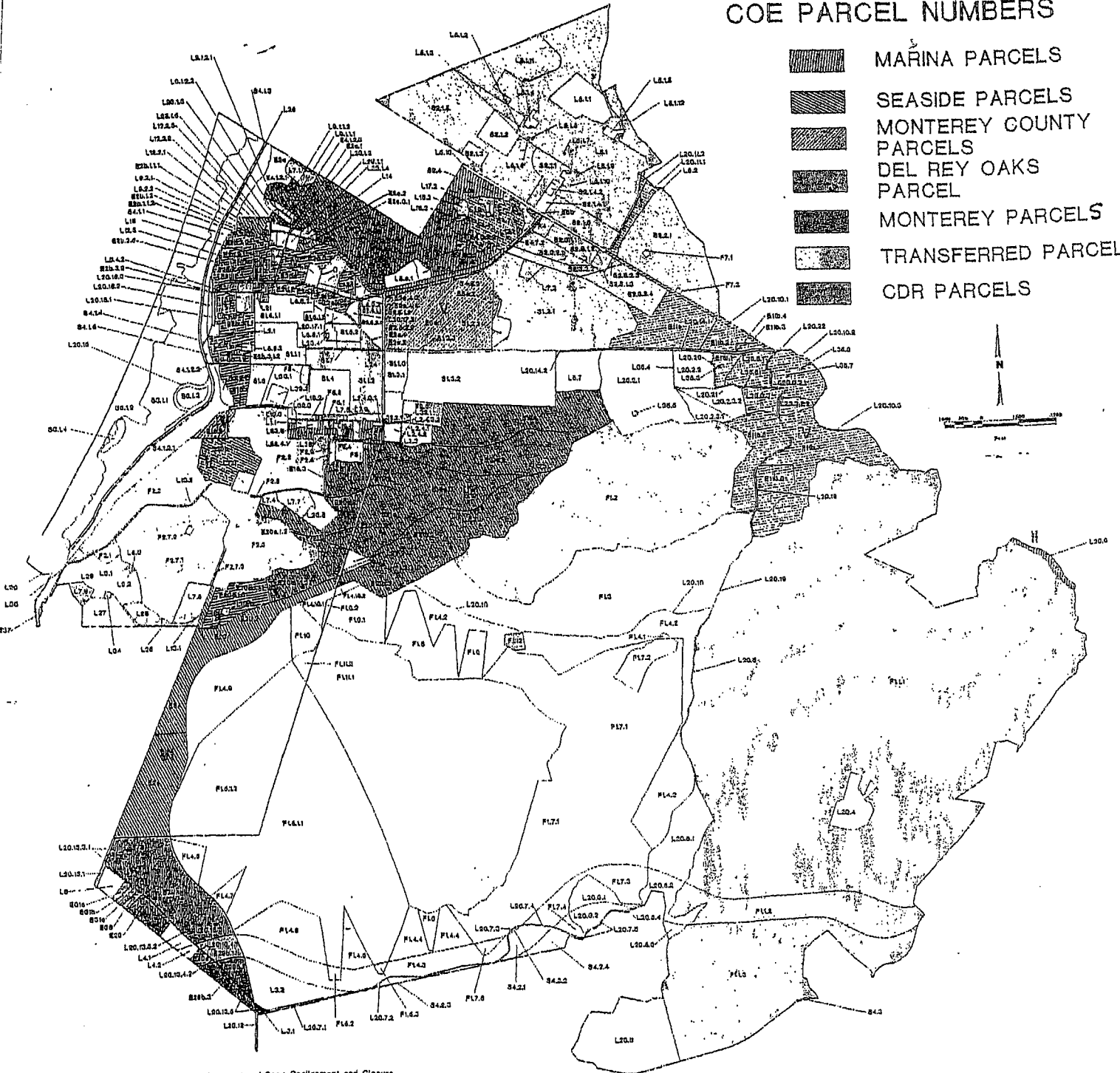
E4.1.2.2	housing lower Patton	23	Marina	EDC	not started
E4.1.2.3	ROW Booker Str /lower Patton	1	Marina	EDC	not started
E4.2	housing upper Patton	64.2	Marina	EDC	in progress
E4.3.1	housing Abrams	179.6	Marina	EDC	in progress
E4.3.2.1	housing Abrams	43.6	Marina	EDC	in progress
E4.3.2.2	Housing Lexington Court	7.9	Marina	EDC	in progress
E4.4	housing Preston	98.9	Marina	EDC	in progress
E4.5	water treatment facility	2.9	Marina	EDC	in progress
E4.6.1	ROW middle Imjin road	25	Marina	EDC	in progress
E4.6.2	ROW Imjin road	17.3	County	EDC	in progress
E4.7.1	ROW NE Imjin road	5	Marina	EDC	in progress
E4.7.2	ROW Imjin road	3.1	County	EDC	in progress
E5a	development / mixed use	45.7	Marina	EDC	in progress
E5b	development / mixed use	3.2	Marina	EDC	in progress
E8a.1	Landfill, 75 acre development, HMP	304.1	County	EDC	in progress
E8a.2	Landfill carrot, Univ med density residential	4	County	EDC	in progress
L20.10.1	ROW / north Reservation road	26.2	County	EDC	in progress
L20.10.2	ROW / north Reservation road	5.2	County	EDC	in progress
L20.10.3	ROW / north Reservation road	2.2	County	EDC	in progress
L20.11.1	ROW / Blanco road	31.2	County	EDC	in progress

L20.11.2	ROW Blanco road	7.7	Marina	EDC	in progress
L20.13.1	ROW N/S road	2	Del Rey Oaks	EDC	in progress
L20.13.3.1	ROW S Boundary / NS road	7.9	Del Rey Oaks	EDC	in progress
L20.13.3.2	ROW / part S Boundary Road	2.1	County/Monterey	EDC	in progress
L20.13.4.1	ROW S Boundary / future Hwy 68	0.8	Del Rey Oaks	EDC	in progress
L20.13.4.2	ROW / part S Boundary Road	0.8	County/Monterey	EDC	in progress
L20.13.5	ROW / S Boundary / York road	5.9	County/Monterey	EDC	in progress
L20.14.1	ROW / East Intergarrison road	16.2	County	EDC	in progress
L20.14.2	ROW / Mid Intergarrison road	3.2	County	EDC	in progress
L20.18	ROW / Eucalyptus road	7.2	County	EDC	in progress
L20.19	ROW / North Barloy Canyon road	10.3	County	EDC	in progress
L20.20	ROW / west Camp road	2.3	County	EDC	in progress
L20.21	ROW / part Watkins Gate road	4.4	County	EDC	in progress
L20.22	ROW / Chapel Hill road	2.4	County	EDC	in progress
L20.9	ROW / south Reservation road	18.9	County	EDC	in progress
L23.3.1	development mixed use-ac limit	54.5	County	EDC/MPC	not started
L23.3.2.1	development mixed use-ac limit/historic district	83.2	County	EDC/MPC	not started
L23.3.2.2	development mixed use-ac limit	20.1	County	EDC/MPC	not started
L23.3.3	development mixed use-ac limit	36.4	County	EDC/MPC	not started
L31	Esselen Parcel Surplus II	11.7	Seaside	EDC	in progress

L32.1	public facilities/inst Surplus II	2.9	County	EDC	in progress
L32.4.1	development mixed use / retail Surplus II	52.4	Seaside	EDC	in progress
L32.4.2	ROW / development mixed use / Surplus II	4.3	County	EDC	in progress

FORA PARCELS USING COE PARCEL NUMBERS

-  MARINA PARCELS
-  SEASIDE PARCELS
-  MONTEREY COUNTY PARCELS
-  DEL REY OAKS PARCEL
-  MONTEREY PARCELS
-  TRANSFERRED PARCELS
-  CDR PARCELS



Prepared by Directorate of Base Realignment and Closure
 Presidio of Monterey, California
 Revised 10-4-99

EXAMPLE DEED
EXHIBIT B

2
3
4
5
6
7 PREPARED BY AND
8 WHEN RECORDED RETURN TO:

9
10 Kutak Rock LLP
11 1101 Connecticut Avenue, N.W.
12 Washington, D.C. 20306
13 Attention: George R. Schlossberg, Esq.
14

15 QUITCLAIM DEED FOR PARCEL X
16

17 **THIS DEED**, made and entered into between the **UNITED STATES OF**
18 **AMERICA**, acting by and through the **SECRETARY OF THE ARMY**, (hereinafter referred to
19 as the "**GRANTOR**"), under and pursuant to the power and authority contained in the Defense
20 Base Closure and Realignment Act of 1990, as amended (Public Law No. 101-510, 10 U.S.C.
21 §2687 note; hereinafter "**DBCRA**"), and the **FORT ORD REUSE AUTHORITY ("FORA")**,
22 created under Title 7.85 of the California Government Code, Chapters 1 through 7, inclusive,
23 commencing with Section 67650, *et seq.*, and selected provisions of the California Redevelopment
24 Law, including Division 24 of the California Health and Safety Code, Part 1, Chapter 4.5, Article 1,
25 commencing with Section 33492, *et seq.*, and Article 4, commencing with Section 33492.70, *et*
26 *seq.*, and recognized as the Local Redevelopment Authority for the former Fort Ord, California, by
27 the Office of Economic Adjustment on behalf of the Secretary of Defense (hereinafter referred to as
28 the "**GRANTEE**").
29

30 **WITNESSETH THAT:**
31

32 WHEREAS, the Secretary of the Army may convey surplus property to the Local
33 Redevelopment Authority at a closing military installation for economic development purposes
34 pursuant to the power and authority provided by Section 2905(b)(4) of the DBCRA and the
35 implementing regulations of the Department of Defense (32 CFR Part 91);
36

37 WHEREAS, GRANTEE, by application, requested an economic development conveyance
38 of portions of the former Fort Ord, California consistent with the redevelopment plan prepared by
39 the GRANTEE;
40

41 WHEREAS, GRANTOR and the GRANTEE have entered into a Memorandum of
42 Agreement Between the United States of America Acting By and Through the Secretary of the
43 Army, United States Department of the Army and the Fort Ord Reuse Authority For the Sale of
44 Portions of the former Fort Ord, California, dated the ____ day of _____, 2000

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 (hereinafter referred to as the "MOA") which sets forth the specific terms and conditions of the sale
2 of portions of the former Fort Ord located in Monterey County, California; and
3

4 WHEREAS, the California State Historic Preservation Officer has determined that no
5 structures, monuments, or other property within the subject Property, as hereinafter defined, were
6 identified as having any historical significance; and
7

8 WHEREAS, Fort Ord, California, has been identified as a National Priority List Site
9 under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)
10 of 1980, as amended, the GRANTOR has provided the GRANTEE with a copy of the Fort Ord
11 Base Federal Facility Agreement (FFA) and all amendments thereto entered into by EPA Region
12 IX, the State of California, and the Department of the Army that were effective on November 19,
13 1990; and
14

15 WHEREAS, an Installation-Wide Multispecies Habitat Management Plan for former Fort
16 Ord, California (HMP) dated December, 1994 as revised and amended by the "Installation-Wide
17 Multispecies Habitat Management Plan for Former Fort Ord, California" dated April 1997, has
18 been developed to assure that disposal and reuse of Fort Ord lands is in compliance with the
19 Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* Timely transfer of these lands and
20 subsequent implementation of the HMP is critical to ensure effective protection and conservation
21 of the former Fort Ord lands' wildlife and plant species and habitat values while allowing
22 appropriate economic redevelopment of Fort Ord and the subsequent economic recovery of the
23 local communities; and
24

25 NOW, THEREFORE, the GRANTOR, for good and valuable consideration does hereby
26 grant, remise, release, and forever quitclaim unto the GRANTEE, its successors and assigns, all
27 such interest, rights, title, and claim as the GRANTOR has in and to the Property known as Parcel
28 X, more particularly described in Exhibit "A" which is attached hereto and made a part hereof.
29

30 I. PROPERTY DESCRIPTION:

31 The Property includes:
32

33
34 A. All buildings, facilities, roadways, and other, including the storm drainage systems
35 and the telephone system infrastructure, and any other improvements thereon,
36

37 B. All appurtenant easements and other rights appurtenant thereto, permits, licenses,
38 privileges and not otherwise excluded herein,
39

40 C. All hereditaments and tenements therein and reversions, remainders, issues, profits,
41 privileges and other rights belonging or related thereto, and
42

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 D. All Mineral Rights (*to be resolved on a deed by deed basis*).

2
3 **II. APPURTENANT EASEMENTS:**

4
5 A. GRANTOR hereby declares and grants easements appurtenant to the Property over,
6 across, under and through the land retained by the GRANTOR for access, utilities and other uses
7 which easements shall run with the land and be perpetually in full force and effect including, but
8 not limited to, irrevocable non-exclusive access easements over North-South Road, Monterey
9 Avenue, and Gigling Road, all as set forth in Exhibit "B".

