

2018007761

Stephen L. Vagnini
Monterey County Clerk-Recorder

02/23/2018 04:01 PM

Recorded at the request of:
FORT ORD REUSE AUTHORITY

Titles: 1 Pages: 70

Fees: \$0.00
Taxes: \$0.00
AMT PAID: \$0.00



**FORT ORD REUSE AUTHORITY
OFFICIAL BUSINESS
REQUEST DOCUMENT TO BE
RECORDED
AND EXEMPT FROM RECORDING FEES
PER GOVERNMENT CODE 6103**

**Recording requested by and
when recorded mail to:**

Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
920 2nd Avenue - Suite A
Marina, CA 93933

Space Above This Line Reserved for Recorder's Use

Documentary Transfer Tax \$0-government agency, exempt from DTT
____ Computed on full value of property conveyed
____ Computed on full value less liens and encumbrances
remaining at time of sale

**AGREEMENT
(Army to the Fort Ord Reuse Authority)**

THIS AGREEMENT is made and entered into this 5th day of January, 2018 ("Effective Date") between the **UNITED STATES OF AMERICA**, acting by and through the Deputy Assistant Secretary of the Army (Installations, Housing and Partnerships), pursuant to a delegation of authority from the **SECRETARY OF THE ARMY** (the "Grantor"), and the **FORT ORD REUSE AUTHORITY** (the "Grantee").

WITNESSETH THAT:

WHEREAS, Grantor and Grantee have entered into that certain *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, as amended (the "Agreement"); and

ARMY/FORA AGREEMENT IN ACCORDANCE WITH AMENDMENT NO. 7

WHEREAS, on January 5, 2018, Grantor and Grantee entered into that certain Amendment No. 7 to the Agreement (“Amendment No. 7”); and

WHEREAS, pursuant to Amendment No. 7 to the Agreement, Grantor agreed to transfer to Grantee fifteen (15) acre feet of potable water per year for purposes of Grantee making such fifteen (15) acre feet of water per year available to the City of Marina, California (the “City”) for use at the Veterans Transition Center of Monterey County located in Marina, California, as more particularly described in Exhibit A attached hereto and incorporated by reference (the “VTCM”); and

WHEREAS, the Grantor desires to transfer and the Grantee desires to acquire such fifteen (15) acre feet of water per year for use by (i) the City of Marina, California at the VTCM housing project, and/or (ii) veteran service programs.

NOW, THEREFORE, the Grantor, for good and valuable consideration, does hereby **remit, release, and forever quitclaim** unto the Grantee, its successors and assigns, all such interest, rights, title, and claim as the Grantor has in and to the fifteen (15) acre feet per year of potable water, being a portion of its Water Rights, as hereinafter defined.

I. GENERAL PROVISIONS

A. **WATER RIGHTS.** Grantor controlled six thousand, six hundred (6,600) acre-feet of certain water rights (“Water Rights”) pursuant to that certain *County Agreement No. A-06404, between Grantor and Monterey County Water Resources Agency* (“MCWRA”), dated September 21, 1993 (“Water Agreement”), which Water Agreement is attached hereto and made a part hereof as Exhibit B. Pursuant to Section 4.i of the Water Agreement, the MCWRA agreed that Grantor could transfer Water Rights to a successor, and Section 7 of the Water Agreement provides that the Water Agreement shall be binding and shall inure to the benefit of the non-federal successors and assigns of the Grantor’s interest in the former Fort Ord.

B. **TRANSFERABILITY OF WATER RIGHTS.** As reflected in the letter attached as Exhibit C hereto, the MCWRA confirms the transferability of this portion of the Grantor’s Water Rights and consents to the permanent transfer of the fifteen (15) acre feet per year of Grantor’s Water Rights to Grantee as provided for in this Agreement for the perpetual benefit of Grantee and Grantee’s successors and assigns (“Grantee Water Rights”).

C. **REPRESENTATIONS.** Grantor represents that it controls the Grantee Water Rights and that these Grantee Water Rights are not subject to any lien, claim or encumbrance. Grantor has not alienated, encumbered, transferred, optioned, leased,

assigned, or otherwise conveyed its interest or any portion of its interest in the Grantee Water Rights to be transferred to Grantee as provided for in this Agreement.

D. SEVERABILITY. If any provision of this Agreement, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.

E. NO FORFEITURE. Nothing contained herein will result in a forfeiture or reversion of title in any respect.

F. CAPTIONS. The captions in this Agreement have been inserted solely for convenience of reference and are not a part of this Agreement and shall have no effect upon construction or interpretation.

G. RECORDATION. The parties shall cause this Agreement to be recorded in the official records of the County Recorder's Officer for the County of Monterey, California and a copy shall be provided for the official records of MCWRA.

II. LIST OF EXHIBITS

The following listed Exhibits are made a part of this Agreement:

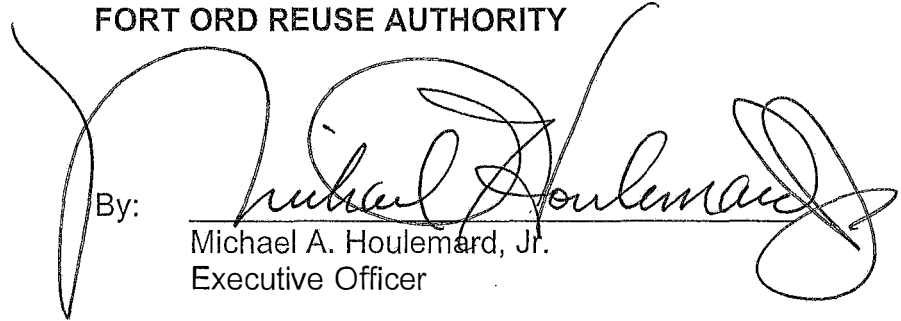
- Exhibit A: Quitclaim deed
- Exhibit B: Water Agreement
- Exhibit C: MCWRA Letter

[Signature Pages Follows]

ARMY/FORA AGREEMENT IN ACCORDANCE WITH AMENDMENT NO. 7

IN WITNESS WHEREOF, the GRANTEE, has caused this Agreement to be executed in its name by the Fort Ord Reuse Authority Executive Director as of the Effective Date set forth above.

FORT ORD REUSE AUTHORITY

By: 
Michael A. Houlemard, Jr.
Executive Officer


A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

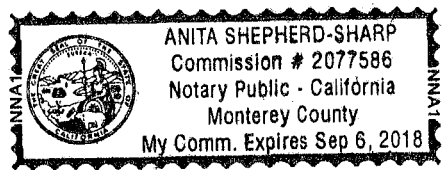
State of California)
County of Monterey)

On 12-13-17 before me, Anita Shepherd-Sharp, Notary Public (name of notary public) personally appeared Michael A. Houlemard, Jr. who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and who acknowledged to me that he executed the same in his authorized capacity, and by his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



(Seal)

ARMY/FORA AGREEMENT IN ACCORDANCE WITH AMENDMENT NO. 7

Exhibit "A"
Quitclaim Deed

ARMY/FORA AGREEMENT IN ACCORDANCE WITH AMENDMENT NO. 7

WHEN RECORDED MAIL TO:

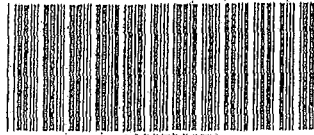
VETERANS TRANSITION CENTER
% RON RYAN
P.O. Box 1333
MARINA, CA 93933-1333

Bruce A. Reeves
Monterey County Recorder
Recorded at the request of
Filor

CRPATTI
10/19/1998
11:00:59

DOCUMENT: 9872025

Titles: 1 / Pages: 21



Fees... 68.00
Taxes...
Other... 23.00
AMT PAID 91.00

TITLE OF DOCUMENT

QUITCLAIM DEED FOR PROPERTY AT FT ORD
TRANSFERRED TO VETERANS TRANSITION CENTER
UNDER THE MCKINNEY ACT

FILED
10/19/98
RECORDS
SECTION

Contract No. 09-CA-2115

QUITCLAIM DEED

THIS INDENTURE, made this 2nd day of October, 1998, between the United States of America, acting through the Secretary of Health and Human Services, by the Chief, Real Property Branch, Division of Property Management, Program Support Center, U.S. Department of Health and Human Services, under and pursuant to the power and authority provided by the Federal Property and Administrative Services Act of 1949 (40 U.S.C. § 484[k]), as amended (hereinafter called the Act), and regulations promulgated pursuant thereto at 45 C.F.R. Part 12, and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. § 11411), as amended, and regulations promulgated thereto at 45 C.F.R. Part 12a, and the Veterans Transition Center (hereinafter called the Grantee).

WITNESSETH

WHEREAS, by letter dated January 20, 1998, from the Department of the Army, certain surplus property consisting of 10.80 acres, more or less, hereinafter described (hereinafter called the Property), was assigned to the Department of Health and Human Services (hereinafter called the Grantor) for disposal upon the recommendation of the Grantor that the Property is needed for health purposes in accordance with the provisions of the Act; and

WHEREAS, said Grantee has made a firm offer to purchase the Property under the provisions of the Act, has made application for a public benefit allowance, and proposes to use the Property for said purposes; and

WHEREAS, the Grantor has accepted the offer of the Grantee,

NOW, THEREFORE, the Grantor, for and in consideration of the foregoing and of the observance and performance by the Grantee of the covenants, considerations and restrictions hereinafter contained and other good and valuable consideration, the receipt of which is hereby acknowledged, has remised, released and quitclaimed and by these presents does remise, release and quitclaim to the Grantee, its successors and assigns, all right, title, interest, claim and demand, excepting and reserving such rights as may arise from the operation of the conditions subsequent hereinafter expressed, which the United States of America has in and to the Property, situate, lying, and being in the County of Monterey, State of California, and more particularly described as follows:

PARCEL 1

All of that certain 3.994 acre Parcel 1 shown on map filed in Volume 19 of Surveys at page 126, records of said county, described as follows:

Beginning at a 1" diameter iron pipe tagged LS 5992 at the northeasterly corner of said Parcel 1, said point being in the southerly line of 12th Street, a 60 foot wide street at this point; thence leave said street line and along the boundary line of said Parcel 1

1. S 4°37'12" W, 585.05 feet to a 3/4" line pipe tagged LS 5992, 585.05 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
2. N 85°35'35" W, 390.85 feet to a 3/4" diameter iron pipe tagged LS 5992 in the easterly line of 11th Street, a 45 foot wide street at this point; thence along said street line, non-tangentially
3. curving to the left on a circular arc of 165 foot radius (the center of the circle of which said arc is a part bears N 50°20'57" W) through an angle of 7°51'06" for a distance of 22.61 feet to a 3/4" diameter iron pipe tagged LS 5992 at a point of compound curvature; thence tangentially
4. curving to the left on a circular arc of 1015 foot radius (the center of the circle of which said arc is a part bears N 58°12'03" W) through an angle of 23°51'21" for a distance of 422.61 feet to a chiseled "V" in concrete; thence non-tangentially
5. N 8°22'24" E, 43.52 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
6. N 2°51'38" E, 86.74 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
7. N 39°05'31" E, 25.17 feet to a 3/4" diameter iron pipe tagged LS 5992 in the southerly line of said 12th Street; thence leave said line of 11th Street and along said last mentioned line
8. S 88°16'30" E, 198.89 feet to a 3/4" diameter iron pipe tagged LS 5992; thence tangentially

9. curving to the right of a circular arc of 1142 feet radius through an angle of $2^{\circ}47'53''$, for a distance of 55.77 feet to the point of beginning.

