

**RECORDING REQUESTED BY:**

Chicago Title Company

Escrow No.: 10-52504970-KV

Locate No.: CACTI7727-7727-4525-0052504970

Title No.: 10-52504970

**AND WHEN RECORDED MAIL TO**

Kutak Rock LLP

Attn: George Schlossberg, Esq.

1101 Connecticut Ave NW Suite 1000

Washington, DC 20036

Stephen L. Vagnini  
Monterey County Recorder

Recorded at the request of

**Chicago Title**

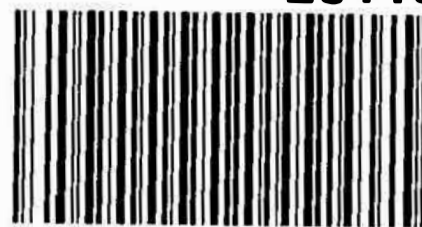
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3/02/2011

8:00:00

DOCUMENT: **2011012303**

Titles: 1/ Pages: 12



Fees....

Taxes...

Other... \_\_\_\_\_

AMT PAID

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Amendment No. 5 to the Memorandum of Agreement between the United States of America  
and the Fort Ord Reuse Authority.

*This instrument filed for record by  
CHICAGO TITLE, as an accommodation  
only. It has not been examined as to its  
execution or its effect upon the title.*

**THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION**  
(Additional recording fee applies)

1  
2  
3  
4 **AMENDMENT NO. 5**  
5 **TO THE**  
6 **MEMORANDUM OF AGREEMENT**  
7 **BETWEEN**  
8 **THE UNITED STATES OF AMERICA**  
9 **ACTING BY AND THROUGH**  
10 **THE SECRETARY OF THE ARMY**  
11 **UNITED STATES DEPARTMENT OF THE ARMY**  
12 **AND**  
13 **THE FORT ORD REUSE AUTHORITY**  
14 **FOR THE SALE OF**  
15 **PORTIONS OF THE FORMER FORT ORD**  
16 **LOCATED IN MONTEREY COUNTY, CALIFORNIA**  
17  
18

19 **THIS AMENDMENT NO. 5** (“Amendment No. 5”) to the *Memorandum of Agreement*  
20 *between the United States of America acting by and through the Secretary of the Army, United*  
21 *States Department of the Army, and the Fort Ord Reuse Authority for the Sale of Portions of the*  
22 *Former Fort Ord Located in Monterey County, California dated June 20, 2000, as amended*  
23 *(“Agreement”)* is entered into on this 3rd day of November, 2010 by and between **THE**  
24 **UNITED STATES OF AMERICA**, acting by and through the Department of the Army  
25 *(“Government”)*, and **THE FORT ORD REUSE AUTHORITY** *(“Authority”)*, recognized as  
26 the local redevelopment authority by the Office of Economic Adjustment on behalf of the  
27 Secretary of Defense. Government and Authority are sometimes referred to herein collectively as  
28 the “Parties.”  
29

30 **RECITALS**  
31

32 **WHEREAS**, the Parties did enter into the Agreement for the Economic Development  
33 Conveyance (“EDC”) to the Authority of a portion of the former Fort Ord, California pursuant to  
34 Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, as amended, and  
35 the implementing regulations of the Department of Defense (32 CFR Part 175); and  
36

37 **WHEREAS**, following the closure of the former Fort Ord, a certain parcel of land  
38 located at the former Fort Ord and described in Exhibit “A” to this Amendment No. 5  
39 *(“Property”)* was proposed for conveyance from the Government directly to a party *(“Direct*  
40 *Recipient”)* under the Government’s Public Benefit Conveyance *(“PBC”)* Authority and other  
41 federal conveyance authority; and  
42

43 **WHEREAS**, subsequent to the execution and delivery of the Agreement and in  
44 accordance with the documents included in Exhibit “B” to this Amendment No. 5, the Direct

**FORT ORD MOA AMENDMENT NO. 5**

1 Recipient rescinded its rights to acquire the Property directly from the Government in favor of  
2 acquiring the Property through the Authority under the Agreement; and

3 **WHEREAS**, Government issued the Finding of Suitability to Transfer, Former Fort Ord,  
4 California, Track 0 Plug-in Group D, Track I Plug-in East Garrison Areas 2 and 4 NE, and Track 1  
5 Plug-in Groups 1-5 Parcels (FOST 10) (August 2007), (“FOST 10”). The FOST, as applicable to  
6 the Property, set forth the basis for the Grantor’s determination that the Property is suitable for  
7 transfer.