10
11 B. The GRANTEE agrees to the following terms and conditions:

12
13 1. except in the case of an emergency, GRANTEE will provide the fee owner of the
14 land subject to an easement prior notice of its entry onto the easement area;

15
16 2. in the utilization of any easement rights granted herein, exercise due care in the
17 performance of excavations and other work required herein and restore the easement lands
18 following such work to a safe and usable condition;

19
20 3. to comply with all applicable federal, state and local laws and regulations;

21
22 4. to pay the GRANTOR the full value for all damages to the lands or other property
23 of the United States caused by the GRANTEE or its employees, contractors, or employees of the
24 contractors arising from its use, occupancy, or operations within the easement areas, provided that
25 all work done as authorized under this grant of easement shall not be considered as damages to
26 lands; and to indemnify the United States against any liability for damages to life, person, or
27 property arising from the occupancy or use of the lands under the easements, except where such
28 liability arises as a result of acts of the United States, its employees, or contractors, or where the
29 easements are granted hereunder to a state or other governmental agency which has no legal power
30 to assume such liability with respect to damages caused by it to lands and property, in which case
31 such agency in lieu therefore agrees to pay all such damages;

32
33 5. to allow the occupancy and use by the GRANTOR, its grantees, permittees, or
34 lessees of any part of the easement areas not actually occupied or required for the purpose of the
35 full and safe utilization thereof by the GRANTEE, so long as such occupancy and use does not
36 compromise the ability of the GRANTEE to use the easements for their intended purposes, as set
37 forth herein;

38
39 6. that the easements granted shall be for the specific use described and may not be
40 construed to include the further right to authorize any other use within the easements unless
41 approved in writing by the fee holder of the land subject to the easement;

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1 7. that any transfer of the easements by assignment, lease, operating agreement, or
2 otherwise must include language that the transferee agrees to comply with and be bound by the
3 terms and conditions of the original grant of easement;

4
5 8. that, unless otherwise provided, no interest granted shall give the GRANTEE any
6 right to remove any material, earth, or stone for consideration or other purpose except as necessary
7 in exercising its rights hereunder;

8
9 9. that a rebuttable presumption of abandonment of any of the easements is raised by
10 the failure of the GRANTEE to use for any continuous two (2) year period an easement for the
11 purpose for which it was granted hereby; and that, in the event of such abandonment, the
12 GRANTOR or its successor will notify the GRANTEE of its intention to terminate the easement
13 for abandonment sixty (60) days from the date of the notice, unless prior to the end of said sixty
14 (60) day period the GRANTEE either resumes its use of the easement or demonstrates conclusively
15 that said resumption of use will occur within a reasonable amount of time thereafter, not to exceed
16 an additional ninety (90) day period (for purposes of this subparagraph, flow of non-portable water
17 through the piping system shall constitute continuous use of the easement); and
18

19 10. to restore any easement area so far as it is reasonably possible to do so upon
20 abandonment or release of any easement as provided herein, unless this requirement is waived in
21 writing by the fee owner.

22
23 **III. EXCLUSIONS AND RESERVATIONS:**

24
25 This conveyance is made subject to the following **EXCLUSIONS** and **RESERVATIONS**:

26
27 A. All water allocations derived from the Salinas aquifer shall remain with the
28 GRANTOR consistent with the MOA. With regard to the ultimate disposition of any water and
29 water allocation rights, the GRANTOR shall cooperate with the GRANTEE, other grantees of
30 former Fort Ord property, and the Monterey County Water Resources Agency (MCWRA), in
31 seeking to ensure that GRANTEE and its successors and assigns, will continue to be provided an
32 equitable supply of the water at former Fort Ord.

33
34 B. With regard to the ultimate disposition of any rights or interests the GRANTOR has
35 in wastewater discharge rights provided by the Monterey Regional Water Pollution Control Agency
36 (MRWPCA), the GRANTOR shall cooperate with GRANTEE in accordance with the MOA, other
37 grantees of property at Fort Ord, and the MRWPCA, in seeking to ensure that GRANTEE and all
38 other Fort Ord grantees will continue to enjoy equitable utilization of the existing sewerage
39 treatment capacity, including existing connections to the Fort Ord sewerage collection system.

40
41 C. The GRANTOR retains ownership to all Government-owned sewer, and water
42 utility systems located on the Property. The retention point for the GRANTOR'S retained

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1 ownership of the water systems will be to the meter location or future meter or utility box
2 location at a point on or near each building or facility. The retention point for the sewer is where
3 the laterals enter the collection lines. The GRANTOR reserves transferable easements and
4 access rights for all GRANTOR-owned utility systems and for utility company owned utility
5 systems:

6
7 The GRANTOR reserves assignable non-exclusive easements and rights-of-way,
8 12 feet in width, in, on, over and across the Property and centered on the existing
9 utility systems owned and retained by GRANTOR at the time of this conveyance
10 and located on the Property. Said easements and rights-of-way shall be for the
11 purpose of locating, constructing, operating, maintaining, altering, repairing and
12 patrolling utility systems together with the right to trim, cut, fell and remove
13 therefrom, consistent with the Installation-Wide Multispecies Habitat
14 Management Plan and applicable law governing protection of endangered species,
15 all trees, underbrush, obstructions and other vegetation, structures, or obstacles
16 within the limits of the easements and right-of-way; reserving, however, to
17 GRANTEE and its successors and assigns, the right to relocate such easements
18 and the rights-of-way at the expense of GRANTEE and its successors and
19 assigns; and reserving the right to the GRANTEE to use and cross such
20 easements and rights-of way; however, such rights of GRANTEE are subject to
21 existing easements and rights-of-way.

22
23 D. The GRANTOR reserves an assignable non-exclusive easement, ___ feet in width,
24 in, on, over and across that portion of the Property lying along _____ Road and identified in
25 Exhibit "B" for the purpose of _____. GRANTEE does not assume any
26 responsibility for the safety of the use of this easement.

27
28 E. Access from the Bureau of Land Management area out Eucalyptus Road, Watkins
29 Gate Road, and Barloy Canyon Road to Reservation Road and access to public roads from the
30 Presidio of Monterey Annex.

31
32 F. During the term of its existing franchise agreement, currently scheduled to expire
33 on November 19, 2005, a reserved right for USA Media Group, LLC (formerly Coastside Cable
34 TV), or its successor in interest, to occupy and use parcel _____ (their antenna parcel)
35 and a portion of parcel ___ where their existing office trailers are located together with
36 continued access to their cable TV lines all as more particularly described in Exhibit "___". It is
37 understood by the GRANTOR and GRANTEE that any relocation of USA Media Group, LLC,
38 for development purposes will be accomplished at the sole cost and expense of USA Media
39 Group LLC or its successor in interest.

40
41 G. The Property is taken by the GRANTEE subject to any and all valid and existing
42 recorded outstanding liens, licenses, leases, easements, and any other encumbrances made for the

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1 purpose of roads, streets, utility systems, rights-of-way, pipelines, and/or covenants, exceptions,
2 interests, liens, reservations, and agreements of record.

3
4 H. The GRANTOR Reserves a perpetual unassignable right to enter the Property for
5 the specific purpose of treating or removing any unexploded shells, mines, bombs, or other such
6 devices deposited or caused by the GRANTOR.

7
8 I. The reserved rights and easements set forth in this Section are subject to the
9 following terms and conditions:

10
11 1. to comply with all applicable federal law and lawful existing regulations;

12
13 2. to allow the occupancy and use by the GRANTEE, its permittees, or lessees of
14 any part of the easement areas not actually occupied or required for the purpose of the full and safe
15 utilization thereof by the GRANTOR, so long as such occupancy and use does not compromise the
16 ability of the GRANTOR to use the easements for their intended purposes, as set forth herein;

17
18 3. that the easements granted shall be for the specific use described and may not be
19 construed to include the further right to authorize any other use within the easements unless
20 approved in writing by the fee holder of the land subject to the easement;

21
22 4. that any transfer of the easements by assignment, lease, operating agreement, or
23 otherwise must include language that the transferee agrees to comply with and be bound by the
24 terms and conditions of the original grant;

25
26 5. that, unless otherwise provided, no interest granted shall give the GRANTOR
27 any right to remove any material, earth, or stone for consideration or other purpose except as
28 necessary in exercising its rights hereunder; and

29
30 6. to restore any easement area so far as it is reasonably possible to do so upon
31 abandonment or release of any easement as provided herein, unless this requirement is waived in
32 writing by the GRANTEE.

33
34 **TO HAVE AND TO HOLD** the Property unto the GRANTEE and its successors and
35 assigns forever, provided that this deed is made and accepted upon each of the following notices,
36 covenants, restrictions, and conditions which shall be binding upon and enforceable against the
37 GRANTEE, its successors and assigns, in perpetuity, as follows:

38
39 **IV. "AS IS"**
40

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1 The Property is conveyed in an "As Is, Where Is" condition without any representation,
2 warranty or guarantee, except as required pursuant to applicable law or as otherwise stated
3 herein, by the GRANTEE as to quantity, quality, title, character, condition, size, or kind, or that
4 the same is in condition or fit to be used for the purpose for which intended, and no claim for
5 allowance or deduction upon such grounds will be considered. There is no obligation on the part
6 of the GRANTOR to make any alterations, repairs, or additions, and said GRANTOR shall not
7 be liable for any latent or patent defects in the Property.

8 9 **V. FEDERAL FACILITIES AGREEMENT (FFA)**

10
11 By accepting this deed, the GRANTEE acknowledges that the GRANTEE has read the
12 FFA, and recognizes that, should any conflict arise between the terms of the FFA and the terms
13 of this Deed, the FFA will take precedence. Notwithstanding any other provisions of this
14 conveyance, the GRANTOR assumes no liability to the GRANTEE should implementation of
15 the FFA interfere with the GRANTEE'S use of the Property. GRANTOR shall give GRANTEE
16 reasonable notice of its actions required by the FFA and GRANTOR shall, consistent with the
17 FFA, and at no additional cost to the GRANTOR, endeavor to minimize the disruption of the
18 GRANTEE'S, its successors' or assigns' use of the Property. The GRANTEE shall have no
19 claim on account of any such interference against the GRANTOR or any officer, agent,
20 employee, or contractor thereof.

21 22 **VI. CERCLA COVENANTS, NOTICE, AND ENVIRONMENTAL REMEDIATION**

23
24 Pursuant to Section 120(h)(3) of the Comprehensive Environmental Response,
25 Compensation, and Liability Act, as amended, 42 U.S.C. Section 9601 *et seq.* ("CERCLA"), a
26 Finding of Suitability to Transfer (FOST) is attached as Exhibit "C" to the Deed; an
27 Environmental Baseline Survey (EBS) report is referenced in the FOST and sets forth the
28 existing environmental condition of the Property. The FOST sets forth the basis for the
29 Government's determination that the Property is suitable for transfer. The GRANTEE is hereby
30 made aware of the notifications contained in the EBS and the FOST. The GRANTOR represents
31 that the Property is environmentally suitable for transfer to GRANTEE for the purposes
32 identified in the March 1997, Fort Ord Base Reuse Plan approved by the Fort Ord Reuse
33 Authority." If, after conveyance of the Property to GRANTEE, there is an actual or threatened
34 release of a hazardous substance on the Property, or in the event that a hazardous substance is
35 discovered on the Property after the date of the conveyance, whether or not such substance was
36 set forth in the technical environmental reports, including the Environmental Baseline Study
37 (EBS), GRANTEE or its successor or assigns shall be responsible for such release or newly
38 discovered substance unless such release or such newly discovered substance was due to
39 GRANTOR'S activities, ownership, use, presence on, or occupation of the Property, or the
40 activities of GRANTOR'S contractors and/or agents. GRANTEE, its successors and assigns, as
41 consideration for the conveyance, agrees to release GRANTOR from any liability or

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1 responsibility for any claims arising out of or in any way predicated on release of any hazardous
2 substance on the Property occurring after the conveyance, where such substance was placed on
3 the Property by the GRANTEE, or its agents or contractors, after the conveyance.

4
5 ***"NOTICE OF HAZARDOUS SUBSTANCE ACTIVITY"***

6
7 The information contained in this notice is required under the authority of regulations
8 promulgated under Section 120(h) of the Comprehensive Environmental Response,
9 Compensation and Liability Act (CERCLA or "Superfund"), 42 U.S.C. Section 9620(h).

10
11 **[APPROPRIATE FOST LANGUAGE TO BE ADDED]**

12
13 GRANTOR covenants that all remedial action necessary to protect human health and the
14 environment with respect to any known hazardous substance remaining on the Property has been
15 taken, or is in place and operating to the satisfaction of the States and Federal regulatory
16 agencies, before the date of transfer.

17
18 GRANTOR covenants that any additional remedial action due to the former activity on
19 the Property by the GRANTOR found to be necessary after such date of transfer shall be
20 performed by the United States unless the person or entity to whom the property is transferred is
21 a potentially responsible party under CERCLA with respect to the property.

22
23 GRANTEE covenants that the GRANTOR, its officers, agents, employees, contractors
24 and subcontractors, in accordance with section 120(h) of the Comprehensive Environmental
25 Response, Compensation and Liability Act, as amended, reserves a right of access to any and all
26 portions of the Property for purposes of environmental investigation, remediation, or other
27 corrective actions found to be necessary after the date of the conveyance of the Property. The
28 GRANTOR and the GRANTEE agree to cooperate in good faith to minimize any conflict
29 between necessary environmental investigation and remediation activities and GRANTEE'S or
30 any Sublessee's operations. Any inspection, survey, investigation, or other response or remedial
31 action will to the extent practicable, be coordinated with representatives designated by
32 GRANTEE. Pursuant to this reservation, the GRANTOR and its officers, agents, employees,
33 contractors, subcontractors shall have the right (upon reasonable notice to the GRANTEE or the
34 then owner and any authorized occupant of the Property) to enter upon the Property, and perform
35 surveys, drillings, testpitting, borings, data and/or record compilation, and other activities related
36 to environmental investigation, and to carry out remedial or removal actions as required or
37 necessary under applicable authorities, including but not limited to installation of monitoring and
38 extraction wells, and other treatment facility. These rights of access shall include but not be
39 limited to:

40
41 **[APPROPRIATE ACCESS LANGUAGE TO BE ADDED ON A DEED BY DEED**
42 **BASIS]**

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1
2 The GRANTOR covenants that upon completion of any removal or remediation
3 action that removes the risk giving rise to any restriction on future use or any limitation of
4 activities contained in a Deed or lease for the Property or in any other document relating to the
5 Property, the GRANTOR, without any payment of funds by the United States, agrees to
6 cooperate with the GRANTEE, its successors or assigns, in any application, permit, easement or
7 effort to obtain approval from appropriate Federal, state or local authorities for the purpose of
8 removing any such restriction or limitation, which the GRANTEE, its successors or assigns, shall
9 seek to remove or eliminate.