Containing an area of 3.994 acres of land, more or less.

PARCEL 2

All of that certain 1.042 acre Parcel 2 shown on map filed in Volume 19 of Surveys at page 126, records of said county, described as follows:

Beginning at a 3/4" diameter iron pipe tagged LS 5992 at the northeasterly corner of said Parcel 2, said point being in the westerly line of 3rd Avenue, a 50 foot wide road at this point; thence along said road line and the boundary of said Parcel 2

1. S $16^{\circ}45'08''$ W, 299.60 feet to a 3/4" diameter iron pipe tagged LS 5992; thence leave said road line
2. N $73^{\circ}14'52''$ W, 85.92 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
3. N $16^{\circ}14'58''$ E, 32.73 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
4. N $73^{\circ}06'18''$ W, 73.23 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
5. N $16^{\circ}40'58''$ E, 266.65 feet to a 3/4" diameter iron pipe tagged LS 5992; thence
6. S $73^{\circ}14'52''$ E, 159.76 feet to the point of beginning.

Containing an area of 1.042 acres of land, more or less.

PARCEL A

Real property located in Parcel 1, Fort Ord Military Reservation, as shown on the map filed in Volume 19 of Surveys Page 1, Monterey County Records, being more particularly described as follows:

Beginning at a found 6 inch diameter concrete monument with metal cap marked "R.E. 515" on the northerly property line of said Parcel 1 as shown on said map; thence, leaving said northerly line, S 18°28'28" E, 3288.69 Feet to the True Point of Beginning; thence the following courses:

- 1) N 52°26'36" W, 542.08 Feet; thence
- 2) S 39°30'51" W, 173.70 Feet; thence
- 3) S 50°29'09" E, 548.34 Feet; thence
- 4) N 37°33'34" E, 192.33 Feet to the True Point of Beginning.

Herein described parcel contains 2.29 Acres, more or less.

The bearing S 57°42'54" E for the northerly property line of said Parcel 1 was taken as the basis of bearings for this description.

PARCEL B

Real property located in Parcel 1, Fort Ord Military Reservation, as shown on the map filed in Volume 19 of Surveys Page 1, Monterey County Records, being more particularly described as follows:

Beginning at a found 6 inch diameter concrete monument with metal cap marked "R.E. 515" on the northerly property line of said Parcel 1 as shown on said map; thence, leaving said northerly line, S 12°51'41" E, 3538.86 Feet to the True Point of Beginning; thence the following courses:

- 1) N 37°33'24" E, 165.00 Feet; thence
- 2) N 50°29'09" W, 762.58 Feet; thence
- 3) S 78°38'18" W, 253.46 Feet; thence
- 4) S 52°26'36" E, 928.69 Feet to the True Point of Beginning.

Herein described parcel contains 3.48 Acres, more or less.

The bearing S 57°42'54" E for the northerly property line of said Parcel 1 was taken as the basis of bearings for this description.

RESERVING unto the Department of the Army, all transferable easements, interests, and access rights for all Government and non-Government-owned utility systems on the Property; and

SUBJECT to any and all other valid and existing recorded and unrecorded outstanding liens, licenses, leases, easements, and any other encumbrances made for the purpose of roads, streets, railroads, utility systems, rights-of-way, pipelines, and/or covenants, exceptions, interest, liens, reservations, and agreements of record and applicable restrictions including building heights and land use; and

The Grantee, its successors and assigns are herein advised that the Property has been assigned Department of Defense Environmental Condition Category 3. The Property has been determined to be suitable for transfer under CERCLA § 120(h)(3).

**COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA) NOTICE.**

The Department of the Army has concluded that all remedial action under CERCLA necessary to protect human health and the environment with respect to hazardous substances remaining on the Property has been taken. Pursuant to CERCLA § 120(h)(4)(D)(i) and (ii), the Department of the Army hereby warrants that any response action or corrective action that it is required to undertake after the date of this conveyance by applicable law shall be conducted by the Department of the Army. The United States of America hereby reserves a right of access to the Property as may be necessary to carry out a response action on adjoining property. The Department of the Army shall give the Grantee and its successors and assigns, reasonable notice of its response action or corrective action requiring access to the Property and the Department of the Army shall, consistent with feasible methods for complying with these actions, endeavor to minimize the disruption of use of the Property.

FEDERAL FACILITIES AGREEMENT (FFA). By accepting this Deed, the Grantee acknowledges that the Grantor has provided the Grantee with a copy of the Federal Facilities Agreement (FFA) between the Grantor and the U.S. Environmental Protection Agency (EPA); dated July 23, 1990. The Department of the Army shall provide the Grantee with a copy of any future amendments to the FFA.

a. The Department of the Army, Environmental Protection Agency (EPA), and the State of California Department of Toxic Substances Control, and their agents, employees, and contractors, shall have access to and over the Property as may be necessary for any investigation, response, or corrective action pursuant to CERCLA or the FFA found to be necessary before or after the date of this Deed on the Property or on other property comprising the Fort Ord National Priorities List (NPL) site. This reservation includes the right of access to and use of, to the extent permitted by law, any available utilities at reasonable cost to the United States of America.

b. In exercising the rights hereunder, the Department of the Army and the State of California shall give the Grantee or its successors or assigns reasonable notice of actions taken on the Property under the FFA and shall, to the extent reasonable, consistent with the FFA, and at no additional cost to the United States of America, endeavor to minimize the disruption to the Grantee's, its successors' or assigns' use of the Property.

c. The Grantee agrees that notwithstanding any other provision of this Deed, the United States of America assumes no liability to the Grantee, its successors, or assigns, or any other person should implementation of the FFA interfere with the use of the Property. The Grantee and its successors and assigns shall have no claim on account of any such interference against the United States of America or the State of California (State) or any officer, agent, employee, or contractor thereof.

d. Prior to the determination by the United States of America that all remedial action is complete under CERCLA clean-up at the Fort Ord NPL site, (1) the Grantee, its successors and assigns, shall not undertake activities on the Property that would interfere with or impede the completion of the CERCLA clean-up at the Fort Ord NPL site and shall give prior written notice to the Department of the Army, EPA, and the State of any construction, alterations, or similar work on the Property that may interfere with or impede said clean-up; and (2) the Grantee shall comply with any institutional controls established or put in place by the Department of the Army relating to the Property which are required by any record of decision (ROD) or amendments thereto, related to the Property, which ROD was issued by the Army pursuant to the National Environmental Policy Act (NEPA) or the FFA

before or after the date of this Deed. Additionally, the Grantee shall ensure that any leasehold it grants in the Property or any fee interest conveyance of any portion of the Property, all of which must have the prior consent of the Grantor, provides for legally binding compliance with the institutional controls required by any such ROD.

e. For any portion of the Property subject to a response action under the CERCLA or the FFA, prior to the conveyance of an interest therein, the Grantee shall include in all conveyances provisions for allowing the continued operation of any monitoring wells, treatment facilities, or other response activities undertaken pursuant to CERCLA or the FFA on said portion of the Property and shall notify the Department of the Army, EPA, and the State by certified mail, at least sixty (60) days prior to any such conveyance of an interest in said property, which notice shall include a description of said provisions allowing for the continued operation of any monitoring wells, treatment facilities, or other response activities undertaken pursuant to CERCLA or the FFA.

f. Prior to the determination by the Department of the Army that all remedial action under CERCLA and the FFA is complete under CERCLA and the FFA for the Fort Ord NPL site, the Grantee and all subsequent transferees of an interest in any portion of the subject Property will provide copies of the instrument evidencing such transaction to the State, EPA, and the Department of the Army by certified mail within fourteen (14) days after the effective date of such transaction.

g. The Grantee and all subsequent transferees shall include the provisions of this section in all subsequent leases, transfer, or conveyance documents relating to the Property for any portion thereof that are entered into prior to a determination by the Department of the Army that all remedial action is complete at the Fort Ord NPL site. The provisions of this section shall bind and run with the land and are forever hereinafter enforceable by the Department of the Army, EPA or the State.

NOTICE OF THE PRESENCE OF ASBESTOS

a. The Grantee, its successors and assigns are hereby informed and do acknowledge that friable and nonfriable asbestos or

asbestos-containing material (ACM) have been found on the Property, as described in the EBS and referenced asbestos surveys. A numerical condition assessment rating from 1 to 13 (with the rating of 1 indicating the highest concern) was assigned. The ACM does not present a "release or threat of release into the environment" as defined by CERCLA.

b. Building No. 2798 contains friable and nonfriable ACM in the form of pipe insulation with localized damage, both rated 5 (immediate repair, management with 1-year cycle recommended). Building No. 2990 contains nonfriable ACM, in the form of flexible HVAC tubing with a rating of 2. It is in good condition, but because the HVAC tubing could potentially release asbestos into the air, immediate repair or short-term removal is recommended. The remaining buildings contain friable and nonfriable ACM rated 6 to 13. Detailed information is contained in the EBS and referenced asbestos surveys.

c. The Grantor has agreed to convey said buildings and structures to the Grantee, prior to remediation of the asbestos hazards described above, in reliance upon the Grantee's expressed representation and promise that the Grantee will, prior to use or occupancy of said buildings, control or abate ACM in said buildings or the portions thereof containing friable asbestos, disposing of ACM in accordance with applicable laws and regulations. With respect to the friable-asbestos in said buildings and structures, the Grantee specifically agrees to be responsible for any future remediation of ACM, as identified in the EBS and referenced survey, or found within buildings or structures on the Property.

