

AGREEMENT

REGARDING PUBLIC SAFETY OFFICER TRAINING FACILITIES

This Agreement ("Agreement") is entered into between the **County of Monterey**, a political subdivision of the State of California ("County"), **Monterey Peninsula College**, a California community college ("MPC") and the **Fort Ord Reuse Authority**, a public entity organized and operating under Title 7.85 of the California Government Code ("FORA").

RECITALS

A. The United States of America, acting through the Department of Defense and the Army (the "Army"), owns the real property within the former Fort Ord, identified as polygons 11b, 19a, 21a, 21b and 21c in the Fort Ord Reuse Plan (the "Property"). The Army entered into a Memorandum of Agreement dated June 23, 2000, with FORA to transfer portions of the Property to FORA pursuant to a remediation and removal schedule.

B. The County is programmed to acquire the Property from FORA pursuant to the terms of an Implementation Agreement entered into between the County and FORA, dated May 8, 2000 (the "Implementation Agreement").

C. The United States Department of Interior, Bureau of Land Management ("BLM") is programmed to receive other portions of the Property known as the former Military Operations/Urban Terrain Facility (the "MOUT Facility") from the Army pursuant to an agency-to-agency transfer.

D. MPC is seeking an area within the Property for development of a public safety officer training center and EVOC facility (collectively the "Training Facility") and it has rights to certain lands within polygon 11b in the Fort Ord Reuse Plan (the "East Garrison") by virtue of a United States Department of Education Public Benefit Conveyance request for lands in the East Garrison for development of the Facility.

E. Because of various potential land use conflicts with other prospective users in the East Garrison, the Parties entered into a memorandum of intent entitled Proposed County of Monterey/FORA/MPC Points of Agreement Regarding Public Safety Officer Training Academy (the "MOI") for the purpose of

seeking resolution of said land use conflicts by County and FORA obtaining for MPC an acceptable alternate site within the former Ft. Ord for the Training Facility.

F. The Parties have worked together to identify other potential areas within polygons 19a, 21a, 21b and 21c ("Parker Flats") that could accommodate development of the Training Facility. MPC has developed a conceptual plan for the development of such potential areas as the Training Facility, a copy of which is attached hereto as **Exhibit A**.

G. To assist in resolving the potential land use conflicts, BLM has agreed to relinquish its rights to a conveyance of the MOUT Facility and to allow the MOUT Facility to be transferred by the Army to the County or directly to MPC for MPC's use as part of the Training Facility.

H. To resolve the potential land use conflicts in accordance with the MOI and to help the County meet the need for workforce housing within the East Garrison, the Parties have agreed to an exchange of uses between the East Garrison, Parker Flats and the MOUT Facility on the terms and conditions herein.

AGREEMENT

1. **Location of the Training Facility at Parker Flats.** The Parties mutually agree that sites exist within Parker Flats and the MOUT, as shown schematically on the map attached as **Exhibit B** (collectively, the "Facility Sites"), that are suitable for development of the Training Facility by MPC. The Parties anticipate that FORA will obtain title to the Facility Sites under its June 23, 2000, agreement with the Army and, in turn, that FORA will transfer title to the Facility Sites directly to MPC in accordance with the Implementation Agreement and this Agreement.

2. **Transfer of Facility Sites.** The County or FORA shall, at no cost (excepting reasonable and customary sharing of recordation and processing fees), transfer title to the Facility Sites to MPC within forty-five (45) days after receiving title to said properties.

3. **Release of Rights at East Garrison.** MPC agrees to release its rights to lands at East Garrison simultaneously with its receipt of title to the Facility Sites.

4. Conditions Precedent. MPC shall release its rights in the lands at East Garrison, prior to its receipt of title to the Facility Sites, upon the satisfaction of the following conditions precedent (the "Conditions"), each of which is for the benefit of MPC and may be waived or accepted only by MPC:

- a. Agreement between MPC and the California Department of Toxic Substances Control ("DTSC") as to conditions and covenants for the early transfer of the Facility Sites that will permit the early transfer of the Facility Sites and the use of the Facility Sites by MPC for the Public Safety Officer Training Facility.
- b. Written concurrence by the Army as to the covenants and conditions for transfer of the Facility Sites that will permit the use of the Facility Sites by MPC for the Public Safety Officer Training Facility as agreed to between MPC and DTSC.
- c. Agreement between MPC and BLM as to the reconfiguration and enlargement of polygon E.21.b.3 sufficient to allow the use of the resulting parcel as a firing range as noted in the conceptual plan attached hereto as **Exhibit A**, including resolution of the issues referred to in Section 6 of this Agreement.
- d. Agreement between MPC and BLM as to terms and conditions for the ownership of the MOUT Facility to be transferred to MPC, and expansion of a portion of the MOUT Facility to allow for expansion of the number of firing stations at the MOUT Facility firing range;
- e. Allocation of potable water service in an amount adequate to meet the reasonable needs of the Public Safety Officer Training Facility as described in the conceptual plan attached hereto as **Exhibit A** not to exceed 52.5 acre-feet per year. Said water allocation shall be used exclusively to meet the reasonable needs of the Public Safety Officer Training Facility as described in the conceptual plan attached hereto as **Exhibit A**;
- f. Identification by MPC of potential funding sources for site development, construction and operation of the Training Facility in accordance with Section 16 herein.