10
11 The GRANTOR recognizes its obligation to hold harmless, defend, and indemnify
12 the Authority and any successor, assignee, transferee, lender, or lessee of the Authority or its
13 successors and assigns, as required by Section 330 of the National Defense Authorization Act of
14 1993, as amended (Pub. L. No. 102-484), and to otherwise meet its obligations under Federal
15 law.

16 17 VII. NOTICE OF THE PRESENCE OF ASBESTOS

18
19 A. The GRANTEE is hereby informed and does acknowledge that friable and
20 non-friable asbestos or asbestos-containing materials (ACM) have been found on the following
21 general areas of the Property, as described more fully in the Final EBS and the Asbestos Survey
22 Report of the Former Fort Ord dated _____ [LIST OF BUILDING NUMBERS].
23 To the best of GRANTOR'S knowledge, the ACM on the Property does not currently pose a
24 threat to human health or the environment, all friable asbestos that posed a risk to human health
25 having either been removed or encapsulated prior to this conveyance, *except*

26
27 (LIST BUILDING TO BE DEMOLISHED, RENOVATED, OR NOT OTHERWISE
28 REMEDIATED BY AGREEMENT)

29
30 B. The GRANTEE covenants and agrees that its use and occupancy of the Property
31 will be in compliance with all applicable laws relating to asbestos; and that the GRANTOR
32 assumes no liability for future remediation of asbestos or damages for personal injury, illness,
33 disability, or death, to the GRANTEE, its successors or assigns, or to any other person, including
34 members of the general public, arising from or incident to the purchase, transportation, removal,
35 handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever
36 with asbestos on the Property after the date of this Deed, whether the GRANTEE, its successors
37 or assigns have properly warned or failed to properly warn the individual(s) injured. The
38 GRANTEE assumes no liability for damages or remediation for personal injury, illness,
39 disability, death or property damage arising from (i) any exposure to asbestos or ACM that
40 resulted prior to the GRANTOR'S conveyance of such portion of the Property to the GRANTEE
41 pursuant to this Deed or any leases entered into between the GRANTOR and GRANTEE, or (ii)

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1 any disposal of asbestos or ACM, prior to the GRANTOR'S conveyance of the Property to the
2 GRANTEE.

3
4 C. The GRANTEE acknowledges that it has had the opportunity to inspect the
5 property as to its asbestos content and condition and any hazardous or environmental conditions
6 relating thereto. The failure of the GRANTEE to inspect or be fully informed as to the asbestos
7 condition of all or any portion of the property will not constitute grounds for any claim or
8 demand against the United States.

9
10 D. The GRANTEE, its successors and assigns are hereby informed that unprotected
11 or unregulated exposures to asbestos in product manufacturing, shipyard, building construction
12 workplaces have been associated with asbestos-related diseases. Both the Occupational Safety
13 and Health Administration (OSHA) and the EPA regulate asbestos because of the potential
14 hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have
15 determined that such exposure increases the risk of asbestos-related diseases, which include
16 certain cancers and which can result in disability or death.

17
18 E. The GRANTEE further agrees to indemnify and hold harmless the GRANTOR,
19 its officers, agents and employees, from and against all suits, claims, demands or actions,
20 liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon,
21 exposure to asbestos on any portion of the Property after this conveyance of the Property to the
22 GRANTEE or any future remediation or abatement of asbestos or the need therefor. The
23 GRANTEE'S obligation hereunder shall apply whenever the United States incurs costs or
24 liabilities for actions giving rise to liability under this section.

25 26 VIII. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT

27
28 A. The GRANTEE, and its successors and assigns, are hereby informed and
29 acknowledge that the following buildings on the Property, constructed or rehabilitated prior to
30 1978, are presumed to contain lead-based paint: [LIST OF BUILDING NUMBERS].
31 GRANTEE, its successors and assigns are hereby informed that lead from paint, paint chips, and
32 dust can pose health hazards if not managed properly. Every purchaser of any interest in
33 Residential Real Property on which a residential dwelling was built prior to 1978 is notified that
34 such property may present exposure to lead from lead-based paint that may place young children
35 at risk of developing lead poisoning. Lead poisoning in young children may produce permanent
36 neurological damage, including learning disabilities, reduced intelligence quotient, behavioral
37 problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women.
38 The seller of any interest in residential real property is required to provide the buyer with any
39 information on lead-based paint hazards from risk assessments or inspections in the seller's
40 possession and notify the buyer of any known lead-based paint hazards. "Residential Real
41 Property" means any housing constructed prior to 1978, except housing for the elderly
42 (households reserved for and composed of one or more persons 62 years of age or more at the

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1 time of initial occupancy) or persons with disabilities (unless any child who is less than 6 years
2 of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

3
4 B. Available information concerning known lead-based paint and/or lead-based paint
5 hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of
6 painted surfaces is contained in the Environmental Baseline Survey and (for residential
7 properties) the lead-based paint risk assessment, which have been provided to the GRANTEE.
8 Additionally, the federally-approved pamphlet on lead poisoning prevention and the Finding of
9 Suitability to Transfer (FOST) (FOSET) have been provided to the GRANTEE. The
10 GRANTEE hereby acknowledges receipt of all of the information described in this Paragraph.

11
12 C. The GRANTEE, its successors and assigns, covenants and agrees that they shall
13 not permit the occupancy or use of any buildings or structures located on the Property, which
14 were constructed or rehabilitated prior to 1978, as residential real property without complying
15 with this Paragraph C.7. NOTICE OF THE PRESENCE OF LEAD BASED PAINT and all
16 applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or
17 lead-based paint hazards.

18
19 D. The GRANTEE covenants and agrees that it shall not permit the occupancy or use
20 of any buildings or structures on the Property as Residential Real Property without complying
21 with this section and all applicable federal, state, and local laws and regulations pertaining to
22 lead-based paint and /or lead based paint hazards. Prior to permitting the occupancy of
23 Residential Real Property, if required by law or regulation, the GRANTEE, its successors and
24 assigns, at its sole expense, will: (i.) inspect for the presence of lead-based paint and/or lead-
25 based paint hazards; (ii.) abate and eliminate lead-based paint hazards in accordance with all
26 applicable laws and regulations; and (iii.) comply with all applicable notice and disclosure
27 requirements under applicable federal and state law. The GRANTEE agrees to be responsible for
28 all remediation of lead-based paint or lead-based paint hazards found to be necessary on the
29 Property after conveyance to the GRANTEE.

30
31 E. The GRANTOR assumes no liability for remediation or damages for personal
32 injury, illness, disability, or death, to the GRANTEE, its successors or assigns, sublessees or to
33 any other person, including members of the general public, arising from or incident to lead-based
34 paint located on the Property. The GRANTEE further agrees to indemnify and hold harmless the
35 GRANTOR, its officers, agents and employees, from and against all suits, claims, demands or
36 actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner
37 predicated upon, remediation, personal injury, death or property damage resulting from, related
38 to, caused by or arising out of lead-based paint on the Property. The GRANTEE'S obligation
39 hereunder shall apply whenever the United States of America incurs costs or liabilities for
40 actions giving rise to liability under this section. However, the GRANTEE assumes no liability
41 for (i) remediation or damages for personal injury, illness, disability or death suffered or incurred
42 by the GRANTOR, its officers, agents and employees or by any other person, including members

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1 of the general public, arising from any exposure of any person to lead-based paint on any portion
2 of the Property occurring prior to the date of conveyance of such portion of the Property to the
3 GRANTEE, or (ii) any failure of the GRANTOR to comply with any legal requirements
4 applicable to lead-based paint conditions on any portion of the Property prior to the
5 GRANTOR'S conveyance of such portion of the Property to the GRANTEE pursuant to the
6 Agreement, or (iii) any lead-based paint or lead-based paint hazards which were located on the
7 Property at any time prior to the date of the GRANTOR'S transfer of the applicable portion of
8 the Property but are no longer located thereon at the time of such lease or transfer, or (iv) any
9 disposal, prior to the GRANTOR'S transfer of the applicable portion of the Property, of any
10 lead-based paint or materials contaminated by lead-based paint.

11
12 F. The GRANTEE'S obligation hereunder shall apply whenever the United States of
13 America incurs costs or liabilities for actions giving rise to liability under this section.

14
15 G. The covenants, restrictions, and requirements of this Paragraph shall be binding
16 upon the GRANTEE, its successors and assigns, and shall be deemed to run with the land.

17 18 IX. NOTICE OF THE PRESENCE OF PESTICIDES AND COVENANT

19
20 A. The GRANTEE is hereby informed that pesticides may be present on the Property,
21 the presence of pesticides does not currently pose a threat to human health or the environment,
22 and the use and application of any pesticide product by the GRANTOR was in accordance with
23 its intended purpose, and in accordance with CERCLA § 107 (i), which states:

24
25 "No person (including the United States or any State or Indian tribe) may recover
26 under the authority of this section for any response costs or damages resulting
27 from the application of a pesticide product registered under the Federal
28 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*). Nothing in this
29 paragraph shall affect or modify in any way the obligations or liability of any
30 person under any other provision of State or Federal law, including common law,
31 for damages, injury, or loss resulting from a release of any hazardous substance or
32 for removal or remedial action or the costs of removal or remedial action of such
33 hazardous substance."

34
35 B. Upon request, the GRANTOR agrees to furnish to the GRANTEE any and all
36 records in its possession related to the use of the pesticides necessary for the continued
37 compliance by the GRANTEE with applicable laws and regulations related to the use of
38 pesticides.

39
40 C. The GRANTEE covenants and agrees that its continued possession, potential use
41 and continued management of the Property, including any demolition of structures, will be in

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1 compliance with all applicable laws relating to hazardous substance/pesticides and hazardous
2 wastes.

3 4 **X. UNDERGROUND STORAGE TANK *(if applicable)***

5
6 There were _____ former underground storage tanks within the Property which have been
7 removed; a map showing the location thereof has been provided to the GRANTEE.

8 9 **XI. ORDNANCE AND EXPLOSIVES *(if applicable)***

10
11 An archival search conducted during compilation of the Fort Ord Comprehensive
12 Environmental Response Facilitation Act (CERFA) Report found there are ___ potential ordnance-
13 related training areas within or immediately adjacent to the Property. In the event GRANTEE, its
14 successors, and assigns, should discover any ordnance on the Property, it shall not attempt to
15 remove or destroy it, but shall immediately notify the local Police Department and the Directorate
16 of Law Enforcement at the Presidio of Monterey and competent GRANTOR or GRANTOR
17 designated explosive ordnance professional will be dispatched promptly to dispose of such
18 ordnance properly at no expense to the GRANTEE, whenever OE may be discovered.

19 20 21 **XII ENDANGERED SPECIES**

22
23 The GRANTEE, its assigns, or successors shall comply with the requirements, if any and if
24 applicable, of the Installation-Wide Multi-species Habitat Management Plan ("HMP") for Former
25 Fort Ord, California.

26
27 A. The Property contains wildlife and plant species listed or proposed for listing as
28 threatened or endangered under ESA. Applicable laws and regulations restrict activities that
29 involve the potential loss of populations and habitat of these listed species. To fulfill the
30 GRANTOR'S commitment in the Fort Ord Disposal and Reuse Environmental Impact Statement
31 Record of Decision, made in accordance with the National Environmental Policy Act of 1969, 42
32 U.S.C. 4321 *et seq*, this deed provides for mitigation measures to assure these regulatory
33 requirements and the requirements of the USFWS Biological Opinion for disposal of the former
34 Fort Ord lands in accordance with Section 7 of the ESA do not preclude economic
35 redevelopment of portions of the Property.

36
37 B. The GRANTEE acknowledges that it has received a copy of the HMP dated
38 December, 1996. The HMP describes existing habitat and the likely presence of plant and
39 animal species of special concern that are treated as target species in the HMP. Some of the
40 target species presently have status as listed or proposed federal threatened or endangered
41 species. The HMP acts as a prelisting agreement to cover the management requirements relating

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1 the Army disposal and development reuse actions, should any of the target species become
2 proposed or listed. The GRANTEE agrees to treat each of the HMP target species as if they were
3 listed as a federally listed species under the ESA. The HMP target species shall be given the
4 same avoidance, protection, conservation, and restoration considerations and status as would
5 apply if the species were already listed under the ESA. The GRANTEE will cooperate with
6 adjacent property owners in implementation mitigation requirements identified in the HMP for
7 adjacent sensitive habitat areas.

8
9 C. The HMP provides a basewide framework for disposal and development of
10 development parcels with trade-offs for target species within other areas of former Fort Ord, to
11 allow development of the HMP Development areas with respect to the target species. The HMP
12 describes the Army responsibilities for the Army actions in disposal of former Fort Ord lands
13 under Section 7 of the ESA. The transfer of the HMP Reserve and HMP Corridor parcels by the
14 Army and management of the listed parcels to the GRANTEE is being accomplished to satisfy
15 the Army's federal Endangered Species Act requirements for disposal of these and other lands at
16 former Fort Ord. The GRANTEE must arrange for management agencies acceptable to USFWS
17 to manage each required HMP Reserve and HMP Corridor parcel. The GRANTEE agrees to the
18 conditions for the transfer of the listed HMP Reserve and Corridor parcels. The GRANTEE also
19 agrees to fund and implement the management of these parcels and to conduct the monitoring
20 and reporting requirements described in the HMP. Such efforts shall be accomplished by the
21 GRANTEE or any future assignee by GRANTEE acceptable to USFWS and shall be in
22 accordance with the HMP at GRANTEE'S expense. The requirements to implement and abide by
23 the HMP for these HMP Reserve and HMP Corridor parcels will be included in all transfers,
24 leases or other agreements associated with these lands.