The Grantee, its successors and assign covenant and agree 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 any future remediation of asbestos or 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 or ACM on the Property, whether the Grantee, its successors or assigns have properly warned or failed to properly warn the individual(s) injured. The

Grantee assumes no liability for damages for personal injury, illness, disability, death or property damage arising from (i) any exposure or failure to comply with any legal requirements applicable to asbestos on any portion of the Property arising prior to the Grantor's conveyance of such portion of the Property to the Grantee pursuant to this Deed, or (ii) any disposal, prior to the Grantor's conveyance of the Property of any asbestos or ACM. The Grantee acknowledges that the consideration for the conveyance of the Property was negotiated based upon the Grantee's agreement to the provisions contained in this Subsection.

d. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, building construction workplaces have been associated with asbestos-related diseases. Both Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

e. The Grantee acknowledges that it has inspected the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto prior to accepting the responsibilities imposed upon the Grantee under this section. The failure of the Grantee to inspect, or to be fully informed as to the asbestos condition of all or any portion of the property offered, will not constitute grounds for any claim or demand against the United States, or any adjustment under this Deed.

f. The Grantee further agrees to indemnify and hold harmless the Grantor, 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, exposure to asbestos on any portion of the Property after this conveyance of the Property to the Grantee or any future remediation or abatement of asbestos or the need therefor. The Grantee's obligation hereunder shall apply whenever the United States incurs costs or liabilities for actions giving rise to liability under this section.

ENDANGERED SPECIES. The Grantee and its successors and assigns shall comply with the following requirements, as applicable, relative to endangered species:

a. The Property is within a Habitat Management Plan (HMP) Development Area. No resource conservation requirements are associated with the HMP for these parcels. However, small pockets of habitat may be preserved within and around the Property.

b. The Biological Opinion identified sensitive biological resources that may be salvaged for use in restoration activities within reserve areas, and allows for development of the Property.

c. The HMP does not exempt the Grantee or its successors or assigns from complying with the environmental regulations enforced by the Federal, State, or local agencies. These regulations could include obtaining the Endangered Species Act (ESA) (16 U.S.C. §§ 1531 - 1544 et seq.) Section 7 or Section 10(a) permits from the U. S. Fish and Wildlife Service (USFWS); complying with prohibitions against take of listed animals under ESA Section 9; complying with prohibitions against the removal of listed plants occurring on Federal land or the destruction of listed plants in violation of any state laws; complying with measures for conservation of state-listed threatened and endangered species and other special-status species recognized by California Department of Fish and Game (DFG) under the California ESA, or California Environmental Quality Act (CEQA); and, complying with local land use regulations and restrictions.

d. The HMP serves as a management plan for both listed and candidate species.

e. Implementation of the HMP would be considered suitable mitigation for impacts to HMP species within HMP prevalent areas and would facilitate the USFWS procedures to authorize incidental take of these species by participating entities as required under ESA Section 10. No further mitigation will be required to allow development on the Property unless species other than HMP target species are proposed for listing or are listed.

f. The HMP does not authorize incidental take of any species listed as threatened or endangered under the ESA by entities acquiring land at the former Fort Ord. The USFWS has recommended that all nonfederal entities acquiring land at former Fort Ord apply for ESA Section 10(a)(1)(B) incidental take permits for the species covered in the HMP. The definition of "take" under the ESA includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Although the USFWS will not require further mitigation from entities that are in conformance with the HMP, those entities without incidental take authorization would be in violation of the ESA if any of their actions resulted in the take of a listed animal species. To apply for a Section 10(a)(1)(B) incidental take permit, an entity must submit an application form (Form 3-200), a complete description of the activity sought to be authorized, the common and scientific names of the species sought to be covered by the permit, and a conservation plan (50 CFR 17.22[b]).

NOTICE OF THE PRESENCE OF LEAD-CONTAINING PAINT.

a. Every purchaser of any interest in residential real property (target housing) on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses particular risk to pregnant women. The seller of any interest in target housing is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six years of age resides or is expected to reside in such housing) or any zero-bedroom dwelling.

b. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is

contained in the "Community Environmental Response Facilitation Act Report, dated April 1994," which has been made available to the Grantee, and the Finding of Suitability to Transfer. No other records or reports pertaining to lead-based paint or lead-based paint hazards are available. The Grantee hereby acknowledges receipt of the information described in this paragraph and the Federally required lead-hazard pamphlet.

c. The Grantee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards as required by law or regulation.

d. The Grantee and its successors and assigns shall not permit the occupancy of any target housing without first abating and eliminating lead-based paint hazards by treating any defective lead-based paint surface in accordance with all applicable laws and regulations. The Grantee and its successors and assigns shall be responsible for any remediation of lead-based paint hazards on the Property found to be necessary after this conveyance.

NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER. The groundwater beneath the Property may be contaminated with volatile organic compounds (VOCs). The maximum estimated total VOC concentration in the groundwater beneath the Property is 5 micrograms per liter. This notice is provided pursuant to CERCLA § 120(h)(1) and (3). A pump-and-treat groundwater remediation system is in place and shown to be operating properly and successfully. No well drilling or use of groundwater will be permitted on the Property. Neither the Grantee, its successors or assigns, nor any other person or entity acting for or on behalf of the Grantee, its successors or assigns, shall interfere with any response action being taken on the Property by or on behalf of the United States of America, or interrupt, relocate or otherwise interfere with any Remediation System now or in the future located on, over, through, or across an portion of the Property.

NOTICE OF THE POTENTIAL FOR THE PRESENCE OF ORDNANCE AND EXPLOSIVES (OE). OE investigations, consisting of the Archive Search Report and Supplement No. 1 (November 1994), Data Summary and Work Plan (February 1994), OE

Contractor After Action Reports (December 1994 and November 1995), working maps, Fort Ord Training Facilities Map, and associated interviews from various ordnance-related community relations activities identified no potential OE locations within or immediately adjacent to the 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 the Grantee, its successors or 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.

AIR NAVIGATION RESTRICTION. The Monterey Airport and Marina Airport are in close proximity of the Property. The Grantee, by acceptance of this Deed, covenants and agrees for itself, its successors and assigns, and every successor in interest to the Property herein described, or any part thereof, that any construction or alteration is prohibited unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14, Code of Federal Regulations, Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

COASTAL ZONE MANAGEMENT ACT (CZMA). The Grantee recognizes that should any conflict arise between the provisions of the CZMA, 16 USC § 1451, et. Seq., and the terms of this document, the CZMA will take precedence. Notwithstanding any other provisions of this conveyance, the Grantor assumes no liability to the Grantee if implementation of the CZMA interferes with the Grantee's use of the Property. The Grantee shall have no claim on account of any such interference against the Grantor or any officer, agent, employee, or contractor thereof.

ANTI-DEFICIENCY ACT. The Army's obligation to pay or reimburse any money under this Deed is subject to the availability of appropriated funds, and nothing in this Deed shall be interpreted to require obligations or payments by the United States in violation of the Anti-Deficiency Act.

INDEMNIFICATION.

a. The Department of the Army recognizes its obligation to hold harmless, defend, and indemnify the Grantee and any successor, assignee, transferee, lender, or lessee of the Grantee or its successors and assigns, as required by Section 330 of the Department of Defense Authorization Act of 1993, as amended, and to otherwise meet its obligation under law.

b. The Grantee shall indemnify and hold the United States of America harmless from all claims, liability, loss, cost of environmental contamination, or damage arising out of or resulting from any improvements made to or work conducted on the Property conveyed herein by the Grantee, its agents, employees, or contractors, prior to the date of this Deed, except where such claims, liability, loss, cost, environmental contamination, or damage is the result of negligence, gross negligence, or willful misconduct of the Department of the Army or its employees, agents, or contractors.

IMMUNITIES. The Grantee is not entitled to any of the immunities which the United States of America may have had in using the Property while it was part of Fort Ord, California. The Grantee is not exempt from acquiring the necessary permits and authorizations from, or from meeting the requirements of, the local, county, and state jurisdictions before using the Property for any purpose. The Property, immediately after conveyance to the Grantee, will be subject to all local county, and state laws, regulations and ordinances. The Grantee shall comply with the applicable environmental laws and regulations and all other Federal, state, and local laws, regulations, and standards that are or may become applicable to the Grantee's proposed activity on the Property. The Grantee shall be solely responsible for the fulfilling, at its own cost and expense, the requirements of the new governing authorities, independent of any existing permits or United States usages.

The conditions, restrictions, and covenants set forth above are a binding servitude on the herein conveyed property and will be deemed to run with the land in perpetuity.

TO HAVE AND TO HOLD the Property subject, however, to each of the following conditions subsequent, which shall be binding upon and enforceable against the Grantee, its successors and assigns, as follows:

1. That for a period of thirty (30) years from the date hereof the Property herein conveyed will be used continuously for health purposes in accordance with the proposed program and plan of the Grantee as set forth in its application dated the 28th day of January, 1998, amended on February 19, 1998, and for no other purpose.
2. That during the aforesaid period of thirty (30) years the Grantee will not resell, lease, mortgage, or encumber or otherwise dispose of any part of the Property or interest therein except as the Grantor or its successor in function may authorize in writing.
3. Where construction or major renovation is not required or proposed, the Property must be placed into use within twelve (12) months from the date of this deed. Where construction or major renovation is contemplated at the time of transfer, the Property must be placed into use within thirty-six (36) months from the date of this deed.
4. That one year from the date hereof and annually thereafter for the aforesaid period of thirty (30) years, unless the Grantor or its successor in function directs otherwise, the Grantee will file with the Grantor or its successor in function reports on the operation and maintenance of the Property and will furnish, as requested, such other pertinent data evidencing continuous use of the Property for the purposes specified in the above-identified application.
5. That during the aforesaid period of thirty (30) years the Grantee will at all times be and remain a tax-supported organization or a nonprofit institution, organization, or association exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.
6. That, for the period during which the Property is used for the purpose for which the Federal assistance is hereby extended by the Grantor or for another purpose involving the provision of similar services or benefits, the Grantee hereby agrees that it will comply with the requirements of section 606 of the Act (40 U.S.C. § 476); the Fair Housing Act (42 U.S.C. § 3601-19) and implementing regulations; and, as applicable, Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d to d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations; Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) and implementing regulations; the prohibitions against

discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. § 6101-07) and implementing regulations; the prohibitions against otherwise qualified individuals with handicaps under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations, and all requirements imposed by or pursuant to the regulations of the Grantor (45 CFR Parts 12, 80, 84, 86, and 91) issued pursuant to said Acts and now in effect, to the end that, in accordance with said Acts and regulations, no person in the United States shall, on the ground of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the program and plan referred to in condition numbered 1 above or under any other program or activity of the Grantee, its successors or assigns, to which said Acts and regulations apply by reason of this conveyance.