5. Satisfaction of Conditions. For the purposes of this Agreement, "satisfaction" of Conditions shall mean resolution of each of the Conditions to the

reasonable satisfaction of MPC. MPC shall release its rights to lands at East Garrison within ten (10) days of its written notice to County and FORA that each of the Conditions has been satisfied. If on December 31, 2002, the Conditions are not resolved to MPC's reasonable satisfaction, MPC shall provide written notice to County and FORA within ten (10) days of each condition that has not been so satisfied. The parties shall then meet and confer within ten (10) days to determine whether the remaining Conditions can be satisfied within a reasonable time. If the parties, acting in good faith, determine that the Conditions cannot be satisfied within a reasonable time, this Agreement shall be terminated.

6. **BLM Issues.** In order to satisfy the condition precedent contained in Section 4(b) above, the Parties agree to use their best efforts to resolve the following issues with the BLM, including preparation by MPC of such plans for the Training Facility as may reasonably be required to resolve the issues:

A. Firing Ranges.

- i. Approval of the expansion of Firing Range 45 as illustrated in Figure 6 of Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California (Zander Associates, May 2002).
- ii. Approval of MPC's conceptual design of the expansion of Firing Range 45 to incorporate protective features to protect BLM employees and recreational users that will be using existing BLM roads and trails to the south of said ranges.
- iii. Approval of MPC's conceptual design of Improvements at the Firing Ranges on the Facility Sites to include an adequate firebreak (which may include roads) to separate the Natural Resource Management Area ("NRMA") lands.

B. Eucalyptus Road. Approval of FORA's plans for the closure and rerouting of portions of Eucalyptus Road to include provisions for the development of a recreational trail parking access point.

C. EVOC Facility. Approval of MPC's conceptual design of the EVOC Facility to include an adequate firebreak and provisions for noise mitigation.

D. **MOUT Facility.** Approval of MPC's conceptual design of the expansion of a portion of the MOUT facility to allow for expansion of the number of firing stations at the MOUT range.

7. **EVOC Facility.** MPC agrees that the EVOC Facility shall include an adequate firebreak and provisions for noise mitigation.

8. **Eucalyptus Road.** FORA and the County shall be responsible for the closure and rerouting of portions of Eucalyptus Road, which shall include provisions for the development of a recreational trail parking access point to be evaluated in an appropriate transportation plan. In addition, FORA agrees to consider amendment to its CIP to provide high prioritization for the rerouting of a portion of Eucalyptus Road to a location generally northwest of the Facility Sites that will allow for full development of the Training Facility by MPC.

9. **Usage of MOUT Facility.** Prior to its use of the Facility Sites as described herein, MPC shall reach agreement with the appropriate federal and local law enforcement agencies on their required levels of usage of the MOUT Facility. In addition, MPC shall devise a schedule for usage of the MOUT Facility by said agencies that guarantees the following annual levels of usage without payment of usage fees:

U. S. Military	45 day visits (Non-exclusive)
FBI	30 day visits (Non-exclusive)
Monterey County Sheriff's Dept.	12 day visits (Non-exclusive)
BLM	5 day visits (Non-exclusive)

10. **Relocation of Buildings.** If requested by MPC, and to the extent resources are available, FORA shall assist with relocation of surplus existing buildings from East Garrison or elsewhere at Fort Ord to the Facility Sites to provide scenario training, classrooms and related facilities for use by MPC at the Training Facility.

11. **Water Service.** Prior to the transfer of the Facility Sites to MPC, the County and FORA shall provide written confirmation that adequate potable water will be available to MPC for use at the Training Facility in accordance with Section 4(e) herein. MPC shall incorporate low flow fixtures and water conservation measures at the Training Facility to the reasonable satisfaction of the County and FORA. At such time as reclaimed water is available for non-potable uses at the Training Facility, all uses at the such facility that do not

require potable water for health and safety reasons shall use reclaimed water if feasible.

12. Biological Services. The County shall fund the services of Zander Associates to perform biological services in connection with reconfiguring and enlarging polygon 21b for use as a firing range and also in connection with the expansion of a portion of the MOUT Facility to increase the number of firing stations.

13. Ordnance Cleanup. The County and FORA shall request that the Army assign early priority to ordnance and explosives cleanup at Polygon 21b and to establish an acceptable explosive safety arc for the Training Facility.