25
26 **[THE FOLLOWING PARAGRAPHS OF THIS SECTION MAY BE**
27 **ADDED ON A DEED BY DEED BASIS, AS APPROPRIATE]**
28

29 D. The GRANTEE or his designated management agent for the HMP Reserve and
30 Corridor parcels, shall provide for the implementation, monitoring, analysis, and reporting on a
31 continuing basis for all such parcels and perform any corrective actions or restoration actions for
32 habitat disturbed or destroyed habitat and for protection, stabilization and salvage of individual
33 plants and animals affected within subject HMP Reserve and Corridor areas, as described in the
34 HMP. Annual monitoring reports shall be submitted by or on behalf of the GRANTEE by
35 November 1 of each year to the BLM as described in the HMP.

36
37 E. The following HMP parcels are the subject of the management requirements and
38 development restrictions required by the HMP and will be transferred to and managed by the
39 GRANTEE:

- 40
41 (1) Habitat Reserve parcel numbered: _____.
42 (2) Habitat Corridor parcels numbered: _____.

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 (3) Habitat reserves within the Development with Reserve Areas or
2 Development Restrictions parcels numbered: _____.

3
4 F. The GRANTEE shall protect and conserve the HMP target species and manage
5 these parcels as described in the HMP to avoid removing vegetation, cutting trees, disturbing
6 soil, undertaking or allowing other actions that would diminish or restrict the full potential of the
7 conservation and restoration of the habitat and target species populations within the parcels. The
8 GRANTEE shall restrict access to the Reserve and Corridor parcels. The GRANTEE shall
9 accomplish the other Resource Conservation Requirements and Management Requirements
10 prescribed for the specific parcels within Chapter 4 of the HMP. The GRANTEE shall arrange
11 for funding adequate to accomplish the required management action, shall budget in the future,
12 and shall take other actions as may be needed to provide for future needs to implement the
13 required HMP requirements.

14
15 G. Any transfer or assignment of interest in the HMP Reserve and HMP Corridor
16 parcels shall require the approval, of the U. S. Government (USFWS) whether by deed, lease,
17 right of entry, or other conveyance, and such conveyance, as well as any future conveyance, shall
18 contain all the covenants and restrictions concerning the HMP as this deed.

19
20 H. The management responsibility of the parcels may only be transferred, if the
21 arrangements proposed are acceptable to USFWS, as a condition of the right to transfer these
22 parcels. USFWS may require the establishment of a perpetual trust fund to pay for management
23 actions of others as a condition of transfer of management responsibility from the GRANTEE.

24
25 I. If the USFWS determines that the management of the Reserve or Corridor areas
26 are not in accordance with the HMP, the GRANTOR herein reserves a reversionary interest in all
27 or part of the real property conveyed by this Quitclaim Deed. In the event those portions of the
28 Property designated as Reserve areas or Corridor areas are not being managed in accordance with
29 the requirements of the HMP, at the option of the FWS, the Property shall revert back to the
30 United States for the purpose of complying with the HMP. In the event of a reversion, the
31 GRANTOR, or its assigns or successor in interest, shall have the immediate right of entry and
32 possession of the Property and the GRANTEE shall execute any and all documentation that the
33 GRANTOR, or its assigns or successor in interest deems necessary to perfect or provide
34 recordable notice of the reversion and for the full and complete transfer and reversion of all right,
35 title, and interest in the those portions of the Property designated as Reserve areas or Corridor
36 areas. The GRANTEE shall be liable for any and all costs incurred by the GRANTOR, or its
37 assigns or successor in interest, in perfecting the reversion and transfer of title, including court
38 costs, recordation fees, and other expenses. Any and all improvements on the those portions of
39 the Property reverting back to the GRANTOR made by the GRANTEE shall become the
40 property of the United States upon reversion, and the GRANTEE shall not be entitled to
41 reimbursement or payment thereof.

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 J. Although the USFWS will not require further mitigation if the GRANTEE is in
2 compliance with the HMP, without incidental take authorization, the GRANTEE would be in
3 violation of ESA if any of the GRANTEE'S actions resulted in the take of a listed animal species.
4 The HMP does not authorize incidental take by the GRANTEE of any species listed as
5 threatened or endangered under ESA. Section 9 of the ESA prohibits any taking of a threatened
6 or endangered animal species. The definition of "take" includes to harness, harm, hunt, shoot,
7 wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Exemptions to
8 Section 9 can be obtained through Sections 7 and 10 of the ESA. The GRANTEE shall apply to
9 the USFWS for a Section 10(a)(1)(B) incidental take permits for the species covered in the HMP.
10 For the USFWS to issue incidental take permit to the GRANTEE, the GRANTEE must provide
11 all the information required by the USFWS at the time of the application.

12
13 K. The GRANTEE covenants for itself, its successors, and assigns that it shall
14 include, and otherwise make legally binding, the restrictions and requirements in this Section and
15 in the HMP in all subsequent leases, transfers, or conveyance documents relating to the Property
16 subject thereto or any portion thereof. The restrictions and projections provided for in this
17 Section and the HMP shall run with the land. The restrictions and protections in this Section and
18 the HMP benefit the lands retained by the United States that formerly comprised Fort Ord, as
19 well as the public generally. The United States shall have the right to enforce the HMP
20 restrictions and requirements by appropriate legal proceedings and to obtain injunctive and other
21 equitable relief against any violations, including, without limitation, relief requiring restoration
22 of the parcels to their condition prior to the time of the injury complained of (it being agreed that
23 the GRANTOR may have no adequate remedy at law), and shall be in addition to, and not in
24 limitation of, any other rights and remedies available to the GRANTOR.

25 26 XIII. AIR NAVIGATION RESTRICTION

27
28 The Monterey Airport and the former Fritzsche Airfield now known as the Marina
29 Municipal Airport are in close proximity of the subject property. Accordingly, in coordination with
30 the Federal Aviation Administration, the GRANTEE, covenants and agrees, on behalf of it, its
31 successors and assigns and every successor in interest to the Property wherein described, or any
32 part thereof, that, when applicable, there will be no construction or alteration unless a determination
33 of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with
34 Title 14, Code of Federal Regulations, Part 77, entitled, Objects Affecting Navigable Airspace, or
35 under the authority of the Federal Aviation Act of 1968, as amended.

36 37 XIV. ENFORCEMENT AND NOTICE REQUIREMENT

38
39 A. The provisions of this Deed benefit the governments of the United States of
40 America, the State of California, acting on behalf of the public in general, the local governments,
41 and the lands retained by the GRANTOR and, therefore, are enforceable, by resort to specific
42 performance or legal process by the United States, the State of California, the local Governments,

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 and by the GRANTEE, and its successors and assigns. Enforcement of this Deed shall be at the
2 discretion of the parties entitled to enforcement hereof, and any forbearance, delay or omission to
3 exercise their rights under this Deed in the event of a breach of any term of this Deed, shall not be
4 deemed to be a waiver by any such party of such term or of any subsequent breach of the same or
5 any other terms, or of any of the rights of said parties under this Deed. All remedies available
6 hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA.
7 The enforcement rights set forth in this deed against the GRANTEE, or its successors and assigns,
8 shall only apply with respect to the Property conveyed herein and held by such GRANTEE, its
9 successor or assign, and only with respect to matters occurring during the period of time such
10 GRANTEE, its successor or assign, owned or occupied such Property or any portion thereof.

11
12 B. The GRANTEE, its successors or assigns, shall neither transfer the Property, or any
13 portion thereof, nor grant any interest, privilege, or license whatsoever in connection with the
14 Property without the inclusion, to the extent applicable to the Property or any portion thereof, of the
15 environmental protection provisions contained in Paragraphs [*as applicable*], Exclusions and
16 Reservations, CERCLA Covenants, Notices and Environmental Remediation, Notice Of The
17 Presence Of Asbestos and Lead-Based Paint; Underground Storage Tanks, Ordnance and
18 Explosives; Endangered Species, Air Navigation Restriction, and shall require the inclusion, to the
19 extent applicable, of such environmental protection provisions in all further deeds, transfers, leases,
20 or grant of any interest, privilege, or license.

21
22 C. The obligations imposed in this Paragraph upon the successors or assigns of
23 GRANTEE shall only extend to the property conveyed to any such successor or assign.

24 25 XV. NOTICE OF NON-DISCRIMINATION

26
27 With respect to activities related to the Property, the GRANTEE covenants for itself, its
28 successors and assigns, that the GRANTEE, and such successors and assigns, shall not discriminate
29 upon the basis of race, color, religion, sex, age, handicap, or national origin in the use, occupancy,
30 sale or lease of the Property, or in their employment practices conducted thereon in violation of the
31 provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. Section 2000d); the
32 Age Discrimination Act of 1975 (42 U.S.C. Section 6102); and the Rehabilitation Act of 1973, as
33 amended (29 U.S.C. Section 794). The GRANTOR shall be deemed a beneficiary of this covenant
34 without regard to whether it remains the owner of any land or interest therein in the locality of the
35 Property hereby conveyed, and shall have the sole right to enforce this covenant in any court of
36 competent jurisdiction.

37 38 XVI. ANTI-DEFICIENCY ACT STATEMENT

FORT ORD QUITCLAIM DEED FOR PARCEL X

1
2 The Army's obligation to pay or reimburse any money under this Quitclaim Deed of
3 Conveyance is subject to the availability of appropriated funds to the Department of the Army, and
4 nothing in this Quitclaim Deed of Conveyance shall be interpreted to require obligations or
5 payments by the United States in violation of the Anti-Deficiency Act.
6

7 XVII. GENERAL PROVISIONS

8
9 A. LIBERAL CONSTRUCTION. Any general rule of construction to the contrary
10 notwithstanding, this Deed shall be liberally construed to effectuate the purpose of this Deed and
11 the policy and purpose of CERCLA. If any provision of this Deed is found to be ambiguous, an
12 interpretation consistent with the purpose of this Deed that would render the provision valid shall
13 be favored over any interpretation that would render it invalid.
14

15 B. SEVERABILITY. If any provision of this Deed, or the application of it to any
16 person or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the
17 application of such provisions to persons or circumstances other than those to which it is found to
18 be invalid, as the case may be, shall not be affected thereby.
19

20 C. NO FORFEITURE. Nothing contained herein will result in a forfeiture or reversion
21 of title in any respect.
22

23 D. CAPTIONS. The captions in this Deed have been inserted solely for convenience
24 of reference and are not a part of this Deed and shall have no effect upon construction or
25 interpretation.
26

27 E. RIGHT TO PERFORM. Any right which is exercisable by the GRANTEE, and its
28 successors and assigns, to perform under this Deed may also be performed, in the event of default
29 by the GRANTEE, or its successors and assigns, by a lender of the GRANTEE and its successors
30 and assigns.
31

32 XVIII. THE CONDITIONS, RESTRICTIONS, AND COVENANTS

33
34 The conditions, restrictions, and covenants set forth in this deed are a binding servitude on
35 the herein conveyed Property and will be deemed to run with the land in perpetuity. Restrictions,
36 stipulations and covenants contained herein will be inserted by the GRANTEE verbatim or by
37 express reference in any deed or other legal instrument by which it divests itself of either the fee
38 simple title or any other lesser estate in the Property or any portion thereof. All rights and powers
39 reserved to the GRANTOR, and all references in this deed to GRANTOR shall include its
40 successor in interest. The GRANTOR may agree to waive, eliminate, or reduce the obligations
41 contained in the covenants, **PROVIDED, HOWEVER**, that the failure of the GRANTOR or its
42 successor to insist in any one or more instances upon complete performance of any of the said

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 conditions shall not be construed as a waiver or a relinquishment of the future performance of any
2 such conditions, but the obligations of the GRANTEE, its successors and assigns, with respect to
3 such future performance shall be continued in full force and effect.
4

5 [Signature Pages Follow]
6

FORT ORD QUITCLAIM DEED FOR PARCEL X

1
2 IN WITNESS WHEREOF, the GRANTOR, the UNITED STATES OF AMERICA,
3 acting by and through the SECRETARY OF THE ARMY, has caused these presents to be
4 executed this _____ day of _____, 2000.
5

6 UNITED STATES OF AMERICA
7

8
9 By _____
10 Paul W. Johnson
11 Deputy Assistant Secretary of the Army
12 For Installations and Housing (I&H)
13
14
15

16 **ACKNOWLEDGMENT**

17 COMMONWEALTH OF VIRGINIA)
18) ss
19)
20 COUNTY OF ARLINGTON)
21

22 On _____ before me, the undersigned, a Notary Public in and for said
23 state, personally appeared Paul W. Johnson personally known to me (or proved to me on the basis
24 of satisfactory evidence) to be the person whose name is subscribed to the within instrument and
25 acknowledged to me that he executed the same in his authorized capacity, and that by his signature
26 on the instrument the person, or the entity upon behalf of which the person acted, executed the
27 instrument.
28

29 WITNESS my hand and official seal.
30
31

32
33 _____
34 Notary Public, Commonwealth of Virginia
35

FORT ORD QUITCLAIM DEED FOR PARCEL X

1 ACCEPTANCE:

2
3 In Testimony Whereof, witness the signature of the Fort Ord Reuse Authority
4 ("Authority"), an organization organized and existing under the laws of the State of California
5 under the Fort Ord Reuse Authority Act created under Title 7.85 of the California Government
6 Code, Chapters 1 through 7, inclusive, commencing with Section 67650, et seq., and selected
7 provisions of the California Redevelopment Law, including Division 24 of the California Health
8 and Safety Code, Part 1, Chapter 4.5, Article 1, commencing with Section 33492, et seq., and
9 Article 4, commencing with Section 33492.70, et seq., this ____ day of _____,
10 2000 hereby accepts and approves this Quitclaim Deed for itself, its successors and assigns, and
11 agrees to all the conditions, reservations, restrictions, and terms contained therein.
12

13 FORT ORD REUSE AUTHORITY
14 LOCAL REDEVELOPMENT AUTHORITY
15

16
17
18 By: _____
19 Michael A. Houlemard, Jr.
20 Executive Officer
21

22
23 ACKNOWLEDGMENT

24 STATE OF CALIFORNIA)
25) ss
26)
27 COUNTY OF MONTEREY)
28

29 On _____ before me, the undersigned, a Notary Public in and for said
30 state, personally appeared Michael A. Houlemard, Jr. personally known to me (or proved to me on
31 the basis of satisfactory evidence) to be the person whose name is subscribed to the within
32 instrument and acknowledged to me that he executed the same in his authorized capacity, and that
33 by his signature on the instrument the person, or the entity upon behalf of which the person acted,
34 executed the instrument.
35

36 WITNESS my hand and official seal.
37

38 _____
39 Notary Public, State of California
40

SAMPLE FOST
EXHIBIT C

FINDING OF SUITABILITY TO TRANSFER (FOST)
BUILDING 1021 PARCEL
FORMER FORT ORD, CALIFORNIA

On the basis of the Community Environmental Response Facilitation Act (CERFA) Report for Fort Ord, I have determined that the Building 1021 Parcel (the Property), at former Fort Ord, California, is suitable for transfer to Monterey County for emergency management purposes. The Property to be transferred (Parcel E38) includes 1 building and comprises approximately 2 acres (Plate 1).