In the event of a breach of any of the conditions subsequent set forth above, whether caused by the legal or other inability of the Grantee, its successors and assigns, to perform any of the obligations herein set forth, the Grantor or its successor in function will, at its option, have an immediate right of reentry thereon, and to cause all right, title, and interest in and to the Property to revert to the United States of America, and the Grantee, its successors and assigns, shall forfeit all right, title, and interest in and to the Property and to any and all of the tenements, hereditaments, and appurtenances thereunto belonging; PROVIDED, HOWEVER, that the failure of the Grantor or its successor in function to insist in any one or more instance upon complete performance of any of the said conditions subsequent shall not be construed as a waiver of or a relinquishment of the future performance of any of said conditions subsequent, but the obligations of the Grantee with respect to such future performance shall continue in full force and effect; PROVIDED FURTHER, that, in the event the Grantor or its successor in function fails to exercise its option to reenter the premises and to revert title thereto for any such breach of conditions numbered 1, 2, 3, 4, or 5 herein within thirty-one (31) years from the date of this conveyance, conditions numbered 1, 2, 3, 4, and 5 herein, together with all rights to reenter and revert title for breach of condition, will, as of that date, terminate and be extinguished; and PROVIDED FURTHER, that the expiration of conditions numbered 1, 2, 3, 4, and 5 and the right to reenter and revert title for breach thereof, will not affect the obligation of the Grantee, its successors and assigns, with respect to condition numbered 6 herein or the right reserved to the Grantor, or its successor in function, to reenter and revert title for breach of condition numbered 6.

The Grantee, by acceptance of this deed, covenants and agrees for itself, its successors and assigns, with respect to the Property -- which covenant shall attach to and run with the land -- that the Property will be used for only secular purposes.

The Grantee, by acceptance of this deed, covenants and agrees for itself, its successors and assigns, that in the event the Grantor exercises its option to revert all right, title, and interest in and to the Property to the Grantor, or the Grantee voluntarily returns title to the Property in lieu of a reverter, then the Grantee shall provide protection to and maintenance of the Property at all times until such time as the title is actually reverted or returned to and accepted by the Grantor. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the General Services Administration in FPMR 101-47.4913 (41 CFR Part 101) now in effect, a copy of which is attached to the Grantee's aforementioned application.

The Grantee, by acceptance of this deed, covenants and agrees for itself, its successors and assigns, with respect to the Property or any part thereof--which covenant shall attach to and run with the land for so long as the Property is used for a purpose for which Federal assistance is hereby extended by the Grantor or for another purpose involving the provision of similar services or benefits, and which covenant shall in any event, and without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity, for the benefit of and in favor of and enforceable by the Grantor or its successor in function against the Grantee, its successors and assigns for the Property, or any part thereof--that it will comply with the requirements of section 606 of the Act (40 U.S.C. § 476); the Fair Housing Act (42 U.S.C. § 3601-19) and implementing regulations; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d to d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations; the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. § 6101-07) and implementing regulations; and the prohibitions against otherwise qualified individuals with handicaps under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and implementing regulations; and all requirements imposed by or pursuant to the regulations of the Grantor (45 CFR Parts 12, 80, 84, 86 and 91) issued pursuant to said Acts and now in effect, to the end that, in accordance with said Acts and regulations, no person in the United States shall, on the ground of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the program and plan referred to in condition numbered 1 above or under any other program or activity of the Grantee, its successors or assigns, to which such Acts and regulations apply by reason of this conveyance.

The Grantee, by acceptance of this deed, covenants and agrees for itself, its successors and assigns, that the Property is transferred on an "as is, where is," basis, without warranty of any kind, either expressed or implied, including as to the condition of the Property. The Grantee also covenants and agrees for itself, its successors and assigns, that the Grantor has no obligation to provide any additions, improvements, or alterations to the Property.

In the event title to the Property or any part thereof is reverted to the United States of America for noncompliance or is voluntarily reconveyed in lieu of reverter, the Grantee, its successors or assigns, at the option of the Grantor, or its successor in function, shall be responsible for and shall be required to reimburse the United States of America for the decreased value thereof that is not the result of reasonable wear and tear, an act of God, or alterations and conversions made by the Grantee, its successors or assigns, to adapt the property to the health use for which the property was transferred. The United States of America shall, in addition thereto, be reimbursed for such damage, including such costs as may be incurred in recovering title to or possession of the above-described property, as it may sustain as a result of such noncompliance.

The Grantee may secure abrogation of the conditions subsequent numbered 1, 2, 3, 4, and 5 herein by:

- a. Obtaining the consent of the Grantor, or its successor in function, therefor; and
- b. Payment to the United States of America of 1/360th of the percentage public benefit allowance granted of the fair market value as of the date of such requested abrogation, exclusive of the value of improvements made by the Grantee to the extent that they add to the value of that portion of the Property to be released, for each month of the period to be abrogated.

The Grantee, by acceptance of this deed, further covenants and agrees for itself, its successors and assigns, that in the event the Property or any part thereof is, at any time within the period of thirty (30) years from the date of this conveyance, sold, leased, disposed of, or used for purposes other than those designated in condition numbered 1 above without the consent of the Grantor, or its successor in function, all revenues therefrom or the reasonable value, as determined by the Grantor, or its successor in function, of benefits to the Grantee, deriving directly or indirectly from such sale, lease, disposal, or use, shall be considered to have been received and held in trust by the Grantee for the United States of America and shall be subject to the direction and control of the Grantor, or its successor in function; but the provisions of this paragraph shall not impair or affect the rights reserved to the Grantor under any other provision of this deed. The Grantee, its successors or assigns, shall be solely liable for all costs relating to any damage to property, personal injury, illness, disability, or death, of the Grantee, or of the Grantee's successors, assigns, employees, invitees, or any other person, including members of the general public, arising from or incident to the purchase, transportation, handling, storage, use, release, or disposal or other activity causing or leading to contact of any kind whatsoever with hazardous or toxic substances, during use of the property by said Grantee, its successors or assigns.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed as of the day and year first above written.

UNITED STATES OF AMERICA
Acting through the Secretary
of Health and Human Services

By: Brian J. Rooney
Brian J. Rooney
Chief, Real Property Branch
Division of Property Management
Administrative Operations Service
Program Support Center

ACKNOWLEDGMENT

STATE OF MARYLAND)
COUNTY OF MONTGOMERY) SS

On this 2nd day of October, 1998, before me the undersigned officer, personally appeared Brian J. Rooney, known to me to be the Chief, Real Property Branch, Division of Property Management, Department of Health and Human Services, and known to me to be the person who executed the foregoing instrument on behalf of the Secretary of Health and Human Services, for the United States of America, and acknowledged to me that he subscribed to the said instrument in the name of the Secretary of Health and Human Services and on behalf of the United States of America.

Witness my hand and official seal.

(SEAL)

Lucia M. Samuel
Notary Public

My commission expires

March 10, 1999

ACCEPTANCE

The Veterans Transition Center hereby accepts this deed and thereby accepts and agrees to all the terms, covenants, conditions and restrictions contained therein.

By _____
[Handwritten Signature]

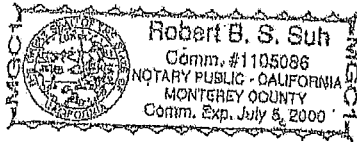
ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF MONTEREY) SS

On this th ~~17~~ day of ~~October~~ 1998, before me, Robert B. S. Suh a Notary Public in and for the City of Monterey, County of Monterey, State of California, personally appeared Thomas Griffin, known to me to be the Chairman, Board of Directors, Veterans Transitional Center of Monterey County, and known to me to be the person who executed the foregoing instrument on behalf of the Veterans Transition Center of Monterey County, and acknowledged to me that he executed the same as the free act and deed of the Board of Directors of the Veterans Transition Center of Monterey County.

Witness my hand and official seal.

(SEAL)



[Handwritten Signature]
Notary Public

My commission expires 7/6/2000

END OF DOCUMENT

CERTIFICATION OF RECORDATION

I, Patti Conkin, of the Office
of the County Recorder of the County of Monterey,
State of CA, did receive on the 19
day of October, 1998, for filing and
recordation, the following instrument: 9872025

I further certify that the same has been recorded in Book
NA, at Page NA, of the Official Records of the said
County.