14. Infrastructure. The County and FORA shall establish a high priority for the extension of utilities and related infrastructure as listed in **Exhibit C** attached hereto (the "Infrastructure Improvements") to the Training Facility as an early project requirement to enable development of the Facility Sites. To the extent that the Infrastructure Improvements are considered to be "Basewide Costs" as defined in Section 1(f) of the Implementation Agreement, payment of costs associated with the extension of the Infrastructure Improvements shall be apportioned in accordance with Sections 6 and 7 of the Implementation Agreement. For purposes of this Agreement, the Parties agree that MPC's share of the costs for the Infrastructure Improvements shall be no more than Five Hundred Thousand Dollars (\$500,000.00), subject to adjustment for any deferred payment in accordance with adopted FORA practice.

15. Habitat Management. Responsibility for management of identified habitat on the Facility Sites shall be assumed by FORA, subject to MPC's obligation to pay reasonable fair share assessments for the cost of such habitat management as part of its contribution to Basewide Costs as provided in Section 14 of this Agreement. Except for such payment, MPC shall have no responsibility for habitat management on the Facilities Sites.

16. Funding Assistance. The Parties acknowledge MPC's concerns regarding the financing of infrastructure and facilities improvements on the Property necessary for development of the Training Facility. Accordingly, the County and FORA agree to provide reasonable support and legislative assistance to MPC in attempting to secure Federal, State and other sources of funding for MPC's site development, construction and operation of the Training Facility in accordance with an estimated budget to be prepared by MPC.

17. Termination.

A. Termination on Default. Any party shall be entitled to terminate this Agreement if another party fails to perform in any material respect any material obligation required of it hereunder, and such default continues for sixty (60) days after the giving of written notice by the non-defaulting party, specifying the nature and extent of such default; provided, however, that if such default is not cured within sixty (60) days, but is capable of being cured within a reasonable period of time in excess of sixty (60) days, then the non-defaulting party shall not be entitled to terminate this Agreement if the defaulting party commences the cure of such default within the first 60 day period and thereafter diligently and in good faith continues to cure such default until completion.

B. Termination for Legal Reasons. If any legislation, regulation, rule, court decision or other government action has a material adverse effect on the operation of this Agreement, or if any term is deemed illegal by any party, then the parties shall attempt to amend this Agreement so as to avoid any adverse consequences. If the parties, acting in good faith, are unable to make the required amendments, this Agreement shall be terminated.

18. Title. Title to the Facility Sites shall be conveyed to MPC subject only to such encumbrances and covenants which do not render the Facility Sites unusable for MPC's intended use, to wit, the development and use as the Training Facility. Neither the County nor FORA shall be obligated to provide MPC with a policy of title insurance, and any such policy of title insurance shall be at MPC's sole expense. Transfer of the MOUT Facility to MPC shall be subject to a reversion in favor of the County if said property ceases to be used by MPC as a public safety officer training facility as described herein.

19. Dispute Resolution. The parties to this Agreement all desire to avoid the cost and delay attendant on litigation. To that end, all parties agree that if any dispute arises relating to this Agreement, including but not limited to its meaning, interpretation, effect or the enforcement of the provisions hereof, then the party who believes a dispute has arisen shall give written notice of such to the other parties. For a period of thirty (30) days after the giving of such notice, the parties shall attempt to resolve the dispute by informal discussions among themselves, using the services of a mediator, if the parties agree that such a mediator would facilitate resolution of the dispute.

20. Amendments. This Agreement may be amended, modified or supplemented, but only in writing signed by each of the Parties hereto.

21. Entire Understanding. This Agreement sets forth the entire agreement and understanding of the Parties in respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof and is not intended to confer upon any other person any rights or remedies hereunder. There have been no representations or statements, oral or written, that have been relied on by any party hereto, except those expressly set forth in this Agreement.

22. Severability. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

23. Waiver. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instance or a waive or any other condition or breach of any other term.

24. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of principal and agent, limited or general partnership, or joint venture between the Parties or their respective agents, employees or contractors.

25. Notices. Any notice, tender, delivery or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered, mailed, or faxed in the manner provided herein, to the following persons:

If to the County: Ms. Sally Reed,
County of Monterey
240 Church Street, West Wing, Room, 301
Post Office Box 180
Salinas, CA 93902
FAX: (831) 755-5081

If to FORA: Michael Houlemard

Fort Ord Reuse Authority
100 12th Street
Marina, CA 93933
FAX: (831) 883-3675

If to MPC: Dr. Kirk Avery
Monterey Peninsula College
980 Fremont Street
Monterey, CA 93940
FAX: (831) 655-2627

If sent by mail, any notice, delivery or other communication shall be deemed effective forty-eight (48) hours after deposited in the United States Mail, with postage prepaid, and addressed as set forth above. If sent by facsimile, any notice, delivery or other communication shall be deemed effective upon the receipt by the send of a faxed acknowledgement of receipt from the recipient. If personally delivered, or if delivered by overnight mail, any notice, delivery or other communication shall be deemed effective upon the delivery to a person apparently authorized to accept receipt at the address set forth above.

26. Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the authorized representatives of the Parties have signed this Agreement as of the date last written below.

COUNTY OF MONTEREY

By 
Dave Potter
Chair, Board of Supervisors

Date: October 22, 2002

FORT ORD REUSE AUTHORITY

By 
Jim Perrine

Board Chair

Date: November 8, 2002

MONTEREY PENINSULA COLLEGE

By



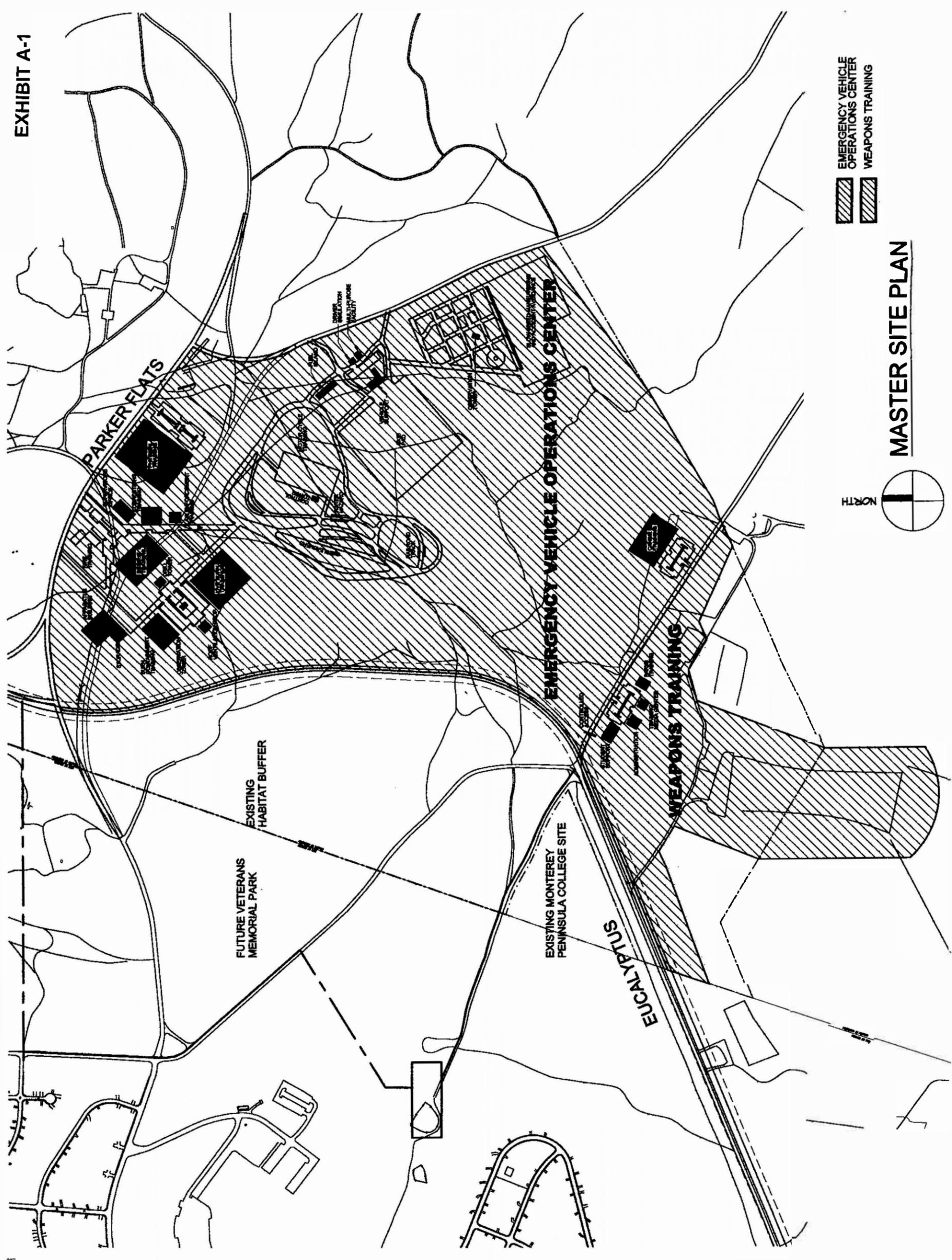
Dr. Jim Tunney
Chair, Board of Trustees

Date: October 22, 2002

EXHIBITS



EXHIBIT A-1



 EMERGENCY VEHICLE OPERATIONS CENTER
 WEAPONS TRAINING



MASTER SITE PLAN



WEAPONS TRAINING SITE PLAN

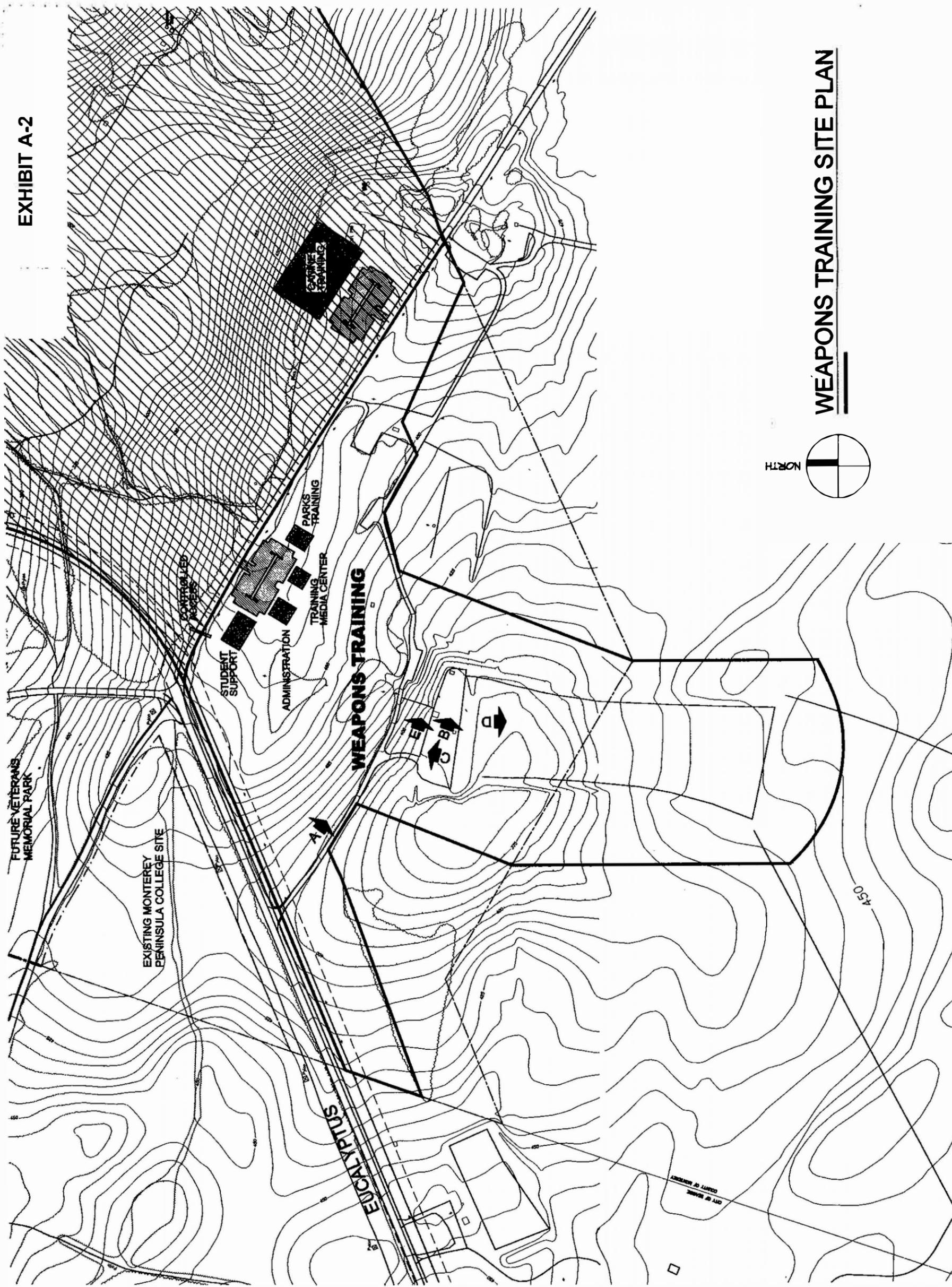
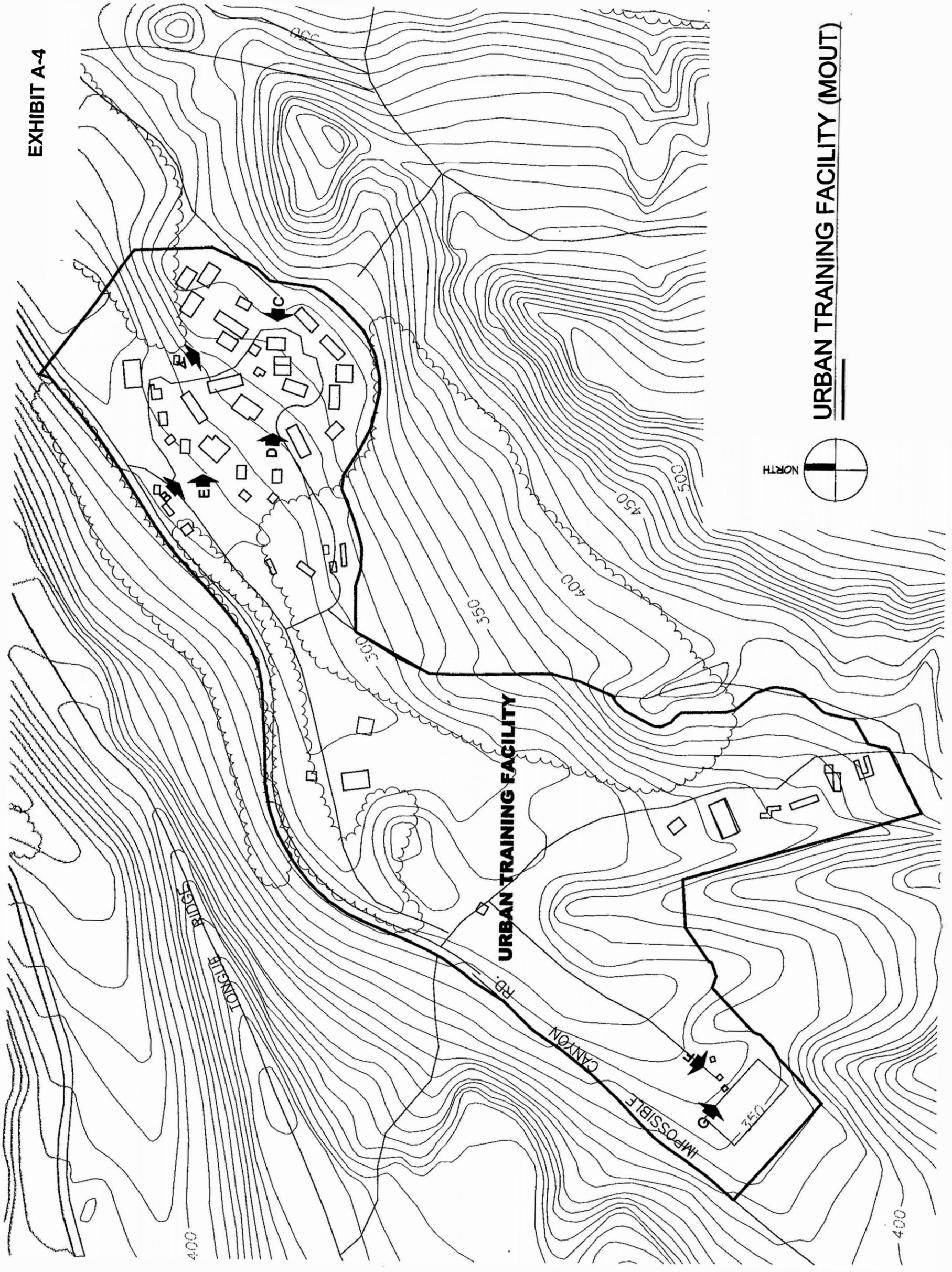