A determination of the environmental condition of the Property was made by the United States Army by reviewing existing environmental documents and making associated visual site inspections (4/18/96; 11/6/96). The documents reviewed included the final CERFA Report (April 1994), U.S. EPA Region IX's concurrence to the CERFA Report (Memorandum, 19 April 1994), and various remedial investigation/feasibility study documents. The results of this document review indicate that the Property is environmentally suitable for transfer to Monterey County. The results are as follows:

- There is one structure (Building 1021) located on the Property. The building was previously used by the Criminal Investigation Command (CID) for law enforcement purposes.
- An asbestos survey was completed for Building 1021 as part of a facility-wide asbestos survey. The survey shows the building contains nonfriable asbestos-containing materials (ACM). The nonfriable ACM (floor tile mastic) was rated 13 (of lowest concern) with a recommended 2-year (biannual) inspection cycle. The Army does not intend to remove the ACM in this building, but rather only discloses its condition. The recommended inspection of ACM present in this building is the responsibility of the recipient.
- Lead-acid batteries, used as a backup power source for lighting, are present in the building. They are in good condition with no signs of deterioration or release.
- Building 1021 was constructed in 1986, and is therefore not considered to contain lead-based paint.
- No radon levels above 4 picocuries per liter (pCi/L) were detected in the building during a 1990 survey at Fort Ord.
- No radiological surveys were conducted within the building because radioactive commodities were reportedly not used or stored in the building.
- There have been no reported releases of PCB-contaminated dielectric fluids from any transformers in the vicinity of the Property.
- Ordnance and explosives (OE) investigations, consisting of the Archive Search Report and Supplement No. 1 (December 1993 and November 1994, respectively), Site 39 Data Summary and Work Plan (February 1994), OE contractor after-action reports (December 1994, November 1995), working maps, Fort Ord Training Facilities Map, and associated interviews from various ordnance-related community relations activities, show no OE locations within or immediately adjacent to the Property. However, because OE were used throughout the history

of Fort Ord, the potential for OE to be present on the Property exists. This notice will be included in the deed.

- No underground or aboveground storage tanks or solid waste management units are present on the Property, and no studies associated with them have been conducted by the Army for this Property.
- No Installation Restoration Program (IRP) sites are located on the Property.
- The final CERFA report identifies the Property as being within CERFA Parcel 211.
- No groundwater monitoring wells are present on the Property.

National Environmental Policy Act (NEPA) requirements for this transfer were satisfied by a Record of Consideration based on analysis conducted in the June 1993 Fort Ord Disposal and Reuse Environmental Impact Statement (EIS).

Clean Air Act General Conformity Rule requirements for this transfer were satisfied by a Record of Non-Applicability based upon an exemption for property transfers where the proposed action is a transfer of ownership, interest and title in the land, facilities, and associated real and personal property.

On the basis of the above information, certain terms, conditions, reservations, restrictions, and notifications are required. Disclosure of conditions and use restrictions are described below and will be included in the deed.

NOTICE OF THE PRESENCE OF ASBESTOS

- A. The Grantee is hereby informed and does acknowledge that nonfriable asbestos or asbestos-containing materials (ACM) have been found on the Property, as described in the Diagnostic Environmental Inc. report, *Asbestos Survey Report, U.S. Army Corps of Engineers - Fort Ord Installation, Fort Ord, California*, dated April 26, 1993.
- B. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos; and that the Grantor assumes no liability for damages for personal injury, illness, disability, or death, to the Grantee, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property described in this transfer, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured.

NOTICE OF THE POTENTIAL FOR THE PRESENCE OF ORDNANCE AND EXPLOSIVES

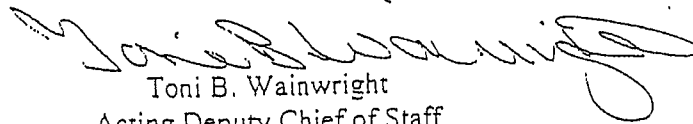
Ordnance and explosives (OE) investigations indicate that OE is not likely on this Property. However, because this is a former military installation with a history of OE use there is a potential for OE to be present on the property. In the event Grantee, its successors, and assigns, should discover any ordnance on the Property, it shall not attempt to remove or destroy it, but shall immediately notify the local Police Department and the Directorate of Law Enforcement at the Presidio of Monterey. Competent

U.S. Army Explosive Ordnance personnel will be dispatched promptly to dispose of such ordnance properly at no expense to the Grantee.

On the basis of the above information, I conclude that the Building 1021 Parcel should be assigned Department of Defense (DoD) Environmental Condition Category 1 (area where no release or disposal of hazardous substances or petroleum products has occurred [including no migration of these substances from adjacent areas]) and is transferable under CERCLA Section § 120(h)(4). The deed for this transaction will contain:

- The covenant under CERCLA § 120(h)(4)(D)(i) warranting that any response action under CERCLA or corrective action found to be necessary after the date of transfer shall be conducted by the United States.
- The covenant under CERCLA § 120(h)(4)(D)(ii) granting the United States access to the Property in any case in which response action or corrective action is found to be necessary after the date of transfer.

12 JUN 1997



Toni B. Wainwright
Acting Deputy Chief of Staff
for Base Operations Support
United States Army Training and Doctrine Command

T-172

T-1701

T-1702

T-1703

T-1704

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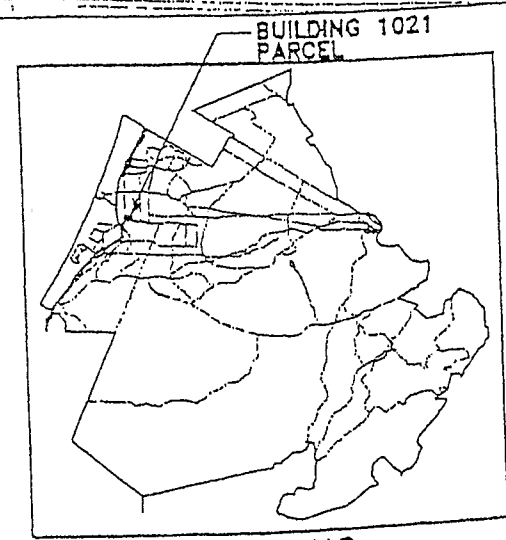
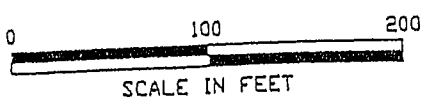
E38

T-1022

T-1023

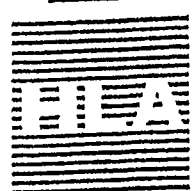
EXPLANATION

----- PARCEL BOUNDARY
E38 PARCEL NUMBER



KEY MAP

PROPERTY BOUNDARIES INDICATED ARE APPROXIMATE AND ARE NOT INTENDED REPRESENT THE LEGAL DESCRIPTION OF THE PARCEL(S).



Harding Lawson Associates
Engineering and
Environmental Services

Parcel Map
Building 1021 Parcel
Finding of Suitability to Transfer
Former Fort Ord, California

PLATE

1

DRAWN BWH JOB NUMBER 25894 0017616

APPROVED DATE 3/97

REVISED DATE

25894331 100.0

UNRESOLVED AGENCY COMMENTS

US EPA 8 DECEMBER 1995 COMMENT:

Public Law 102-484, as amended by Public Law 103-160, provides for indemnification by the military services when property on closing military bases is transferred. This law provides that the military indemnify persons and entities acquiring ownership or control of property at a closing military base from liability for personal injury and property damage resulting from the release or threatened release of a hazardous substance (such as asbestos), unless the person or entity acquiring the property contributed to the release. It is unclear whether the FOST's statements on the Army not assuming liability for the transferee's contact with asbestos are consistent with the indemnification required by law. To avoid confusion over the indemnification that the Army is required to provide, EPA recommends that the mention of future liability be deleted and that the statutory language be relied on to determine any future liability.

Army Response:

Army believes that the standard Army indemnification language is legally sufficient.

GOVERNMENT REPRESENTATIONS AND WARRANTIES
EXHIBIT D-1

EXHIBIT D-1

[GOVERNMENT REPRESENTATIONS AND WARRANTIES] 3

[insert date]

Mr. Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
100 12th Street, Building 2880
Marina California 93933

Dear Mr. Houlemard:

I have reviewed the Memorandum of Agreement Between the United States of America Acting by and through the Secretary of the Army ("Government") and the Fort Ord Reuse Authority for the Sale of Portions of the former Fort Ord Located in Monterey County, California, dated the ___ day of _____, 2000 ("Memorandum Agreement").

To the best of the Government's information, knowledge and belief, I certify that all of the representations and warranties of the Government set forth within the Memorandum of Agreement are true and correct as of [insert date], the date of the Property Closing.

Sincerely,

Keneth L. Fox, Chief
Management and Disposal Branch
U.S. Army Corps of Engineers
Sacramento District

AUTHORITY REPRESENTATIONS AND WARRANTIES
EXHIBIT D-2

EXHIBIT D-2

[AUTHORITY REPRESENTATIONS AND WARRANTIES]

[insert date]

Mr. Kenneth L. Fox, Chief
Management and Disposal Branch
U.S. Army Corps of Engineers
1325 J Street
Sacramento, California 95814

Dear Mr. Fox:

I have reviewed the Memorandum of Agreement Between the United States of America Acting by and through the Secretary of the Army and the Fort Ord Reuse Authority for the Sale of Portions of the former Fort Ord Located in Monterey County, California, dated the ___ day of _____, 2000 ("Memorandum Agreement").

To the best of the Fort Ord Reuse Authority's information, knowledge and belief, I certify that all of the representations and warranties of the Fort Ord Reuse Authority set forth within the Memorandum of Agreement are true and correct as of [insert date], the date of the Property Closing.

Sincerely,

Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority

RESERVED *W.A. 6/20/00*
~~PERMITTED TITLE EXCEPTIONS~~
(TO BE INSERTED AT A LATER TIME)
EXHIBIT E

PROGRAMMATIC AGREEMENT
EXHIBIT F

PROGRAMMATIC AGREEMENT
AMONG
THE DEPARTMENT OF THE ARMY
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
BASE CLOSURE AND REALIGNMENT ACTIONS AT
FORT ORD, CALIFORNIA

WHEREAS, the Department of the Army (Army) has determined that the closure, interim lease, and transfer of certain portions of Fort Ord, California under the authority of the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510), commonly known as BRAC 91, may have an effect on properties eligible for inclusion in the National Register of Historic Places (historic properties); and

WHEREAS, the Army has consulted with the Advisory Council on Historic Preservation (Council) and the California State Historic Preservation Officer (SHPO) pursuant to 36 Code of Federal Regulations Part 800.13 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and Section 110 (16 U.S.C. 470h-2) of the same Act; and

WHEREAS, the Area of Potential Effect (APE) for this undertaking is understood to be those lands within the contiguous boundaries of Fort Ord; and

WHEREAS, the terms of this agreement are to apply to those Fort Ord lands that are being disposed of as part of the BRAC 91 action; and

WHEREAS, the Army in consultation with the SHPO has designed and completed a Phase I Archeological Survey for prehistoric sites on land to be transferred out of Federal ownership and located no historic properties; and

WHEREAS, the Army, in accordance with the provisions of a Programmatic Memorandum of Agreement among the United States Department of Defense, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers regarding the Demolition of World War II Temporary Buildings, effective June 7, 1986, as amended, has completed all mitigation required prior to the transfer of World War II temporary buildings (1939-1946); and

WHEREAS, the definitions for Archeological Survey, notice/notification, Archeologist, Architectural Historian and Historic Architect given in Appendix A are applicable throughout this Programmatic Agreement; and

WHEREAS, interested members of the public and Native Americans have been provided an opportunity to comment on the effects BRAC 91 may have on historic properties at Fort Ord.

NOW, THEREFORE, the Army, the Council and the SHPO, agree that the BRAC 91 closure, lease, and transfer of certain portions of Fort Ord shall be administered in accordance with the following stipulations, in order to satisfy the Army's Section 106 and 110 responsibilities for all individual undertakings included in this Programmatic Agreement.

STIPULATIONS

The Army will ensure that the following measures are carried out.

I. IDENTIFICATION AND EVALUATION of HISTORIC PROPERTIES:

The Army will provide the SHPO with recommendations of National Register eligibility for properties within the APE on lands that will be transferred out of Federal ownership. Based upon the information obtained from testing and evaluation, the Army will determine, in consultation with the SHPO, the eligibility of the properties for inclusion in the National Register in accordance with 36 CFR 800.4(c). If the Army and the SHPO fail to agree upon the National Register eligibility of the property, the Army will obtain a determination from the Secretary of the Interior pursuant to 36 CFR 800.4 (c)(4).

II. TRANSFER OR INTERIM LEASE OF REAL PROPERTY AND IMPROVEMENTS THAT DO NOT INCLUDE HISTORIC PROPERTIES:

The Army will transfer and/or lease real property and improvements that do not include historic properties identified under Stipulation I, above, without further action under this Agreement.