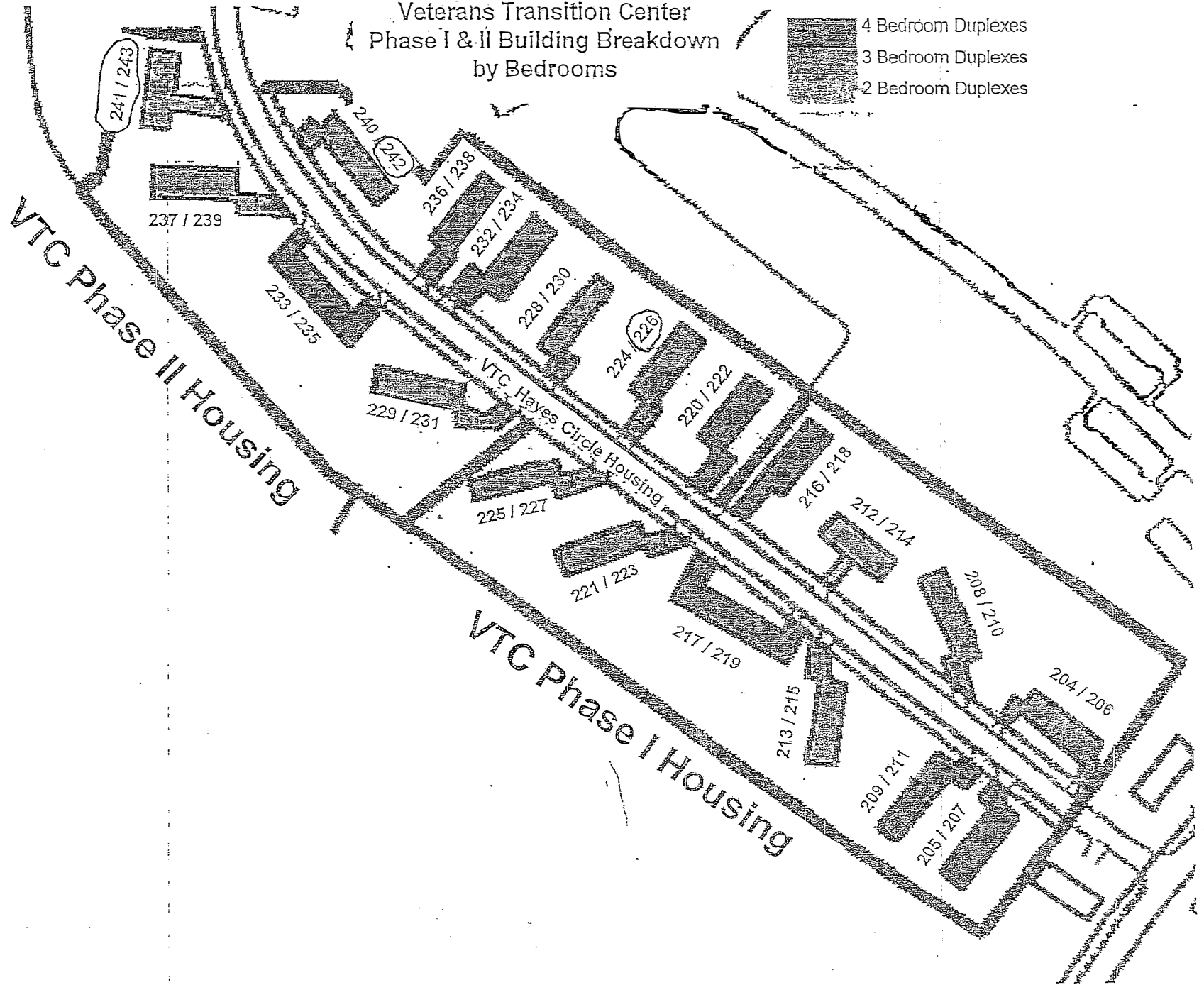


(Signature)

Senior Typist Clerk
(Title)

Veterans Transition Center
Phase I & II Building Breakdown
by Bedrooms

- 4 Bedroom Duplexes
- 3 Bedroom Duplexes
- 2 Bedroom Duplexes



Veterans Transition Center
Phase I & II Building Breakdown
by Bedrooms

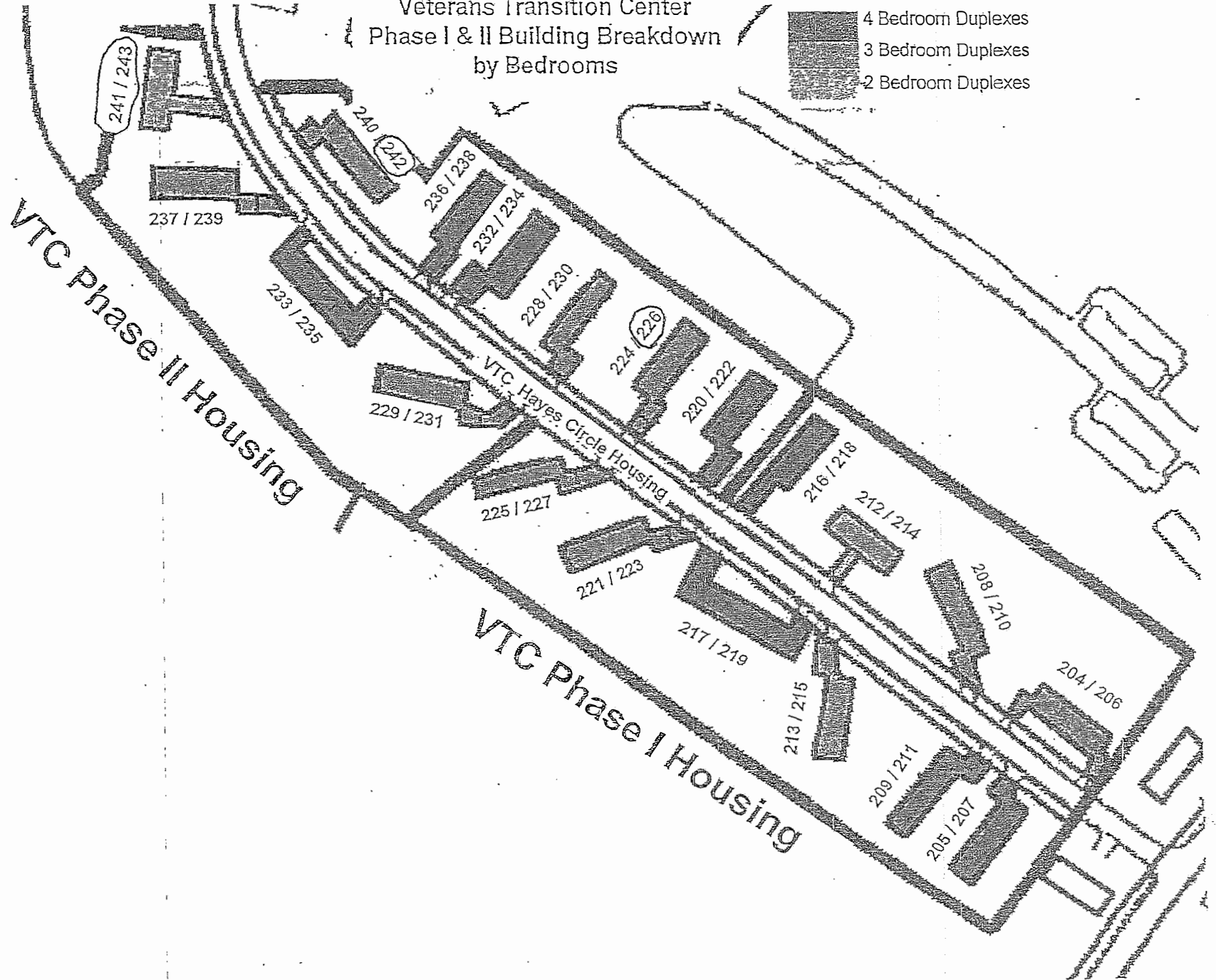
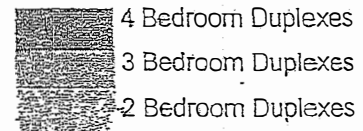


Exhibit "B"
Water Agreement

ARMY/FORA AGREEMENT IN ACCORDANCE WITH AMENDMENT NO. 7

AGREEMENT NO. A-06404
AGREEMENT BETWEEN THE UNITED STATES OF AMERICA
AND THE
MONTEREY COUNTY WATER RESOURCES AGENCY
CONCERNING
ANNEXATION OF FORT ORD INTO ZONES 2 AND 2A
OF THE
MONTEREY COUNTY WATER RESOURCES AGENCY

This Agreement is entered into this 21st day of September, 1993, by and between the Government of the United States of America ("Government"), represented by the United States Army, and the Monterey County Water Resources Agency ("MCWRA"), a political subdivision of the State of California, represented by the Monterey County Board of Supervisors.

1. Purpose and Authority:

a. Purpose: The purpose of this agreement is to provide the terms and conditions under which the Fort Ord Lands will be annexed into the Zones.

b. Authority:

(1) By California law, the MCWRA is responsible for managing the surface water and groundwater resources in the Salinas Valley and providing flood control and water conservation services throughout Monterey County. The authority for the MCWRA to enter into this agreement is cited in California Water Code, Appendix 52-43 (Appendix "A"). The MCWRA has the authority to annex the Fort Ord Lands overlying the Seaside Basin based on a Memorandum Of Agreement between the MCWRA, the MPWMD, and the Pajaro Valley Water Management Agency, dated May 10, 1993 (Appendix "B").

(2) The authority for the Government to enter into this agreement was provided in Public Law 101-510 (National Defense Authorization Act for Fiscal Year 1991), Section 2101, dated November 5, 1990 and amended by Public Law 102-190 (National Defense Authorization Act for Fiscal Years 1992 and 1993), Section 2702, dated December 5, 1991. The funding for the Government to enter into this agreement was provided by Public Law 101-519 (Military Construction Appropriations Act, 1991), dated November 5, 1990.

2. Definitions:

a. United States Army Engineer District, Sacramento, California ("Corps"): A field operating agency of the Army Corps of Engineers, a major command of the Army; the agency that will execute this agreement on behalf of the Government;

b. Fort Ord: An existing Army installation in north Monterey County currently operating under the Army Forces Command; Fort Ord will realign to an enclave under provisions of Public Law 101-510 (Defense Base Closure and Realignment Act of 1990); on October 1, 1994, this installation will no longer be known as Fort Ord and will instead be known as the Presidio of Monterey Annex under the Army Training and Doctrine Command; disposal of excess Fort Ord property pursuant to Public Law 101-510 could begin before October 1, 1994 provided the Army has issued a Record of Decision on the Environmental Impact Statement for the Disposal and Reuse of Fort Ord; parts of Fort Ord were leased on a long term basis prior to the realignment decision;

c. Presidio of Monterey Annex ("POM Annex"): The proposed residual military mission enclave remaining on Fort Ord after its realignment; this annex shall continue operations in support of the Department of Defense and other federal agencies in the Monterey Peninsula area; the boundaries of the POM Annex should be finalized by early 1994;

d. Presidio of Monterey ("POM"): An existing Army installation in Monterey County operating under the Army Forces Command; on October 1, 1994, will be under the Army Training and Doctrine Command; POM is the home of the Defense Language Institute; POM will also be responsible for the proposed POM Annex;

e. Reserve Center ("RC"): An existing Army Reserve Center located on 12 acres of Fort Ord not contiguous to the POM Annex; the RC will remain after the realignment of Fort Ord;

f. Fort Ord Lands: A term denoting all lands within the existing boundaries of Fort Ord including: property needed to support the Army's future mission requirements (POM Annex and RC); property under a long term lease; property awaiting disposal either in a caretaker status or under an interim lease; and property already disposed;

g. Salinas Basin: The Salinas River Groundwater Basin; the Salinas Basin generally underlies the northwestern portion of Fort Ord;

h. Seaside Basin: The Seaside Groundwater Basin; the Seaside Basin generally underlies the southwestern portion of Fort Ord;

i. Monterey Peninsula Water Management District ("MPWMD"): A California Special District created by the State Legislature in 1978 having water management authority over the Seaside Basin;

j. Project: A future, long term, reliable, potable water system for the POM Annex/RC and other areas; the Project will provide at least 6,600 acre-feet per year which will permit all Salinas Basin wells on Fort Ord Lands to be shut down except during

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

emergencies; stopping all pumping from the Salinas Basin on Fort Ord Lands is necessary to mitigate seawater intrusion; the MCWRA is currently developing such a Project to supply water to the Fort Ord Lands, Marina, Salinas, Toro Park, and perhaps other areas in north Monterey County; it is also possible that another water agency, district, utility, or purveyor could develop a smaller scale Project to supply water for just the Fort Ord Lands;

k. Project Implementation: The potable water system cited in paragraph 2.j. shall be considered "implemented" upon both the completion of construction and the delivery of potable water to POM Annex/RC from the completed water system;

l. Zones: Zones 2 and 2A of the MCWRA which are the zones of benefit for the MCWRA Nacimiento and San Antonio Dams, respectively.