EXHIBIT A-2



EXHIBIT A-4



URBAN TRAINING FACILITY (MOULT)



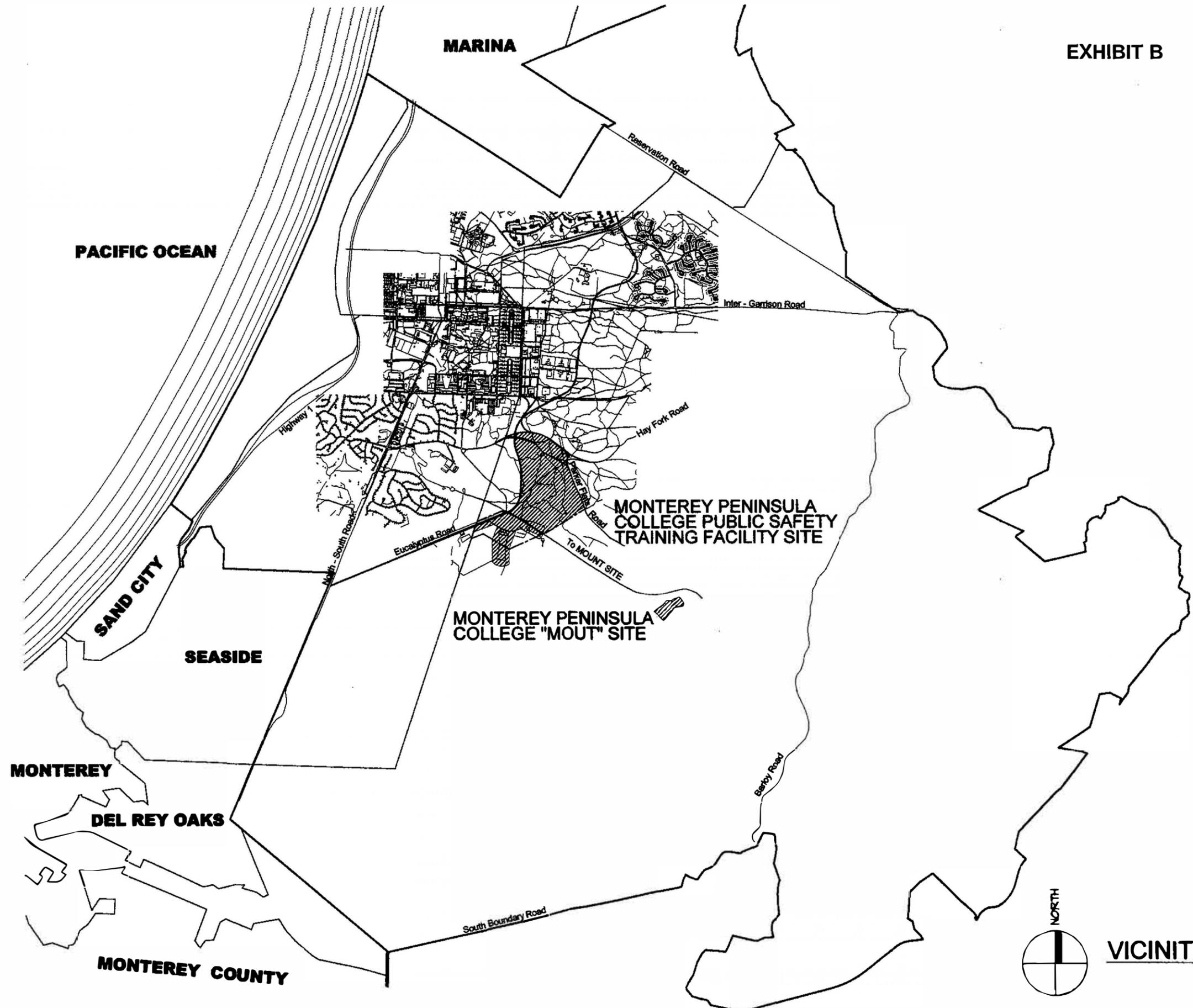
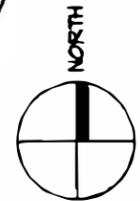