III. TRANSFER OF REAL PROPERTY AND IMPROVEMENTS BY THE ARMY TO ANOTHER FEDERAL AGENCY THAT WILL ASSUME LAND MANAGEMENT RESPONSIBILITIES:

The Army will provide notification to the signatories of this agreement within forty-five (45) calendar days after the transfer of Fort Ord real property to Federal agencies that plan to assume land management responsibilities and use the land for purposes no more likely to adversely affect historic properties than those for which the lands were used by the Army prior to BRAC 91.

IV. TRANSFER OF HISTORIC PROPERTIES IDENTIFIED UNDER STIPULATION I:

A. Transfer to Another Federal Agency for Subsequent Transfer to Non-Federal Entities Under Federal Surplus Property Programs:

1. Transfer Under the Surplus Property Program for Historic Monuments: The Army will notify the signatories of this

agreement within forty-five (45) calendar days after the transfer of historic properties under the provisions of An Act to Facilitate the Preservation of Historic Monuments and Other Purposes (86 Stat. 503, 40 U.S.C. 484(k)(3) & (k)(4)), August 4, 1972, as amended, which require the preservation of those properties as Historic Monuments.

2. **Transfer Under All Other Surplus Property Programs:** With the exceptions noted in Stipulation V, separate preservation covenants enforceable under California State law and/or Federal Case law, if applicable, for each historic property will be developed jointly by the signatories to this agreement and attached to the transfer documents prior to the transfer of that property by the Army. The covenants will be enforced by the Federal Agency administering the surplus property program (sponsoring agency), the California State Office of Historic Preservation, or another entity acceptable to all the signatories of this agreement. If the sponsoring agency transfers the property without modifying the covenant(s) drafted by the signatories to this agreement and registers the deed in the proper office(s) in accordance with state and local law, no further actions under Section 110 or 106 of the National Historic Preservation Act will be required prior to transfer of the property. If the sponsoring agency proposes to modify the covenants, the proposed modifications will be considered a separate undertaking and the sponsoring agency shall comply with 36 CFR Part 800.4.

B. Transfer by the Army to Non-Federal Entities: With the Exceptions noted in Stipulations IV and V., separate preservation covenants enforceable under California State law and/or Federal Case law, if applicable, for each historic property identified under Stipulation I, above, will be developed jointly by the signatories to this agreement and attached to the deed prior to the transfer of that parcel by the Army and the deed will be registered in the proper office (s) in accordance with state and local law. The covenant(s) will be enforced by the California State Office of Historic Preservation or another entity acceptable to all of the signatories of this agreement. The Army will make every reasonable effort to configure the boundaries of parcels that include historic properties in accordance with the purposes of the covenants.

V. TRANSFER WITHOUT MANAGEMENT COVENANTS:

The Army will make a good faith effort to transfer each historic property with a preservation covenant. If such efforts fail and following consultation between the parties to this agreement, the properties may be transferred without a preservation covenant.

VI. LEASE OF HISTORIC PROPERTIES:

If the Army determines that the lease of real property that includes historic properties identified in Stipulation I, is required, the Army will, in consultation with the SHPO and the Council, develop and include clauses in the lease that require the management of the identified historic property or properties.

The Army or other entity acceptable to all parties to this agreement will enforce the lease. If agreement on the provisions of a lease cannot be reached, the Army will treat that lease as a separate undertaking and comply with 36 CFR Part 800.5 prior to leasing the parcel in question.

VII. ENVIRONMENTAL TESTING AND CLEANUP:

A. With the exception of Archeological and Architectural Monitoring stipulated in paragraph VII.C., the Army will proceed with environmental testing and cleanup, to include the disposal of unexploded ordnance, without further consultation under this Agreement.

B. Prior to initiating testing, cleanup, or unexploded ordnance disposal, the work crew(s) will be made aware of the potential for currently unlocated archaeological sites.

C. When the Army determines that archeological monitoring of an environmental cleanup site will not pose a risk to human health or safety, all ground disturbing activities inside National Register eligible sites, previously identified unevaluated sites, and sites discovered during the course of the work will be monitored by an archeologist. In the event that an archeological site(s) is located, a reasonable effort will be made to avoid or reduce adverse effects on the site(s). When testing and cleanup has the potential to affect historic building materials, the Army will ensure that the work plans and specifications are reviewed by an Historic Architect or Architectural Historian and consider their recommendations to avoid or reduce adverse effects on the historic materials. The Army will provide the SHPO and the Council with copies of a report(s) documenting these actions within ninety (90) calendar days after monitoring at each property is completed.

D. If, during the process of conducting environmental testing and cleanup and/or disposal of unexploded ordnance, a previously unidentified archeological site is discovered, the Army will, after the cleanup/disposal is complete but prior to the transfer from Federal ownership, evaluate the site and consult with the SHPO to determine if it is eligible for inclusion in the National Register.

E. If Native American cultural items, as defined in Section 2(3) of the Native American Graves Protection and Repatriation Act (NAGPRA) are encountered during the process of conducting

environmental testing and cleanup and/or disposal of unexploded ordnance, these activities will cease in the immediate vicinity of the discovery and the procedures in NAGPRA Section 3(d) will be followed. Headquarters Department of the Army (Army Environmental Center) and relevant Native American groups will be notified of the discovery.

VIII. HISTORIC RECORDS:

A. All maps, drawings, prints, studies, and other written documentation that relate to Fort Ord historic properties and are currently located at the Fort Ord Directorate of Public Works and Public Affairs Offices, or are produced by the Army in connection with the implementation of this Agreement, will be transferred to, and retained by, the Presidio of Monterey Command Historian. An inventory of documents transferred under this stipulation will be provided to the SHPO, the U.S. Army Center for Military History, the Monterey County Public Library System, the Monterey County Historical Society and the Monterey History and Art Association.

B. All materials and records resulting from archeological survey/data recovery conducted during the implementation of this Agreement shall be curated in accordance with 36 CFR Part 79, except for those items transferred pursuant to the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)).

IX. ANNUAL REPORT:

The Army will prepare an annual report first due on April 30, 1995 on its implementation of this Programmatic Agreement and last due ninety (90) days after this implementation is complete. The report will be provided concurrently to the SHPO and the Council for review, comment, and consultation as needed. The annual report shall include information on the undertakings implemented under this Agreement. If the Council and/or the SHPO do not object within thirty (30) days of receiving such report, it will be assumed that they concur with the implementation of this Agreement.

X. DISPUTE RESOLUTION:

Should the SHPO and/or Council object in writing within twenty (20) calendar days to any actions, plans, specifications, or reports provided for review pursuant to this PA, the Army shall consult with the objecting party or parties to resolve the objection; if it cannot be resolved, the Army shall forward relevant documentation, the Council will either:

1. Inform the Army that the Council intends to comment pursuant to 36 CFR 800.6(b), or

2. Provide the Army with recommendations that the Army shall take into account prior to a final decision

The Army's responsibility to carry out all actions under this agreement that are not subjects of the dispute will remain unchanged.

XI. SHPO/COUNCIL MONITORING AND REVIEW:

The Council and SHPO may review activities carried out pursuant to this agreement and will review such activities if so requested. The Army will cooperate with the Council and SHPO in carrying out their monitoring and review responsibilities.

XII. PUBLIC OBJECTION:

At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure or its manner of implementation be raised by any member of the public, the Army shall take the objection into account and consult as needed with the objecting party, the Council and SHPO to resolve the objection.

XIII. AMENDMENTS:

Any party to this agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.13 to consider such an amendment. No amendment to this agreement shall be effective until it has been executed by all consulting parties.

XIV. TERMINATION:

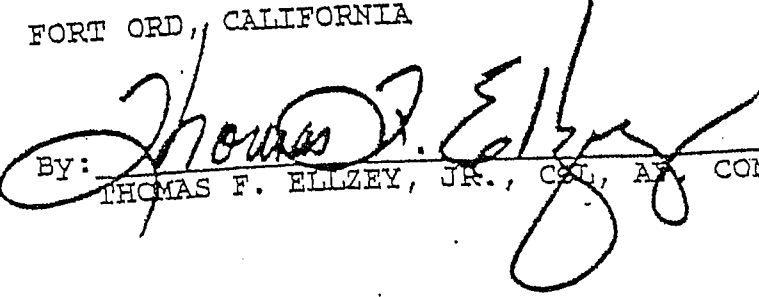
Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided the parties consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Army will comply with 36 CFR Part 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

XV. FAILURE TO EXECUTE THIS AGREEMENT: In the event the Army does not carry out the terms of this Programmatic Agreement, the Army will comply with 36 CFR 800.4 through 800.6 with regard to individual undertakings covered by this agreement.

Execution and Implementation of this Programmatic Agreement evidences that the Army has satisfied its Sections 106 and 110 responsibilities for all individual undertakings of the Base Closure and Realignment of Fort Ord.

FORT ORD, CALIFORNIA

BY:

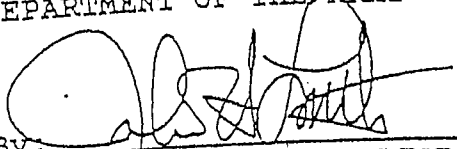

THOMAS F. ELLZEY, JR., COL, AF, COMMANDING

Date:

18 April 1994

DEPARTMENT OF THE ARMY

BY:

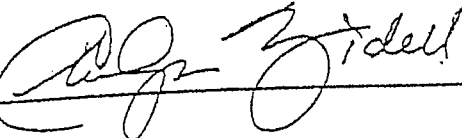

JOHN H. LITTLE, MAJOR GENERAL, USA,
ASSISTANT CHIEF OF STAFF FOR INSTALLATION
MANAGEMENT

Date:

3 May 94

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

BY:

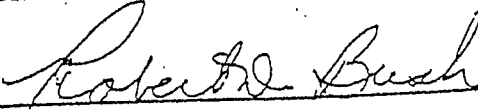


Date:

April 19, 1994

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY:



Date:

5/5/94

APPENDIX A

DEFINITIONS OF TERMS USED IN THIS AGREEMENT

In addition to the terms defined here, and unless otherwise indicated, all definitions given in 36 CFR Part 800.2 will be accepted for the purpose of this Agreement.

1. Archeological Survey: Systematic identification of surface or subsurface evidence of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

2. Notice/Notification: Includes, as appropriate, a map, a legal description of the property transferred, a description of the intended use of the land, a letter from the receiving Federal agency stating that it will carry out the requirements of Section 110(a)(2) of the National Historic Preservation Act on the lands it receives, a list of historic properties transferred, the name and address of the entity to whom the property has been transferred, or the name and address of the Entity responsible for enforcement of preservation covenants.

3. Archeologist/Architectural Historian/Historic Architect: A professional who meets the minimum standards listed in Archeology and Historic Preservation, Secretary of Interior's Standards and Guidelines (Federal Register Vol. 48, No. 190 pp 44717 - 44742) in the appropriate field.

BILL OF SALE OF PERSONAL PROPERTY
EXHIBIT G

EXHIBIT G

BILL OF SALE FOR RELATED PERSONAL PROPERTY

The UNITED STATES OF AMERICA, acting by and through the Secretary of the Army, (hereinafter referred to as the "Vendor"), pursuant to the authority provided in Section 2905(B)(4) of the Defense Base Closure and Realignment Act of 1990, as amended, does hereby sell, grant and convey to the Fort Ord Reuse Authority, (hereinafter referred to as the "Vendee"), in accordance with the terms of the Memorandum of Agreement (MOA) between the Vendor and Vendee, dated _____ 2000, for good and valuable consideration, all of the Vendor's right, title, and interest in and to the following described related personal property listed in Exhibit "A" attached hereto and located within the parcel boundaries of the real property described in the quitclaim deed for conveyance for Fort Ord, Monterey County, California, dated _____ 2000, to the Vendee, subject to the following terms and conditions:

1. This Bill of Sale is for the specific purpose of conveying personal property related to, designed for, or specifically adapted to the productive reuse of the real property described in the aforesaid quitclaim deed in accordance with the Final Fort Ord Base Reuse Plan.
2. All related personal property is conveyed as is, where is, and without any warranty or representation whatsoever.
3. This Bill of Sale is effective when the deed of conveyance for Parcel(s) _____, Fort Ord, to the Vendee has been executed.

IN TESTIMONY WHEREOF, witness the signature of the Vendor, acting by and through the authority of the Secretary of the Army, United States Department of the Army, this _____ day of _____, 20__.

UNITED STATES OF AMERICA

BY: _____

Col. Daniel Devlin
Installation Commander

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss
COUNTY OF MONTEREY)

On _____ before me, the undersigned, a Notary Public in and for said state, personally appeared Col. Daniel Devlin personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public, State of California

ACCEPTANCE

In Testimony Whereof, witness the signature of the Fort Ord Reuse Authority, the Vendee, an organization organized and existing under the laws of the State of California under the Fort Ord Reuse Authority Act created under Title 7.85 of the California Government Code, Chapters 1 through 7, inclusive, commencing with Section 67650, *et seq.*, and selected provisions of the California Redevelopment Law, including Division 24 of the California Health and Safety Code, Part 1, Chapter 4.5, Article 1, commencing with Section 33492, *et seq.*, and Article 4, commencing with Section 33492.70, *et seq.*, this ____ day of _____, 20__ does hereby accept and approve this Bill of Sale and agree to all of the terms and conditions therein.