8  
9 **WHEREAS**, the Parties believe it is desirable and necessary to include the Property  
10 within the scope of the Agreement.

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  
14 valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the  
15 Parties agree as follows:

16  
17 **AGREEMENTS**

18  
19 **Article 1. Direct Recipient’s Rescission of Rights to Direct Acquisition of Property**  
20 **from the Government.**

21  
22 The Government acknowledges and agrees that the Direct Recipients have rescinded their  
23 rights to acquire the Property from the Government as follows:

24  
25 a. In accordance with the documents included in Exhibit B to this Amendment No.5,  
26 the York School has rescinded its PBC request for Parcel L3.2, which will be transferred to the  
27 Authority under FOST 10.

28  
29 **Article 2. Amendment to Property Description, as Described in EXHIBIT A of the**  
30 **Agreement.**

31  
32 a. The Property described in Exhibit A to this Amendment No. 5 shall be added to  
33 the parcels listed in EXHIBIT A to the Agreement, and shall be considered as property  
34 transferred to the Authority as part of an economic development conveyance subject to the terms  
35 and conditions of Article 2.01 of the Agreement, No Cost Economic Development Conveyance.

36  
37 **Article 2. Survival and Benefit**

38  
39 a. Unless defined separately, the terms used in this Amendment No. 5 shall be the  
40 same as used and defined in the Agreement, as amended.

41  
42 b. Except as set forth herein, and unless modified specifically by this Amendment  
43 No. 5, the terms and conditions contained in the Agreement, as amended, shall remain binding

**FORT ORD MOA AMENDMENT NO. 5**

1 upon the Parties and their respective successors and assigns as set forth in the Agreement, as  
2 amended.

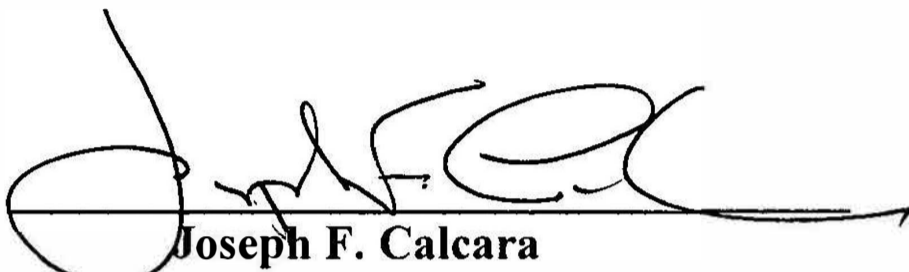
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7