3. Problem and Scope:

a. Fort Ord overlies two groundwater basins, the Salinas Basin and the Seaside Basin. See Appendix "C" for a map. Most of the installation's facilities and all of its potable wells overlie the Salinas Basin. The portion of the installation which overlies the Seaside basin has less development consisting mostly of family housing and recreational facilities. Fort Ord's only active well in the Seaside Basin is a non-potable well to irrigate the golf courses. Fort Ord's peak annual withdrawal from the Salinas basin from 1980 to 1992 was 6,600 acre-feet in 1984; and the peak withdrawal from the Seaside Basin from 1986 to 1989 was 424 acre-feet in 1989.

b. The Salinas Basin has had a problem with seawater intrusion since the 1940's. Seawater intrusion occurs when groundwater levels fall below sea level. This is caused by pumping more water out of an aquifer than is being recharged into it. Pumping by Fort Ord has contributed to this problem, but only to a limited extent as the Fort Ord pumping from the Salinas Basin from 1988 to 1992 averaged only 5,200 acre-feet per year and the estimated Salinas Basin overdraft (amount that pumping exceeds recharge) is about 50,000 acre-feet per year. Seawater intrusion has forced the abandonment of many wells along the coast, and required Fort Ord to relocate their well field inland in 1986. In contrast to the Salinas Basin, the Seaside Basin appears to be in a nearly balanced condition.

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

c. Because of the magnitude of the seawater intrusion problem, a regional solution is needed. Without a regional solution, Fort Ord's remaining potable wells will eventually become contaminated by seawater. The MCWRA is developing a Project to provide a regional water supply system. The MCWRA is also developing the Castroville Sewage Reclamation/Irrigation Project. Both of these projects are intended to mitigate the effects of seawater intrusion in the Salinas Basin.

d. As long as there is an Army enclave on Fort Ord Lands, the Army will need a reliable potable water supply. In view of the limited life of Fort Ord's remaining potable wells, annexation is prudent because it will permit access to water produced by a future MCWRA project. Additionally, annexation will facilitate the disposal and reuse of Fort Ord Lands, and enhance the market value of any property which is sold. This is because, without annexation, the existing Salinas Basin overdraft could significantly limit the water rights of Fort Ord Lands except for the POM Annex/RC.

e. There have been questions raised over Fort Ord's right to withdraw groundwater from the Salinas Basin. Fort Ord/POM Annex/RC claim certain legal rights to the use of water from the Salinas Basin due to their federal status. However, the MCWRA claims limited regulatory authority over Fort Ord/POM Annex/RC's use of Salinas Basin water with respect to withdrawals of polluted or contaminated groundwater; and the MCWRA also claims ownership rights over water used by Fort Ord/POM Annex/RC which is released into the Salinas Basin from the Nacimiento and San Antonio Dams. Annexation and the terms of this agreement will clarify the water rights of both parties.

4. Terms and Conditions:

a. Execution of this agreement, which includes the Annexation Assembly and Evaluation Report (Appendix "D"), shall be deemed to be a petition by the Government, as the present owner of all Fort Ord Lands, to permit the annexation of the Fort Ord Lands by the MCWRA into Zones 2 and 2A. The MCWRA shall thereafter promptly commence proceedings for such annexation, and will diligently and in good faith pursue such annexation proceedings to completion.

b. The parties have discussed and agreed on payment of a fee by the Government totaling \$7,400,000, as authorized by Public Law 101-510 and appropriated by Public Law 101-519. The basis for this fee is discussed in section IV.F.1. of the attached Annexation

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

Assembly and Evaluation Report. Fort Ord will be annexed into the Zones in consideration of the payment of the fee. The Government shall have no further financial responsibility or obligation of any kind to the MCWRA with respect to existing water project costs, e.g., Nacimiento and San Antonio Reservoirs. Further, the MCWRA releases the Government from any and all claims related to Fort Ord's groundwater withdrawals from the Salinas Basin prior to this agreement, and from any claims related to any Government action that may have caused or contributed to seawater intrusion in the Salinas Basin.

c. After execution of this agreement and until Project Implementation, Fort Ord/POM Annex/RC may withdraw a maximum of 6,600 acre-feet of water per year from the Salinas Basin, provided no more than 5,200 acre-feet per year are withdrawn from the 180-foot aquifer and 400-foot aquifer. The 6,600 and 5,200 acre-feet thresholds correspond to the annual peak (1984) and recent average (1988-1992) amounts of potable water Fort Ord has withdrawn from the Salinas Basin (does not include pumpage from the non-potable golf course well in the Seaside Basin). Groundwater withdrawals from the Salinas Basin by Fort Ord/POM Annex/RC for the purpose of environmental restoration shall not count toward the 6,600 and 5,200 acre-feet thresholds. Additionally, groundwater withdrawals from the non-potable golf course well shall not count toward the 6,600 and 5,200 acre-feet thresholds because this well is located in the Seaside Basin. The MCWRA agrees not to object to any Fort Ord/POM Annex/RC withdrawal under 6,600 acre-feet per year, except in compliance with California Water Code Appendix, Chapter 52, Section 22. If the MCWRA is concerned about a withdrawal, the MCWRA will first notify the Fort Ord/POM Annex Commander. The parties agree to make every effort to first resolve seawater intrusion disputes through mutual agreement. In any event, the MCWRA, after notice from the Fort Ord/POM Annex Commander, will not object to withdrawals in support of war, national emergency, contingency operation, troop mobilization, or unexpected mission requirements, and such withdrawals shall not count toward the 6,600 and 5,200 acre-feet thresholds. The Government will develop a water conservation program at Fort Ord/POM Annex/RC and will institute, in its discretion, measures to conserve water. The Government will participate in MCWRA water conservation initiatives and programs as mutually agreed by the parties.

d. Until Project Implementation, Fort Ord/POM Annex shall have exclusive ownership and operation of potable wells #24, #29, #30, #31, #32, Jacks well, and Pilarcitos well in the Salinas Basin, and the non-potable golf course well #1 in the Seaside Basin. See Appendix "C" for the locations of these wells. Jacks well, Pilarcitos well, and well #24 are inactive; well #32 has

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

recently failed; and the rest are active. The MCWRA agrees not to object to Fort Ord/POM Annex/RC replacing any existing well or adding any new well on Fort Ord Lands subject to the conditions described in paragraph 4.c. above. Also until Project Implementation, Fort Ord/POM Annex/RC shall be the sole user of the aforementioned wells, provided that the Government, in its sole discretion, may permit the use of the Salinas Basin wells by others for use on Fort Ord Lands, or may provide water from the Salinas Basin wells to others on Fort Ord Lands in connection with any reuse plans. The Government shall retain all reasonable and necessary utilities and reserve all necessary easements to operate and maintain all Fort Ord/POM Annex/RC wells. After Project Implementation, Fort Ord/POM Annex shall retain ownership of the aforementioned wells, and the Government agrees to stop pumping from the Salinas Basin wells except for an emergency such as fire fighting or a situation as described at the end of paragraph 4.c. above. Project Implementation shall be no cause to curtail or stop pumping from any Seaside Basin well on Fort Ord Lands.

e. The Government will not pay any MCWRA assessments (such as standby charges, water delivery charges, water project assessments, etc.) until a MCWRA developed Project is implemented. This applies to not only the portions of Fort Ord retained by the Army, but also to any other portions of Fort Ord transferred to federal entities. See paragraphs 4.j.(3) and 4.j.(4) for a discussion of these future assessments.

f. The annexation into the Zones shall provide the Government with appropriate representation in Zone administration and decision making.

g. Should future litigation, regulation or other unforeseen action diminish the total water supply available to the MCWRA, the MCWRA agrees that it will consult with the Fort Ord/POM Annex Commander. Also, in such an event, the MCWRA agrees to exercise its powers in a manner such that Fort Ord/POM Annex/RC shall be no more severely affected in a proportional sense than the other members of the Zones.

h. If prior to Project Implementation, any Fort Ord/POM Annex well (including any located in the Seaside Basin) becomes contaminated with seawater, or is adversely affected by regulatory or legal action, the MCWRA shall cooperate with the Government in finding an interim water supply; shall assist the Government in any permit processes necessary to obtain such an interim water supply; and shall provide the same services to the Government as it would to any other municipal water supplier in the Zones under similar circumstances. The Government will bear the costs of obtaining

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

such an interim water supply. Such costs will not include the cost of MCWRA staff time in providing services to the Government hereunder. The MCWRA will continue to monitor the rate of seawater intrusion, and will keep the Fort Ord/POM Annex Commander informed as to: the rate of seawater intrusion; the progress of plans for its Project; and the estimated remaining life of the Fort Ord/POM Annex wells. The MCWRA shall pass to the Fort Ord/POM Annex Commander any information they may obtain related to the continuing yield of Fort Ord/POM Annex wells located in the Seaside Basin.

i. As part of the disposal of Fort Ord, the Government is considering transferring the ownership and operation of the Fort Ord wells and water distribution system to a successor water purveyor, utility, or agency. Under such a transfer, the MCWRA agrees that the Government, in its sole discretion, may transfer its applicable water rights under this agreement to the successor water purveyor, utility, or agency. The MCWRA also agrees not to object to such a successor obtaining or developing a water supply from outside the Salinas Basin for the Fort Ord Lands.

j. If the opportunity arises and it is in the Government's best interests, the Government, in its sole discretion, may participate in a Project developed by an organization other than the MCWRA. In any event, Government participation in a MCWRA developed Project would be contingent on the following:

(1) The MCWRA shall, upon Project Implementation, continue to provide water and related services to Fort Ord/POM Annex/RC and shall provide for Government representation in MCWRA decisions affecting Fort Ord/POM Annex/RC, and in MCWRA's administration of the Project.