FORT ORD REUSE AUTHORITY
 LOCAL REDEVELOPMENT
 AUTHORITY

By: _____
 Michael A. Houlemard, Jr.
 Executive Officer

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss
 COUNTY OF MONTEREY)

On _____ before me, the undersigned, a Notary Public in and for said state, personally appeared Michael A. Houlemard, Jr. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

 Notary Public, State of California

EXHIBIT H

(RESERVED)

EXHIBIT I
(RESERVED)

FORT ORD REUSE AUTHORITY
EXHIBIT J

EXHIBIT J
RIGHT OF ENTRY

[Date]

TO: Fort Ord Reuse Authority

Dear _____:

You may consider this letter as a right-of-entry for the purpose of ingress, egress and operation and maintenance of _____ as identified in Exhibit "A" attached hereto and made a part hereof, located at Fort Ord, California. This right-of-entry is subject to the following terms and conditions:

1. The Grantee, the Local Redevelopment Authority, shall be responsible for any and all utility service, security and operation/maintenance of _____.
2. The Grantee shall comply with all applicable Federal, state, county, and municipal laws, ordinances and regulations wherein the property is located.
3. The Grantee will use all reasonable means available to protect the environment, historic and cultural resources and, where damage nonetheless occurs from activities of the Grantee, the Grantee shall be liable to restore the damaged resources.
4. Within the limits of their respective legal powers, the parties to this right-of-entry shall protect the premises against pollution of its air, ground, and water. The specific requirements are defined in the Record of Environmental Consideration as identified in Exhibit "B", attached hereto and made a part hereof. The Grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions, or instruction in effect or prescribed by said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this right-of-entry. The Grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.
5. For such period as the Grantee is in possession of the premises pursuant to the terms and conditions of this right-of-entry, the Grantee shall procure and maintain at the Grantee's cost a standard fire and extended coverage insurance policy on the premises to the full insurable value thereof, unless a lesser value is approved by the Secretary. The Grantee shall procure such insurance from a reputable company. The insurance policy shall provide that, in the event of loss thereunder, the proceeds or the policy, at the election of the United States, shall be payable to the Grantee to be used solely for the repair, restoration or replacement of the

Fort Ord Right of Entry

property damaged or destroyed, and any balance of the proceeds not required for such shall be paid to the United States. Nothing herein contained shall be construed as an obligation upon the United States to repair, restore or replace the premises or any part hereof. The United States shall waive procurement of an insurance policy if a self-insured certificate can be provided to the United States.

6. The United States shall not be responsible for injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or injuries to the person of the Grantee's officers, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the Grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

7. The Grantee shall not discriminate against any person or persons because of race, color, sex, national origin, handicap, age or religion in the conduct of operations on the premises.

8. This right-of-entry is issued prior to the conveyance of the described land pursuant to _____. Because of the urgency requiring the Grantee to proceed with use of said property in advance of the completion, execution and delivery of the formal transfer, the Grantee agrees to accept and be bound by the terms and conditions of the right-of-entry.

Please indicate your acceptance of the terms and conditions of this right-of-entry by signing all copies where indicated, and returning the original and one copy to this office.

Sincerely,

Keneth Fox
Chief, Real Estate Division

The terms and conditions of this right-of-entry are hereby accepted on behalf of the Fort Ord Reuse Authority this _____ day of _____, 2000.

FORT ORD REUSE AUTHORITY
LOCAL REDEVELOPMENT AUTHORITY

Michael A. Houlemard, Jr.
Executive Officer

CONVEYANCE SCHEDULE
ENVIRONMENTAL REMEDIATION SCHEDULE
EXHIBIT K & L

EDC Parcels OE RI/FS estimated completion dates

Conveyance/Remediation Schedule

COE Number	Parcel Name	Category ¹	OE Site	Track ¹	OE RI/FS Completion Date ²	Transfer Documentation
E4.1.2.3	ROW Booker Str /lower Patton	B		0	02/25/2000	08/23/2000
E11b.1	development / mixed use /ac limit	B	none	0	02/25/2000	08/23/2000
E11b.2	development / mixed use-ac limit	B	none	0	02/25/2000	08/23/2000
E11b.3	sewer treatment facility / development mix	B	none	0	02/25/2000	08/23/2000
E11b.4	water tank 147	B	none	0	02/25/2000	08/23/2000
E15.1	ROW / retail	B	none	0	02/25/2000	08/23/2000
E2b.1.1.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2b.1.1.2	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2b.1.2	ROW road	B	none	0	02/25/2000	08/23/2000
E2b.1.3	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2b.1.4	ROW road	B	none	0	02/25/2000	08/23/2000
E2b.1.5	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2b.2.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2b.2.2	ROW road	B	none	0	02/25/2000	08/23/2000
E2b.2.3	ROW road	B	none	0	02/25/2000	08/23/2000
E2b.2.4	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2b.2.5	2/12 Pump and Treat Facility	B	none	0	02/25/2000	08/23/2000
E2b.3.1.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2c.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2c.2	OU2 Pump and Treat Facility	B	none	0	02/25/2000	08/23/2000
E2c.3.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2c.3.2	ROW road	B	none	0	02/25/2000	08/23/2000
E2c.3.3	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2c.4.1.1	ROW road	B	none	0	02/25/2000	08/23/2000 ^r

EDC Parcels OE RI/FS estimated completion dates

COE Number	Parcel Name	Category ¹	OE Site	Track ¹	OE RI/FS Completion Date ²	Transfer Documentation
E2c.4.2.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2d.1	development / mixed use	B	none	0	02/25/2000	08/23/2000
E2d.2	ROW	B	none	0	02/25/2000	08/23/2000
E2e.1	ROW 6th Ave / 8th St Road	B	none	0	02/25/2000	08/23/2000
E2e.2	ROW Intergarrison road	B	none	0	02/25/2000	08/23/2000
E4.1.1	housing lower Patton	B	none	0	02/25/2000	08/23/2000
E4.1.2.1	housing lower Patton	B	none	0	02/25/2000	08/23/2000
E4.2	housing upper Patton	B	none	0	02/25/2000	08/23/2000
E4.3.1	housing Abrams	B	none	0	02/25/2000	08/23/2000
E4.5	water treatment facility	B	none	0	02/25/2000	08/23/2000
E5a	development / mixed use	B	none	0	02/25/2000	08/23/2000
E8a.1	Landfill, 75 acre development, HMP	B	none	0	02/25/2000	08/23/2000
E8a.2	Landfill carrot, Univ med density residential	B	none	0	02/25/2000	08/23/2000
L20.10.1	ROW / north Reservation road	B	none	0	02/25/2000	08/23/2000
L20.10.2	ROW / north Reservation road	B	none	0	02/25/2000	08/23/2000
L20.10.3	ROW / north Reservation road	B	none	0	02/25/2000	08/23/2000
L20.14.1	ROW / East Intergarrison road	B	none	0	02/25/2000	08/23/2000
L20.14.2	ROW / Mid Intergarrison road	B	none	0	02/25/2000	08/23/2000
L20.9	ROW / south Reservation road	B	none	0	02/25/2000	08/23/2000
L23.3.1	development mixed use-ac limit	B	none	0	02/25/2000	08/23/2000
L23.3.2.1	development mixed use-ac limit/historic district	B	none	0	02/25/2000	08/23/2000
L23.3.2.2	development mixed use-ac limit	B	none	0	02/25/2000	08/23/2000
L32.1	public facilities/inst Surplus II	B	none	0	02/25/2000	08/23/2000

EDC Parcels OE RI/FS estimated completion dates

COE Number	Parcel Name	Category ¹	OE Site	Track ¹	OE RI/FS Completion Date ²	Transfer Documentation
L32.4.1	development mixed use / retail Surplus II	B	none	0	02/25/2000	08/23/2000
L32.4.2	ROW / development mixed use / Surplus II	B	none	0	02/25/2000	08/23/2000
E4.1.2.2	housing lower Patton	C	1	1	01/01/2002	06/30/2002
E2c.4.1.2	ROW road	C	2	1	01/01/2002	06/30/2002
E2c.4.2.2	development / mixed use	C	2	1	01/01/2002	06/30/2002
E2c.4.3	ROW road	C	2	1	01/01/2002	06/30/2002
E2c.4.4	ROW road	C	2	1	01/01/2002	06/30/2002
E2d.3	development / mixed use	C	2	1	01/01/2002	06/30/2002
L23.3.3	development mixed use-ac limit	C	5	1	01/01/2002	06/30/2002
E15.2	open space	C	20	1	01/01/2002	06/30/2002
E29	BP/LI/O/R&D	C	43	1	01/01/2002	06/30/2002
E31a	bus park /LI/O/R&D	C	43	1	01/01/2002	06/30/2002
E31b	bus park /LI/O/R&D	C	43	1	01/01/2002	06/30/2002
E31c	bus park /LI/O/R&D	C	43	1	01/01/2002	06/30/2002
E36	bus park /LI/O/R&D	C	43	1	01/01/2002	06/30/2002
E2a	development / mixed use	C	1, 6	1	01/01/2002	06/30/2002
E4.3.2	housing Abrams	C	13A	1	01/01/2002	06/30/2002
E4.6.1	ROW middle Imjin road	C	13A	1	01/01/2002	06/30/2002
E4.6.2	ROW Imjin road	C	13A	1	01/01/2002	06/30/2002
E18.4	water tank	C	4A	2	09/01/2003	02/28/2004
E11a	Habitat management	C	TS-25 (27-Y)	1	01/01/2002	06/30/2002
E11b.8	ASP / development mixed use	E	42	3	06/01/2005	11/28/2005
L31	Esselen Parcel Surplus II	E	49	3	06/01/2005	11/28/2005
E21b.2	housing SFD low density	E	53	3	06/01/2005	11/28/2005

EDC Parcels OE RI/FS estimated completion dates

COE Number	Parcel Name	Category ¹	OE Site	Track ¹	OE RI/FS Completion Date ²	Transfer Documentation
E11b.6	development / mixed use-aac limit	E	59	3	06/01/2005	11/28/2005
E11b.7	development / mixed use-ac limit	E	11, 23, 33	3	06/01/2005	11/28/2005
E19a.1	housing SFD low density	E	13B, 45	3	06/01/2005	11/28/2005
E19a.2	housing SFD low density	E	13B, TS-1, TS-2, TS-3	3	06/01/2005	11/28/2005
E29a	visitor center / bus park	E	15DRO.1	3	06/01/2005	11/28/2005
E29b.1	ROW future Hwy 68 / habitat	E	15DRO.2	3	06/01/2005	11/28/2005
E29b.2	ROW/BP/LI/O/R&D	E	15MOCO.1	3	06/01/2005	11/28/2005
E21b.3	housing SFD low density	E	15MOCO.2	3	06/01/2005	11/28/2005
E24	ROW / housing future SFD med density	E	15SEA.1	3	06/01/2005	11/28/2005
E23.2	ROW / housing future SFD med density	E	15SEA.2	3	06/01/2005	11/28/2005
E34	ROW / housing future SFD med density	E	15SEA.2	3	06/01/2005	11/28/2005
E23.1	ROW / retail	E	15SEA.3	3	06/01/2005	11/28/2005
E20c.1.1.2	housing future	E	24A, 44	3	06/01/2005	11/28/2005
E20c.1.2	Cable TV area	E	24A, 44	3	06/01/2005	11/28/2005
E21b.1	housing SFD low density	E	3, 37, 52, 54, 55	3	06/01/2005	11/28/2005
E21a	housing SF low density	E	40, 44, 50, 53	3	06/01/2005	11/28/2005
E20c.2.1	housing future	E	44,49,50	3	06/01/2005	11/28/2005
E19a.3	housing SFD low density	E	4A, 4B, 51, 55	3	06/01/2005	11/28/2005
E18.1	housing future	E	4A, 50	3	06/01/2005	11/28/2005

EDC Parcels OE RI/FS estimated completion dates

COE Number	Parcel Name	Category ¹	OE Site	Track ¹	OE RI/FS Completion Date ²	Transfer Documentation
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¹ - As defined on 8/2/99. As removal actions proceed, sites could change Categories and Track depending on information and evaluation conducted during the OE RI/FS.

Completion dates are also subject to change as the OE RI/FS proceeds.

² Date is based on either ROD signature or remediation completion.

ACCESS ROADS AND EASEMENTS
EXHIBIT M

1.	North-South Road	140 ft. wide easement
2.	North-South Road Realignment	140 ft. wide easement
3.	Gigling Road	122 ft. wide easement
4.	Monterey Road	122 ft. wide easement
5.	Monterey Road Realignment	122 ft. wide easement
6.	Coe Avenue	122 ft. wide easement
7.	Normandy Road	60 ft. wide easement
8.	Parker Flats Cutoff	60 ft. wide easement

Note: All easements are centered on existing roadway centerlines for existing roads. On realignment segments, all easements are centered on proposed centerlines of proposed roadways.