**[Signature Page Follows]**

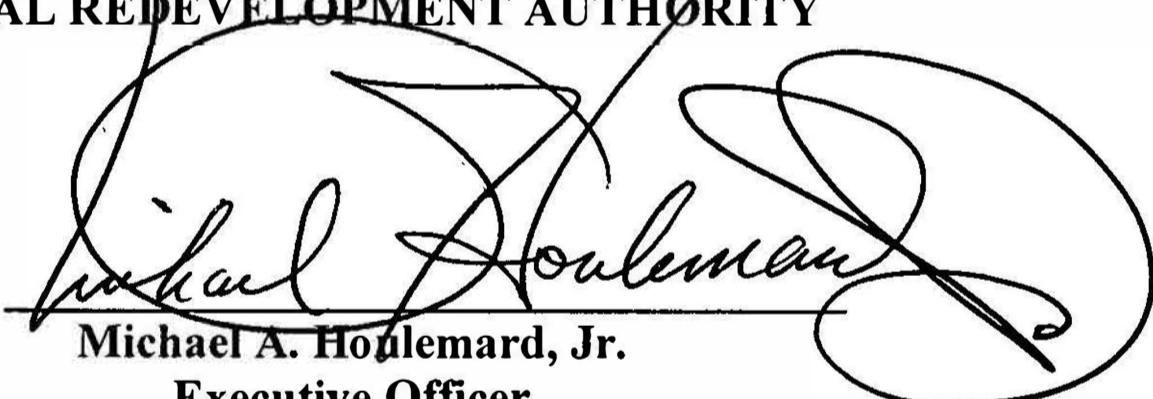
**FORT ORD MOA AMENDMENT NO. 5**

1  
2 **In Witness whereof**, the Parties, intending to be legally bound, have caused their duly  
3 authorized representatives to execute and deliver this Amendment No. 5 as of the date first above  
4 written.  
5  
6

7 **UNITED STATES OF AMERICA,**  
8 **Acting by and through the Department of the Army**  
9

10  
11  
12  
13 **By:**   
14 **Joseph F. Calcara**  
15 **Deputy Assistant Secretary of the Army**  
16 **(Installation & Housing)**  
17 **OASA (I&E)**  
18

19  
20  
21  
22 **FORT ORD REUSE AUTHORITY**  
23 **LOCAL REDEVELOPMENT AUTHORITY**  
24

25  
26  
27  
28 **By:**   
29 **Michael A. Houlemard, Jr.**  
30 **Executive Officer**

**EXHIBIT A**

**Description of Property for Parcel L3.2**

**Legal Description of a 101.19 Acre Parcel  
On the Former Fort Ord Military Reservation  
(Designated as Parcel L3.2)**

Certain real property situate in Monterey City Lands Tract No. 1, in the County of Monterey, State of California described as follows:

Parcel 2 as shown on that certain Record of Survey filed in Volume 20, Page 75 of Surveys in the office of the County Recorder of said county, more particularly described as follows:

**Beginning** at a 1 inch iron pipe with plastic plug stamped "RCE 15310" marking the most easterly corner of said Parcel 2, said point being the beginning of a non-tangent curve concave to the south having a radius of 10,020.00 feet, and to which beginning a radial bears North 11°04'42" West, said point also being on the northerly boundary of that certain 40 foot wide right-of-way of South Boundary Road as said right-of-way is shown and designated as Parcel 3 as per map filed in Volume 19, Page 122 of Surveys in the office of the County Recorder of said county; thence along said northerly boundary

- 1) Westerly, 94.05 feet through a central angle of 00°32'16"; thence
- 2) South 78°23'02" West, 964.20 feet to the beginning of a curve concave to the north having a radius of 14,980.00 feet; thence
- 3) Westerly, 168.86 feet along said curve through a central angle of 00°38'45"; thence
- 4) South 79°01'48" West, 1,738.80 feet to the beginning of a curve concave to the south having a radius of 10,020.00 feet; thence
- 5) Westerly, 328.13 feet along said curve through a central angle of 01°52'35"; thence
- 6) South 77°09'13" West, 207.00 feet to the beginning of a curve concave to the north having a radius of 560.00 feet; thence
- 7) Westerly, 472.84 feet along said curve through a central angle of 48°22'40"; thence
- 8) North 54°28'07" West, 166.62 feet to the beginning of a curve concave to the northeast having a radius of 580.00 feet; thence
- 9) Northwesterly, 70.67 feet along said curve through a central angle of 06°58'52"; thence
- 10) North 47°29'15" West, 187.31; thence
- 11) North 10°36'16" West, 1,921.46 feet to the beginning of a non-tangent curve concave to the south having a radius of 2,518.61 feet, and to which beginning a radial bears North 10°30'53" East; thence
- 12) Easterly, 700.18 feet along said curve through a central angle of 15°55'42"; thence
- 13) South 63°33'25" East, 1,184.91 feet to the beginning of a curve concave to the north having a radius of 8,046.54 feet; thence
- 14) Easterly, 2,970.74 feet along said curve through a central angle of 21°09'12" to the most easterly corner of said Parcel 2 and to the Point of Beginning.

Containing 101.19 Acres, more or less.