EXHIBIT B



VICINITY MAP



ERIC MILLER, ARCHITECTS INC.

157 GRAND suite 106 PACIFIC GROVE, CALIFORNIA 93950 831-372-0410



Capital Improvement Program (CIP) FY 2002/2003 through 2021/2022

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Final Version – FORA Board Approved 06/14/02

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Transportation Network Information					1995/1996 - 2001/2002 EDA Capital Improvement Program (Obligatory Transpo \$ Offsets)								
Project #	Project Title	Project Limits	Transportation Improvement Costs July 1997 TAMC Study (May 1995 dollars)	TAMC Preliminary Net Development Share (1995 dollars)	15.96% Improvement Cost Inflation (from May 1995 to January 2001)	Project #	1995/1997	1997/1998	1998/2000	2000/2001	2.9% Impr. Cost Inflation (1/01-1/02) on Net FORA Obligation	2001/2002	Net FORA Development Obligations
On-Site Improvements													
FO1	Gateway & Misc Safety Improvements/Rehab <i>Footnote [3]</i>	(PFIP T-15, T-16.1 thru T-16.13, T-17.1 thru T-17.5, T-18.1 thru T-18.5) Construct new gateway entrances to the former Fort Ord at 5 locations. Light Fighter Drive east of Highway 1; Twelfth Street (11th Street) east of Highway 1; Imjin Road north of Reservation Road; East Garrison south of Reservation Road; General Jim Moore Boulevard at Highway 218. Safety improvements and rehabilitation of roadways suffering from deferred maintenance in various locations as defined in PFIP.	\$ 20,300,364	\$ 10,520,364	\$ 12,199,414	FO1		\$ 2,221,943 (Rehab & Safety)		\$ 1,200,000 (Imjin Gateway) \$993,304 (General Jim Moore/Hwy 218 Gateway)	\$ 8,009,908	\$1,009,212 (Lightfighter Drive)	7,000,696
FO2	Abrams	(PFIP T-39) Construct a new 2-lane arterial from intersection with the Second Avenue (link to Del Monte Boulevard, in Marina. (See project FO#8)) easterly to intersection with Crescent Court extension (See Project #8).	\$ 603,000	\$ 603,000	\$ 699,239	FO2					\$ 719,517		\$ 719,517
FO3	12th/Imjin <i>Footnote [4]</i>	(PFIP T-19, T-26) Realign Twelfth Street from Highway 1 to California Avenue as 4-lane arterial and widen Twelfth Street and Imjin Road from 2 lanes to 4-lane arterial from California Avenue to Reservation Road.	\$ 9,065,000	\$ 4,532,500	\$ 5,255,887	FO3				\$ 6,218,188	\$ (990,208)		\$ (990,208)
FO4	Blanco/Imjin Connector	(PFIP T-40) Construct new 4 lane arterial from Imjin Road (at Abrams), northeasterly to Reservation Road (at Blanco).	\$ 4,080,000	\$ 4,080,000	\$ 4,731,168	FO4					\$ 4,868,372		\$ 4,868,372
FO5	8th. Street	(PFIP T-21, T-31, & T-32) Upgrade/construct 2-lane arterial from Hwy 1 Overpass to Inter-Garrison (Eighth Street Cutoff).	\$ 3,821,000	\$ 3,248,615	\$ 3,767,094	FO5					\$ 3,876,340		\$ 3,876,340
FO6	Inter-Garrison	(PFIP T-38) Upgrade to 2-lane arterial from Eighth Street Cutoff easterly to Reservation Road.	\$ 4,480,000	\$ 3,808,000	\$ 4,415,757	FO6					\$ 4,543,814		\$ 4,543,814