(2) The water allocation to be made available to POM Annex/RC from the Project shall be based only on the water needed to support the Army's future, long term mission requirements, or as otherwise agreed to by the parties. By the time of Project Implementation, all excess Fort Ord Lands should have been disposed. The water allocation to be made available to the disposed property from the Project shall be an issue between these property owners and the MCWRA.

(3) The capital cost for the Project shall be distributed among all properties within the Zones in an equitable manner. The Government would favorably consider a funding plan similar to the MCWRA's proposed funding plan for the Castroville Sewage Reclamation/Irrigation project in which approximately 50 percent of the capital cost is funded by the MCWRA members receiving the water, and 50 percent is funded by other members in

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

the Zones. An acceptable funding plan will also require that the capital cost paid by each member receiving water from the Project generally be proportional to their water allocation from the system. In any funding plan, the Government will reserve the right to pay the capital cost through either periodic assessments, or by a lump sum amount. The Government does not intend to be a party to any agreement in which military appropriations fund an inequitable portion of the capital cost of the Project. The \$7,400,000 annexation fee shall not count toward the Government's share of the Project's capital cost.

(4) The MCWRA's cost to operate and maintain (O&M) the Project should be distributed on the basis of water usage or allocation. If the MCWRA proposes to distribute O&M costs on the basis of property area, then the Government only intends to pay such an assessment and any applicable standby charges on the Fort Ord Lands needed to support Army missions, i.e., POM Annex and RC. The Government will not pay O&M assessments or standby charges for any Fort Ord property in a caretaker status awaiting disposal. Any federal entities which have acquired portions of Fort Ord will not pay standby charges on property which is unsuitable for development.

(5) Prior to either the initiation or commitment of any military appropriations to the Project by the Government, the MCWRA shall complete all appropriate feasibility studies and environmental reviews. With respect to only Fort Ord Lands under Army control, participation in the Project, or any other water supply project is subject to compliance with applicable federal laws and regulations, e.g., Army Regulation 420-41 and Federal acquisition regulations; and subject to final review and approval by the Government.

(6) As Fort Ord/POM Annex/RC will, upon Project Implementation, rely on the MCWRA's ability to provide potable water, the MCWRA shall defend the rights of Fort Ord/POM Annex/RC to a water supply upon implementation of the Project as though those rights were its own.

5. Funding:

a. The Government hereby obligates, pursuant to section 2702 of Public Law 102-190, \$7,400,000 for the annexation fee, the basis of which is set forth in Appendix D, section IV.F.1. Upon completion of the annexation, the Government shall make payment to the MCWRA in the amount of \$7,400,000.

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

b. The \$7,400,000 annexation fee shall be the maximum Government payment in consideration for the annexation of the Fort Ord Lands and the execution of this agreement.

c. The parties recognize that this agreement is subject to the availability of funds provided by Congress.

6. Duration of Agreement:

a. If the Government decides to participate in a Project developed by an organization other than the MCWRA pursuant to paragraph 4.j. of this agreement, the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

b. In the event the Army ends its presence at Fort Ord, the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

c. If Fort Ord has not been annexed to the Zones by September 30, 1995, the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

d. If the MCWRA has not achieved reasonable progress by December 31, 1999, toward implementation of a MCWRA developed project; or a MCWRA developed Project has not been implemented by December 31, 1999, and the Government is not convinced that the MCWRA can achieve Project Implementation within a time frame deemed reasonable by the Government, then the MCWRA agrees to either terminate this agreement or negotiate modifications to it if so requested by the Government.

e. In the event this Agreement is terminated before the annexation has been completed, the MCWRA, in its sole discretion, may continue with the annexation; however, in such circumstance, the Government shall not make any payment for such annexation. In the event this agreement is terminated after the Fort Ord Lands have been annexed into the Zones, the Government will not demand return of the payment. In the event this agreement is terminated by the Government pursuant to any of the above conditions, the MCWRA agrees not to file any claim against the Government related to the termination.

SUBJECT: Annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency

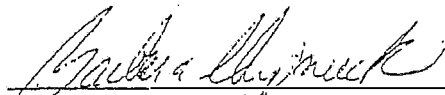
7. Binding on Successors: This agreement shall be binding upon and shall inure to the benefit of the non-federal successors and assigns of the Government's interest in the property now known and referred to as Fort Ord, California, except that this agreement shall not exempt any such non-federal successor or assign, whether of fee title or some lesser interest in the property, from any ordinance or other regulation enacted by the MCWRA or from any assessment, charge, tax, or other monetary exaction levied by the MCWRA. All such non-federal successors and assigns shall be subject to regulation and be subject to assessment, charge, tax, or other monetary exaction to the extent allowed by law at the time such enactment or levy is in effect.

FOR THE UNITED STATES
OF AMERICA

FOR THE MONTEREY COUNTY
WATER RESOURCES AGENCY



Acting Assistant Secretary
of the Army for Installations,
Logistics and Environment



Monterey County
Board of Supervisors

Date

9/10/93

Date

September 21, 1993

Appendices:

- A - California Water Code, Appendix 52-43
- B - Addendum No. 1 to the Memorandum Of Agreement Between the MCWRA, the Monterey Peninsula Water Management District, and the Pajaro Valley Water Management Agency
- C - Location of the Existing Wells
- D - Annexation Assembly and Evaluation Report

§ 52-43. Annexation to zones

Sec. 43. (a) In addition, or as an alternative, to the procedures for amending zones described in Section 7, any territory in the agency lying within the watershed within which a zone is situated may be annexed to that zone pursuant to this section. Territory which is in, or annexed to, one zone may be annexed to another zone pursuant to this section.

(b) The following applies with respect to the annexation of new territory to any zone pursuant to this section:

(1) (A) A petition for annexation by election signed by 25 percent of the freeholders residing in the territory proposed to be annexed as shown by the last equalized assessment roll of the county shall be presented to the board.

(B) The petition shall designate specifically the boundaries of the territory proposed to be annexed and its assessed valuation as shown by the last equalized assessment roll and shall ask that the territory be annexed to the zone. The petition shall be accompanied by a bond in the sum of not less than one hundred dollars (\$100), to be approved by the board and filed with the clerk of the board as security for the payment by the petitioners of the reasonable cost of the election on annexation, in the event that at the election less than a majority of the votes cast are in favor of annexation. The petition shall be verified by the affidavit of one of the petitioners.

(C) The petitioner shall be published by the petitioners for at least two weeks preceding its hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the agency, together with a notice stating the number of signers of the petition, the time when the petition will be presented to the board and that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers.

(D) At the time specified for the hearing, the board shall hear the petition and may adjourn the hearing from time to time. Upon final hearing of the petition, the board, if it approves the petition as originally presented or in a modified form, shall make an order describing the exterior boundaries of the territory proposed to be annexed and ordering that an election be held in such territory for the purpose of determining whether or not the territory shall be annexed to the zone. The order shall fix the day of the election, which shall be within 60 days from the date of the order, and shall show the boundaries of the territory proposed to be annexed to the zone and shall set forth the measure to be submitted to the voters of such territory and shall designate the precincts, polling places and election officers for such election and state the times between which the polls shall be open. The order shall be published pursuant to Section 6066 of the Government Code. This order shall be entered in the minutes and is conclusive evidence of a due presentation of a proper petition, and of the fact that each of the petitioners was, at the time of the signing and presentation of the petition, qualified to sign.

(E) The election shall be held and conducted as provided in Chapter 1 (commencing with section 22000) of Part 1 of Division 12 of the Elections Code and sample ballots and polling place cards shall be mailed as provided in section 10012 of the Elections Code. If a majority of the votes in the territory proposed to be annexed at an election called therein by the board for that purpose are in favor of the annexation, the clerk of the board shall make and cause to be entered in the minutes and endorsed on the petition an order approving the petition and the petition shall be filed. The entry is conclusive evidence of the fact and regularity of all prior proceedings of every kind required by law and of the facts stated in the entry. The board at its next regular meeting after the entry shall, by an order, alter the boundaries of the zone and annex to it the territory described in the petition. The order of the board is conclusive evidence of the validity of all prior proceedings leading up to the annexation and recited in the order, and from and after the order the territory is part of the zone. If, at the election, less a majority of the votes in a territory proposed to be annexed are in favor of the annexation of the territory to the zone, the signers of the petition shall, within 10 days after the canvassing of the votes of the election, pay to the board the reasonable cost of the election and, if not paid within 10 days, the board may sue on the bond to recover the cost of the election. If the result of the election is against annexation, the board shall, by order, disapprove the petition and enter the order in its minutes. No other proceeding shall be taken in relation thereto until the expiration of six months from the presentation of the petition, except to collect the costs of the election.

(2) (A) A petition for annexation without election signed by the owners of real property in the territory proposed to be annexed which real property represents at least 75 percent of the total assessed valuation of real property in the territory as shown by the last equalized county assessment roll, shall be presented to the board.

(B) The petition shall designate specifically the boundaries of the territory and the assessed valuation of real property therein as shown by the last equalized county assessment roll and shall show the amount of real property owned by each of the petitioners and its assessed valuation as shown by the last equalized county assessment roll. The petition shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners.

(C) The petition shall be published by petitioners at least two weeks preceding the hearing in a newspaper of general circulation published in the zone, if there is one, or, if not, in a newspaper of general circulation published in the agency. With the petition there shall be published a notice stating the number of signers of the petition, the time when the petition will be presented to the board and stating that all persons interested may appear and be heard. It shall not be necessary to publish the names of the signers. A printed copy of the petition and notice as so published shall be mailed pursuant to Sections 53520 to 53523, inclusive, of the Government Code.

(D) At the time designated the board shall hear the petition and any person interested, and may adjourn the hearing from time to time. Upon the hearing of the petition, the board shall determine whether or not it is in the best interests of the zone and the territory that the territory be annexed to the zone and the board may modify the boundaries of the territory proposed to be annexed as set forth in the petition by decreasing the area of the territory. If the board upon final hearing determines that it is in the best interests of the zone and of the territory proposed to be annexed that the territory be annexed, it shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition and the territory is then a part of the zone.

(3) A petition for annexation without election signed by 100 percent of the owners of real property in the territory proposed to be annexed may be presented to the board. The petition shall designate specifically the boundaries of the territory and shall ask that the territory be annexed to the zone. The petition shall be verified by the affidavit of one of the petitioners. The board shall determine, upon reviewing the petition, whether or not it is in the best interest of the zone and the territory that the territory be annexed to the zone. The board may modify the boundaries of the territory proposed to be annexed as stated in the petition by decreasing the area of the territory. If the board determines that it is in the best interest of the zone and of the territory proposed to be annexed that the territory be annexed, the board shall make an order describing the boundaries of the territory proposed to be annexed and shall alter the boundaries of the zone and annex to it the territory described in the petition, and the territory is then a part of the zone.