Dated: September 15, 2005



Bestor Engineers, Inc.  
David Nachazel  
Licensed Surveyor #7866  
State of California  
Expires: 31 December 2006



L:\5604\docs\Parcel 2 Legal.doc

BESTOR ENGINEERS, INC.

9701 BLUE LARKSPUR LANE

MONTEREY, CALIFORNIA 93940



Vol. 20 SURV. PG. 75

**SURVEYOR'S STATEMENT**

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYORS ACT AT THE REQUEST OF THE YORK SCHOOL IN MARCH 1996.

JOHN M. VAN ZANDER  
 L.S. #3794  
 STATE OF CALIFORNIA  
 R.C.E. #15310  
 EXPIRES 31 MARCH 1997



**RECORDER'S STATEMENT**

FILED FOR RECORD AT THE REQUEST OF BESTON-ENGINEERS, INC. THIS DAY OF MARCH 1996, AS SHOWN IN VOLUME 20 OF SURVEYORS MAPS AT PAGE 75, RECORDS OF MONTEREY COUNTY, CALIFORNIA.

BRUCE A. BEEVES  
 COUNTY RECORDER  
 SERIAL NO. 572766  
 FEE: \$ 2.00

**COUNTY SURVEYOR'S STATEMENT**

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 2766 OF THE LAND SURVEYORS ACT THIS 28 DAY OF FEBRUARY 1996.

FRANK J. WILSON  
 COUNTY SURVEYOR  
 STATE OF CALIFORNIA  
 EXPIRES: 6/30/99



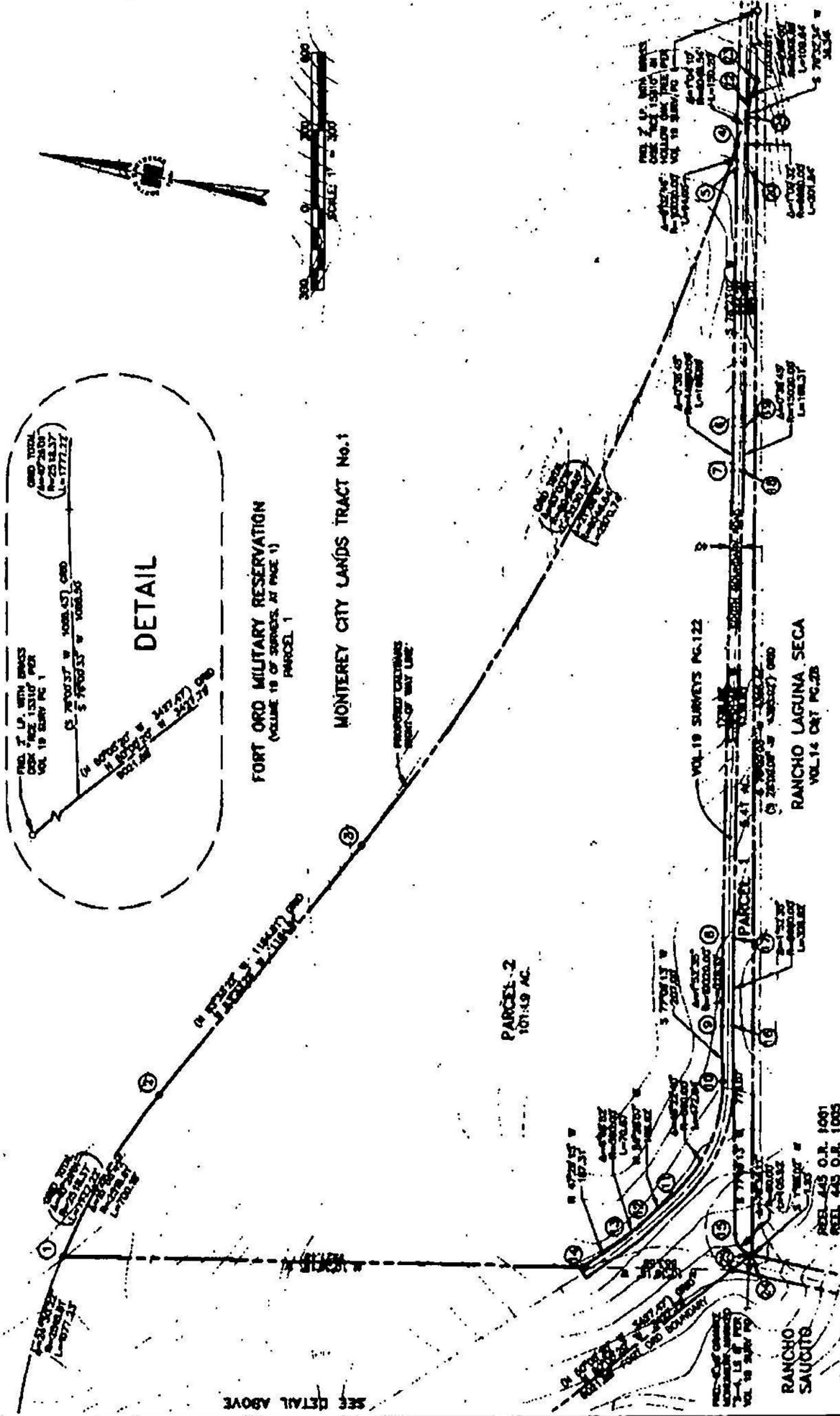
**RECORD OF SURVEY**  
 BOUNDARY OF A 101.19 & 5.41 ACRE PARCEL  
 BEING A PORTION  
 OF FORT ORD MILITARY RESERVATION