FO7	Gigling	(PFIP T-23 & T-35) Upgrade/construct new 4-lane arterial from General Jim Moore Blvd. easterly to Eastside Road.	\$ 4,537,800	\$ 3,221,838	\$ 3,736,043	FO7					\$ 3,844,389		\$ 3,844,389
FO8	2nd. Avenue	(PFIP T-27, T-29) Upgrade/construct 4-lane arterial from Lightfighter Drive to Del Monte Blvd.	\$ 7,232,500	\$ 5,398,068	\$ 6,259,600	FO8					\$ 6,441,128		\$ 6,441,128
FO9	General Jim Moore Blvd.	(PFIP T-33, T-34) Widen from 2 lanes to 4 lanes from Normandy Road to Coe Avenue. Upgrade and reconstruct as 2-lane arterial from Coe Avenue to Highway 218.	\$ 6,160,600	\$ 3,326,724	\$ 3,857,669	FO9					\$ 3,969,542		\$ 3,969,542
FO10	California <i>Footnote [5]</i>	(PFIP T-20, T-30) Construct new 2-lane arterial from Third Avenue southerly to intersection with Eighth Street.	\$ 2,769,200	\$ 1,038,450	\$ 1,204,187	FO10				\$ 642,570	\$ 577,904	\$ 577,904	0
FO11	Salinas Avenue	(PFIP T-24) Construct new 2 lane arterial from Reservation Road southerly to Abrams Drive.	\$ 2,412,000	\$ 2,412,000	\$ 2,796,955	FO11					\$ 2,878,067		\$ 2,878,067
FO12	Eucalyptus Road	(PFIP T-37) Upgrade to 2-lane collector from General Jim Moore Boulevard to Parker Flats cut-off.	\$ 2,880,000	\$ 2,880,000	\$ 3,339,648	FO12					\$ 3,436,498		\$ 3,436,498
FO13	Eastside Road	(PFIP T-36) Construct new 2-lane arterial from intersection with Gigling Road (See Project #FO7) northeasterly to intersection with Imjin Road (See Project #FO3).	\$ 6,020,000	\$ 4,358,480	\$ 5,054,093	FO13					\$ 5,200,662		\$ 5,200,662
Subtotal (On-Site Improvements)			\$ 74,361,464	\$ 49,428,039	\$ 57,316,754			\$ 2,221,943		\$ 9,054,062	\$ 47,375,931	\$ 1,900,000	\$ 45,788,815
Transit Capital Improvements													
T3	Transit Vehicle Purchase & Replacement	15 buses	\$ 15,000,000	\$ 5,000,000	\$ 5,798,000	T3					\$ 5,966,142		\$ 5,966,142
T22	Intermodal Centers	(PFIP T-31) includes 3 elements: 1. Intermodal Transportation Center (at 1st. Avenue South of 8th. Street (\$2,061,000) 2. Park and Ride Facility (at 12th Street and Imjin (\$1,030,500) and 3. Park and Ride Facility (at 8th. Street and Gigling (\$1,259,500).	\$ 3,800,000	\$ 3,800,000	\$ 4,406,480	T22					\$ 4,534,268		\$ 4,534,268
Subtotal (Transit Improvements)			\$ 18,800,000	\$ 8,800,000	\$ 10,204,480						\$ 10,500,410		\$ 10,500,410
TOTAL CAPITAL COSTS/SHARES			\$ 856,550,164	\$ 116,644,830	\$ 135,261,345	Grand Totals by year		\$ 2,221,943		\$ 11,308,583			\$ 123,502,823

Footnote #	Project #	
(3)	On-Site FO1	\$5,424,459 of EDA Grant Numbers 07-49-04072 (\$3,215,247), 07-49-03853.01 (\$1,200,000) and 07-49-03853.02 (\$1,009,212) apply to these improvements.
(4)	On-Site FO3	\$4,818,188 of EDA Grant Number 07-49-03853.02 and \$1,400,000 from Revenue Bond apply to these improvements - FORA Development Obligation is met.
(5)	On-Site FO10	\$1,220,474 of EDA Grant No. 07-49-04072.03 applies to this improvement - FORA Development Obligation is met.