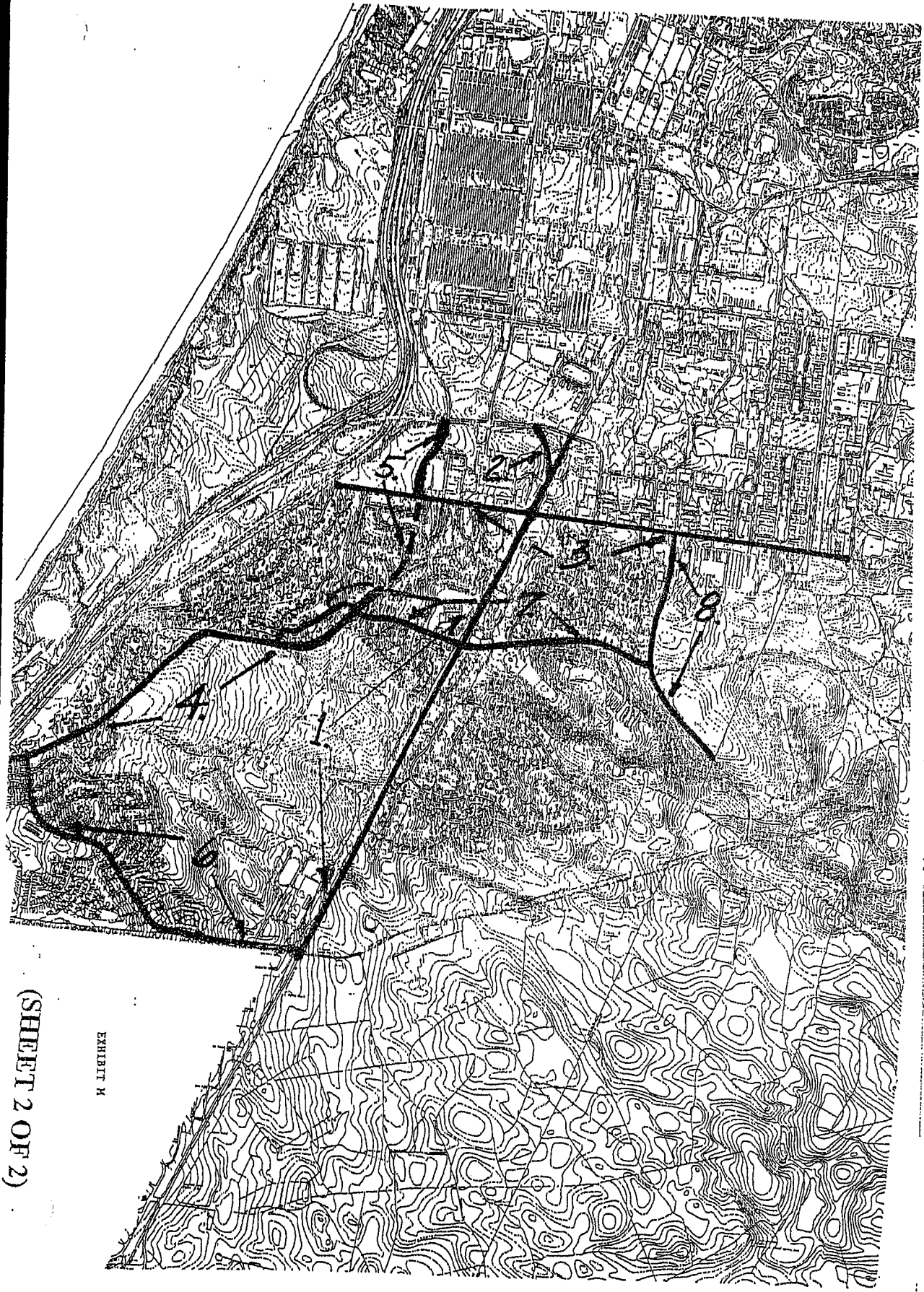


EXHIBIT M

(SHEET 2 OF 2)

LIST OF GOVERNMENT ENVIRONMENTAL
REMEDATION DECISION DOCUMENTS
EXHIBIT N

Exhibit N

List of Government Remediation Decision Documents

Government Environmental Remediation Decision Documents

No Action Plug-In Record of Decision, Fort Ord, California, February 1995.

Record of Decision, Basewide Remedial Investigation Sites , Fort Ord, California, January 13, 1997.

Interim Record of Decision, Site 3 Beach Trainfire Ranges, Fort Ord, California, January 13, 1997.

Record of Decision, Operable Unit 2, Fort Ord Landfills, Fort Ord, California, July 15, 1994.

Decision Documents Relating to Clean Up of Ordnance and Explosives:

Explosive Safety Submission, Ordnance Removal Prior to Land Disposal, Inland Ranges, Fort Ord, California, November 17, 1994.

Land Disposal Site Plan (LDSP) for Base Realignment and Closure of Fort Ord, CA, February 17, 1994.

Amendment to the 1994 Land Disposal Site Plan (LDSP) for Base Realignment and Closure of Fort Ord, CA, March 2, 1998.

Amendment 2 to the 1994 Land Disposal Site Plan (LDSP) for Base Realignment and Closure of Fort Ord, California, August 4, 1998.

Explosive Safety Submission Ordnance Removal Prior to Land Disposal 5.9 Acres Within the Wolf Hill Parcel Former Fort Ord, California, 19 May 1995.

Engineering Evaluation/Cost Analysis – Phase I Former Fort Ord, Monterey County, California, September 1997.

Action Memorandum 1 Phase 1 engineering Evaluation/Cost Analysis Twelve Ordnance and Explosives Sites Former Fort Ord, Monterey, County, California, April 23, 1998.

Engineering Evaluation/Cost Analysis – Phase 2 Former Fort Ord Monterey County, California, April 1998.

Final Action Memorandum Phase 2 Engineering Evaluation/Cost Analysis Ordnance and Explosives Sites Former Fort Ord, Monterey County, California, June 28, 1999.

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**AMENDMENT NO. 1
TO THE
MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
ACTING BY AND THROUGH
THE SECRETARY OF THE ARMY
UNITED STATES DEPARTMENT OF THE ARMY
AND
THE FORT ORD REUSE AUTHORITY
FOR THE SALE OF
PORTIONS OF THE FORMER FORT ORD
LOCATED IN MONTEREY COUNTY, CALIFORNIA**

THIS AMENDMENT NO. 1 to the *Memorandum of Agreement between the United States of America acting by and through the Secretary of the Army, United States Department of the Army, and the Fort Ord Reuse Authority for the Sale of Portions of the Former Fort Ord Located in Monterey County, California dated June 20, 2000* ("Agreement") is entered into on this 23rd day of October 2001 by and between **THE UNITED STATES OF AMERICA**, acting by and through the Department of the Army ("Government"), and **THE FORT ORD REUSE AUTHORITY** ("Authority"), recognized as the local redevelopment authority by the Office of Economic Adjustment on behalf of the Secretary of Defense. Government and Authority are sometimes referred to herein collectively as the "Parties."

RECITALS

WHEREAS, the Parties did enter into the Agreement for the "No Cost" Economic Development Conveyance ("EDC") to the Authority of a portion of the former Fort Ord, California ("Property") pursuant to Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, as amended, and the implementing regulations of the Department of Defense (32 CFR Part 175);

WHEREAS, subsequent to the execution and delivery of the Agreement, the Parties determined that in accordance with the Reuse Plan and in order to facilitate the economic redevelopment of the Property, it is desirable and necessary to include within the scope of the Agreement the Water and Wastewater Systems at the former Fort Ord ("Water Systems"), more particularly described in the Quitclaim Deed attached as Exhibit A to this Amendment No. 1, for transfer through the Authority to the Marina Coast Water District ("District") in lieu of a direct transfer of the Water Systems from the Government to the District under a Public Benefit Conveyance ("PBC");

FORT ORD MOA AMENDMENT NO. 1

1
2 **WHEREAS**, subsequent to the execution and delivery of the Agreement, Section
3 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 was amended by Section
4 2821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. No. 106-398) to
5 change certain requirements regarding the use of proceeds from the sale or lease of the Property
6 transferred under the Agreement.
7

8 **NOW THEREFORE**, in consideration of the foregoing premises and the respective
9 representations, agreements, covenants and conditions herein contained, and other good and
10 valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the
11 Parties agree as follows:
12

13 **AGREEMENTS**
14

15 **Article 1. Water and Wastewater Systems**
16

17 a. In lieu of the Government transferring the Water and Wastewater Systems and all
18 associated and ancillary rights directly to the District under the PBC dated August 26, 1997, as
19 described in paragraph 5.01 of the Agreement, the Government, pursuant to paragraph 2.01 of
20 the Agreement, shall transfer to the Authority at no-cost, as part of the Economic Development
21 Conveyance, simultaneously with the execution of this Amendment No. 1, the Water and
22 Wastewater Systems on the Property and the Ord Military Community, together with all their
23 respective water rights and wastewater discharge rights and ancillary rights.
24

25 b. The Transfer to the Authority of the Water and Wastewater Systems on the
26 Property and the Ord Military Community, together with all their respective water rights and
27 obligations and wastewater discharge rights and obligations and ancillary rights and obligations,
28 shall be accomplished upon the execution by the Government and the recordation by the
29 Authority of the Deed attached as Exhibit A to this Amendment No. 1.
30

31 c. Immediately following the transfer of the Water and Wastewater Systems on the
32 Property and the Ord Military Community, together with all their respective water rights and
33 obligations and wastewater discharge rights and obligations and ancillary rights and obligations,
34 from the Government to the Authority, the Authority shall transfer such Water and Wastewater
35 Systems and all associated and ancillary rights and obligations to the District.
36

37 d. The Authority, through allocation instructions to the District, the Authority
38 selected water purveyor, agrees to provide water service to the SunBay Housing Area
39 ("SunBay"), in an amount up to 120 acre feet per year ("afy") in the same fashion as water
40 service is provided to other users.
41
42

FORT ORD MOA AMENDMENT NO. 1

Article 2. Bay View Community/Brostrom Housing Area Water and Wastewater Systems

a. In the event the Government conveys the real property underlying the Bay View Community/Brostrom Housing Area ("Bay View") to The RINC Organization, then and upon the happening of that event, and notwithstanding Article 5.02 of the MOA, the Government and the Authority agree that the water rights reserved to the Government shall be reduced by 38 afy for a total reservation of water rights for the Government of 1691 afy. The Government and the Authority agree further that the Government shall then, and upon the happening of that event, convey such 38 afy of water rights to the Authority by quitclaim deed in a form substantially similar to the Deed attached as Exhibit A to this Amendment No. 1 for a total conveyance of water rights to the Authority of 4,909 afy.

b. In the event the Government conveys the real property underlying the Bay View Community/Brostrom Housing Area ("Bay View") to The RINC Organization, and simultaneously with the conveyance of the aforementioned 38 afy of water rights to the Authority, the Authority, through allocation instructions to the District, the Authority selected water purveyor, agrees to provide water service to the Bay View Community/Brostrom Housing Area ("Bay View"), in an amount equal to .21 afy per residential housing unit times 223 residential housing units, plus 38 afy $[(.21 \text{ afy} \times 223) + 38 \text{ afy}]$ as follows:

1. Under the same terms and conditions of any other existing residential development in the City of Seaside, California ("Seaside").
2. Bay View residents will have three years to reduce consumption at Bay View to meet Seaside's .21 afy per unit conservation requirement without penalty.
3. Bay View residents will be charged at the then District rate as any other user will be charged for similar water services.
4. The same level of water service (.21 afy per residential housing unit times 223 residential housing units, and 38 afy) shall be available for future residential development on the Bay View site when and if a project is approved in conformity with Seaside's General Plan and Zoning requirements.
5. If a future development on the Bay View site can achieve a more efficient use of this amount of water service, credit for such conservation may be applied to an increase in units on the Bay View property in conformity with Seaside's General Plan and Zoning requirements if and when a project is approved.

Article 3. Reporting Period

In accordance with Section 2821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. No. 106-398) and the Agreement, the Agreement is hereby amended as follows:

FORT ORD MOA AMENDMENT NO. 1

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a. In paragraph 1.20 of the Agreement, delete the definition of Reporting Period in its entirety and substitute the following:

“A period of time, beginning with the recordation of the Deed or Lease in Furtherance of Conveyance (“LIFOC”) for the initial transfer of property and ending seven (7) years thereafter, within which the Authority will submit annual statements as described in paragraph 2.01(F) of this Agreement.”

b. In paragraph 2.01(F) of the Agreement delete the first sentence and substitute the following:

“The Authority shall prepare and submit to the Government an annual financial statement certified by an independent certified public accountant. The statement shall cover the Authority's use of proceeds it receives from the sale, lease, or equivalent use of the Property. The first such statement shall cover the 12 month period beginning on the date of recordation of the first Deed or LIFOC and shall be delivered to Government within 60 days of the end of that period and annually thereafter. The seven-year period will commence with the recordation of the Deed or LIFOC for the initial transfer of property. The last such statement shall cover the 12 month period beginning on the date seven years following the recordation of the Deed or LIFOC for the initial transfer of property. The financial statements shall cover all parcels of property that have been conveyed during the seven-year period.”

Article 4. Survival and Benefit

a. Unless defined separately, the terms used in this Amendment No. 1 shall be the same as used and defined in the Agreement.

b. Except as set forth herein, and unless modified specifically by this Amendment No. 1, the terms and conditions contained in the Agreement shall remain binding upon the Parties and their respective successors and assigns as set forth in the Agreement.

U36

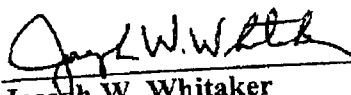
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FORT ORD MOA AMENDMENT NO. 1

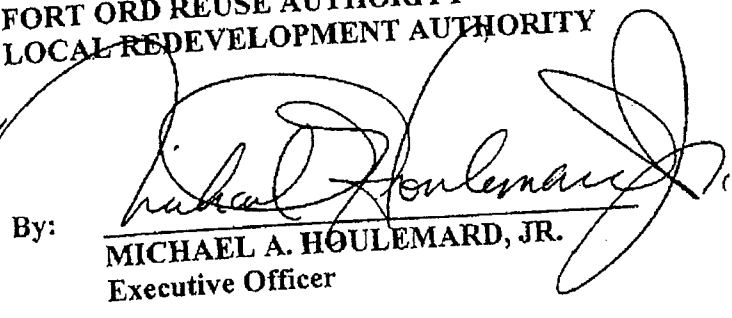
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In Witness whereof, the Parties, intending to be legally bound, have caused their duly authorized representatives to execute and deliver this Amendment No. 1 as of the date first above written.

**UNITED STATES OF AMERICA,
Acting by and through the Department of the Army**

By: 
**Joseph W. Whitaker
Acting Deputy Assistant Secretary of the Army
Installations and Housing**

**FORT ORD REUSE AUTHORITY
LOCAL REDEVELOPMENT AUTHORITY**

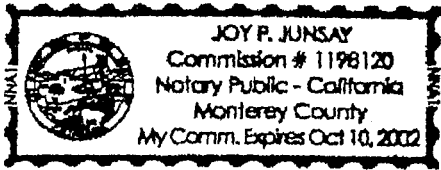
By: 
**MICHAEL A. HOULEMARD, JR.
Executive Officer**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Monterey } ss.

On Oct 12, 2001, before me, Joy P. Junsay Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Michael A. Houlemerd
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Joy P. Junsay
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