IN  
 MONTEREY CITY LANDS TRACT No. 1  
 MONTEREY COUNTY, CALIFORNIA  
 FOR THE  
 YORK SCHOOL  
 BY



**BESTON ENGINEERS, INC.**  
 CIVIL ENGINEERING - SURVEYING - LAND PLANNING  
 6701 BLUE LAGOON LANE, MONTEREY, CALIFORNIA 93940  
 SCALE: 1"=300' DATE: AUGUST 1996 NO: 5004

SHEET 1 OF 1



CORNER NUMBER	EASTING	NORTHING
1	574888.337	574888.337
2	574888.337	574888.337
3	574888.337	574888.337
4	574888.337	574888.337
5	574888.337	574888.337
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**LEGEND**

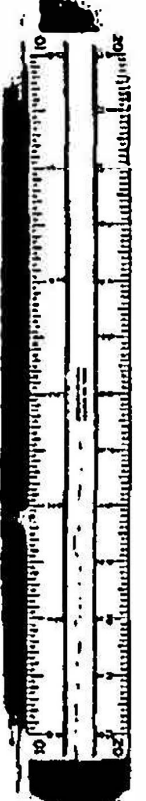
- DENOTES SET 1" BRON PIPE WITH PLASTIC PLUG "RCE 15310"
- FOUND 1 1/2" BRON PIPE WITH BRASS DISK "R.C.E. 15310", UNLESS OTHERWISE NOTED.
- DENOTES MORTISING SET.
- PROPERTY LINE
- ⊙ BOUNDARY CORNER NUMBER
- ALL DISTANCES ARE SHOWN IN FEET AND DECIMALS THEREOF.
- ( ) DENOTES RECORD INFORMATION PER LEGAL DESCRIPTION 05-MON-60-4.0/15.0 DATED MARCH 13, 1960.

**NOTE REGARDING DERIVATION OF COORDINATES:**

STATE PLANE COORDINATES BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD 83), ZONE 4 WERE DETERMINED FOR THE BOUNDARY CORNERS USING GLOBAL POSITIONING SYSTEM (GPS) "FAST STATIC" SURVEYING TECHNIQUES. THESE COORDINATES WERE THEN SCALED BY A MEAN PROJECT COMBINATION FACTOR OF .999930023 TO PRODUCE "GROUND" COORDINATES. THE COORDINATES LISTED ARE THEREFORE NOT STATE PLANE COORDINATES. TO OBTAIN GROUND DISTANCES, MULTIPLY THE GROUND DISTANCES BY THE MEAN PROJECT COMBINATION FACTOR. NO ROTATION WAS APPLIED WHEN THE STATE PLANE COORDINATES WERE SCALED. THEREFORE, THE BEARINGS SHOWN ARE GROUND BEARINGS BASED ON THE LAMBERT PROJECTION FOR CALIFORNIA STATE PLANE ZONE 4.

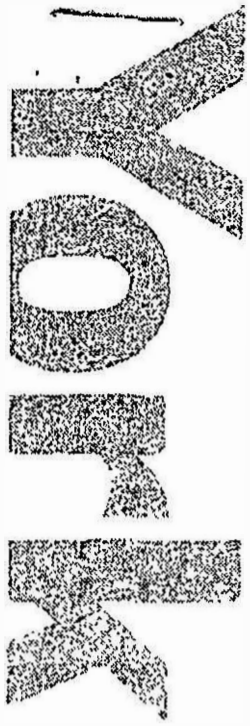
**BASES OF BEARINGS:**

THE BASES OF BEARINGS FOR THIS SURVEY IS THE GRID BEARING OF N 37°05'40" E BETWEEN CALIFORNIA HIGH PRECISION GEODETIC NETWORK (CHPN) CONTROL POINTS CA NCPN 05 13 AND 941 3600 W TUDAL. THE HORIZONTAL DATUM IS THE NORTH AMERICAN DATUM OF 1983 (NAD 83). THE GRID BEARING IS BASED ON THE LAMBERT PROJECTION FOR CALIFORNIA STATE PLANE ZONE 4. THE COORDINATES FOR THE TWO CONTROL POINTS WERE ESTABLISHED BY THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) IN CONJUNCTION WITH THE NATIONAL GEODETIC SURVEY (NAD 83) IN 1992. THE BEARINGS FOR THIS SURVEY WERE ESTABLISHED USING GLOBAL POSITIONING SYSTEM (GPS) "FAST-STATIC" SURVEYING TECHNIQUES.



**EXHIBIT B**

**York School Documents Rescinding PBC Request for Parcel L3.2**



We are a community of diverse individuals united by our quest for excellence.

Mailed certified  
to Barbara on 5.5.10  
to Gail on 5.15.10  
to see anyone  
for the address

May 5, 2010

Barbara Shawyer  
U.S. Department of Education  
Federal Real Property Assistance Program  
400 Maryland Avenue, SW, Room 2E317  
Washington, DC 20202-4553


Re: Withdrawal of The York School Application for Acquisition of Fort Ord, California,  
Parcel No. L3.2

Dear Ms. Shawyer,

Please be advised that effective the date hereof, The York School hereby withdraws the  
Applications For Public Benefit Allowance Acquisition Of Surplus Federal Real Property  
For Educational Purposes dated December 1, 1992 and September 10, 2005,  
respectively.

Sincerely yours,

The York School

By: 

Stephen Schulte  
Chair, Board of Trustees

Copy: Gail Youngblood



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

E-mail: [Barbara.Shawyer@ed.gov](mailto:Barbara.Shawyer@ed.gov)

May 10, 2010

Ms. Bonieeve Aviles  
U.S. Army Corps of Engineers  
1325 J Street  
Sacramento, CA 95814-2922

Dear Ms. Aviles:

By letter dated May 24, 1993, the U.S. Department of Education (Department) requested assignment of Parcel L3.2 of the former Fort Ord Military Reservation (Fort Ord) property in Monterey, California for conveyance to The York School (York School).

The Department was notified via letter dated May 5, 2010 that York School is withdrawing their interest in acquiring the Fort Ord property via an educational Public Benefit Conveyance. Therefore, on behalf of The York School, the Department withdraws the request for assignment of Parcel L3.2 of the former Fort Ord property.

Thank you for your assistance over the years with this project. Please feel free to contact me via e-mail or at (202) 401-0044 if there are any questions.

Sincerely,

  
Barbara L. Shawyer

Federal Real Property Assistance Program

2010/York Sch CA Army ltr withdrawing interest in Parcel L3.2 Fort Ord

**END OF DOCUMENT**

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-4500  
[www.ed.gov](http://www.ed.gov)

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*