(4) No petition or request for annexation pursuant to paragraphs (1) to (3), inclusive, may be accepted by the board if a zone annexation petition involving any of the same territory is pending before it for annexation to the same zone.

(5) An order for annexation may be by ordinance or resolution. Whenever any new territory is annexed to a zone, the territory thereupon becomes subject to all the liabilities and entitled to all the benefits of the zone. Any order for annexation may provide for, or be made subject to, the payment of a fixed or determinable amount of money for the acquisition, transfer, use, or right of use of all or any part of the existing property, real or personal, of the zone. The board may provide that payment of the amounts shall be either: (1) in lump sums or (2) in semiannual installments with interest thereon at a rate not to exceed 12 percent over a period not to exceed 10 years beginning on July 1 following the next succeeding March 1. If the payment is in semiannual installments, the board shall provide in the ordinance that the total of each sum to be paid by each parcel shall constitute a lien on the parcel as of noon on the next succeeding March 1, the same as the lien for general agency and zone taxes; that the semiannual installments shall be paid and collected at the same time and in the same manner and by the same persons as, and together with and not separately from, general agency and zone taxes and shall be delinquent at the same time and thereafter subject to the same thereafter sell, lease, or otherwise dispose of the property in the manner prescribed by law for counties.

(Stats.1990, c. 1159 (S.B.2520), § 41.)

Historical and Statutory Notes

Derivation Former § 52-31, enacted by Stats.1947, c. 697, § 31.

A

ADDENDUM NO. 1 TO
MEMORANDUM OF AGREEMENT BETWEEN
THE MONTEREY COUNTY WATER RESOURCES AGENCY,
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT AND
THE PAJARO VALLEY WATER MANAGEMENT AGENCY

This is Addendum No. 1 to the memorandum of agreement (MOA) between and among the Monterey County Water Resources Agency (MCWRA), the Monterey Peninsula Water Management District (MPWMD) and the Pajaro Valley Water Management Agency (PVWMA), dated December 15, 1991. The date of this addendum for reference purposes is September 28, 1992.

RECITALS

This addendum to the MOA is entered into in light of the following facts:

A. MCWRA is developing a Seawater Intrusion Program (SIP) to mitigate the effects of seawater intrusion into the groundwater basin along the coast under Ft. Ord, Marina, and the Castroville area. This program has been in the planning stages for several years. As part of this program, it has been proposed that pumping from existing groundwater wells supplying Fort Ord and the Marina County Water District (MCWD) be curtailed or eliminated, the construction of additional wells in the seawater intrusion area be limited or prohibited, and a replacement potable water supply be provided to Fort Ord and the MCWD by MCWRA, from wells to be constructed in the Salinas Valley. In order to control pumping from existing wells, MCWRA may acquire the existing wells. MCWRA may at some time seek to levy assessments within the subject area, to impose charges for water provided to the subject area, and to raise revenues from within the subject area in other ways, in order to operate, maintain, and improve the SIP in that area. MCWRA decisions on whether to proceed with this project will be made in the future.

B. MPWMD has an interest in this part of the SIP, in that part of Fort Ord and adjacent areas are within MPWMD's boundaries. Nevertheless, MPWMD does not wish to participate in the SIP, and does not wish to impede its implementation.

C. The impending closure of Ft. Ord calls for additional coordination among the three parties to this MOA.

D. The Board of Directors and/or Board of Supervisors of the Monterey County Water Resources Agency has requested changes in the original MOA.

(MOA.ADD - 3/15/93)

AGREEMENTS

1. Consent to project within territory of Ft. Ord. The parties hereto agree that MCWRA may carry out the SIP within the territory presently occupied by Fort Ord and northwards along the coast, may acquire existing wells drawing water from the Salinas Valley and other property within the territory, may provide water to the territory in connection with the SIP, and may exercise any regulatory authority within that territory as may be needed in connection with the SIP and may levy assessments and impose charges in connection with the SIP for water provided within such territory, without any further compliance with the terms of the MOA, notwithstanding that any part of such territory may be located within the boundaries of MPWMD.

2. Future expansion of MPWMD boundaries. If MPWMD boundaries are expanded to include additional territory involved in the SIP, MPWMD will not object to the continued operation of the SIP in that area.

3. Coordination of programs and activities in connection with closure of Fort Ord. The MCWRA, PVWMA, and MPWMD will coordinate programs related to the closure of Fort Ord and will cooperate in the implementation of future developments within the Fort Ord area. In anticipation that a portion of the future water delivery system to the Fort Ord area will be located within the MPWMD area and that the water supply for that system will be developed from the MCWRA area which is outside of the MPWMD area, the MPWMD and the MCWRA will comply with one another's ordinances as follows:

(a) The MCWRA shall have exclusive authority to regulate water delivery systems that deliver water to the area that is both within the present Fort Ord boundaries and within the MPWMD boundaries in existence at the time of the regulation, and the MPWMD will comply with any such ordinance enacted by the MCWRA.

(b) The MPWMD shall have exclusive authority to regulate the management of the Seaside groundwater basin within the present Fort Ord boundaries, and the MCWRA will comply with any such ordinance enacted by the MPWMD.

(c) This Memorandum of Agreement does not commit the MCWRA to provide any specific quantity of water to Fort Ord or to any portion of it, nor does it commit the MCWRA to provide any water to Fort Ord from the Salinas Valley Groundwater Basin. It also does not give to another agency the authority to compel provision of water to Fort Ord.

4. Deletion of paragraph 18. Paragraph 18 is deleted from the original MOA.

(MOA.ADD - 3/15/93)

B

5. Deletion of paragraph 19. Paragraph 19 is deleted from the original MOA.

IN WITNESS WHEREOF, the parties execute this memorandum of agreement as follows:

MONTEREY COUNTY WATER RESOURCES AGENCY:

Dated: May 25, 1993 By *Anthony E. Lynch*
Chair, Board of Supervisors

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT:

Dated: 15 APRIL 1993 By *Erinette Donohue*
Chair, Board of Directors

PAJARO VALLEY WATER MANAGEMENT AGENCY:

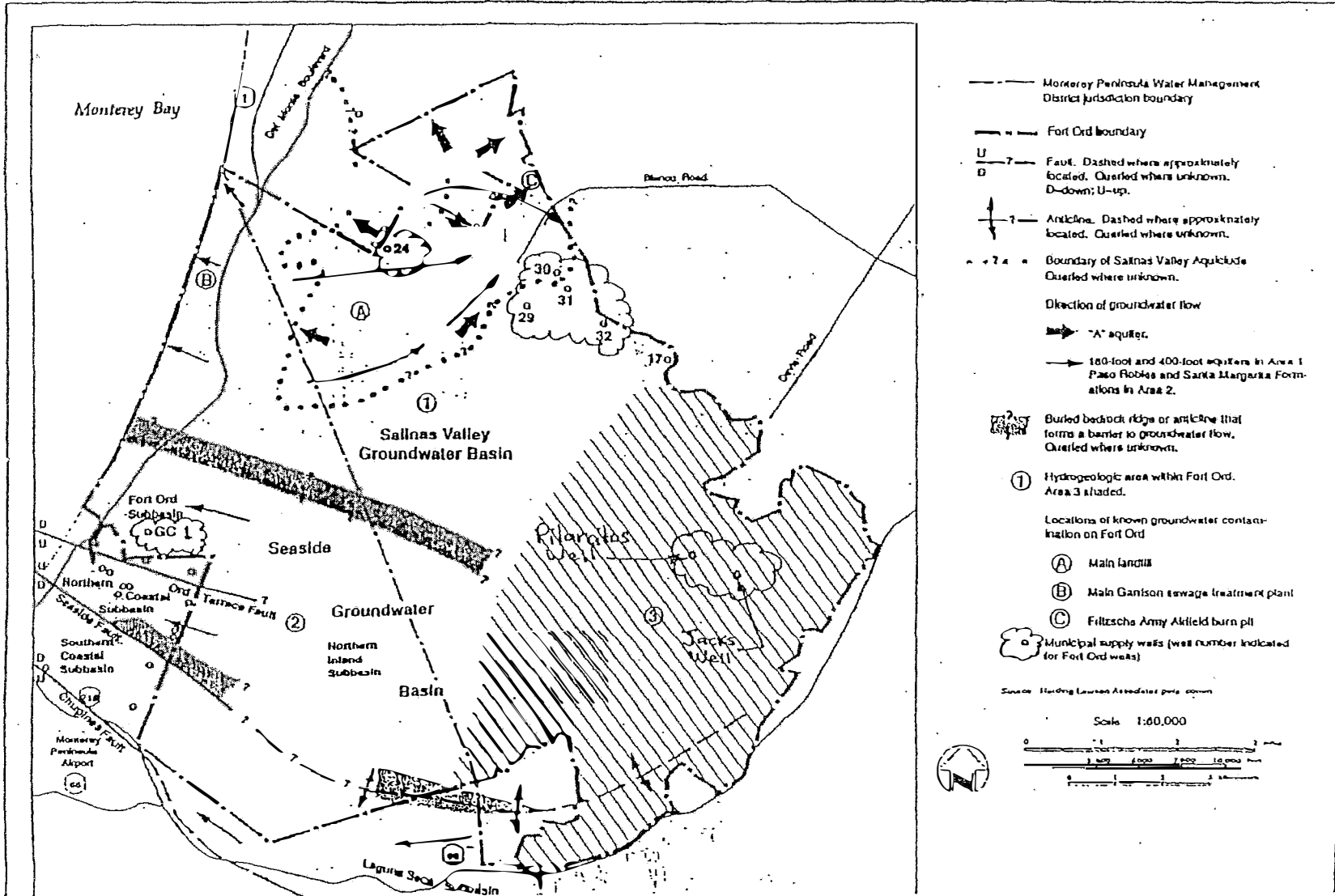
Dated: 7/14/93 By *Edward J. Kelly III*
Chair, Board of Directors

Approved as to form:
William K. Roth
Counsel for MCWRA
Dated: 5/6/93

Approved as to form:
Alvin C. Laredo
Counsel for MPWMD and PVWMA
Dated: April 7, 1993

18

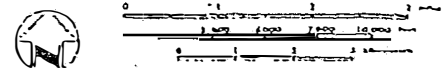
Hydrogeologic Conditions in the Fort Ord Vicinity



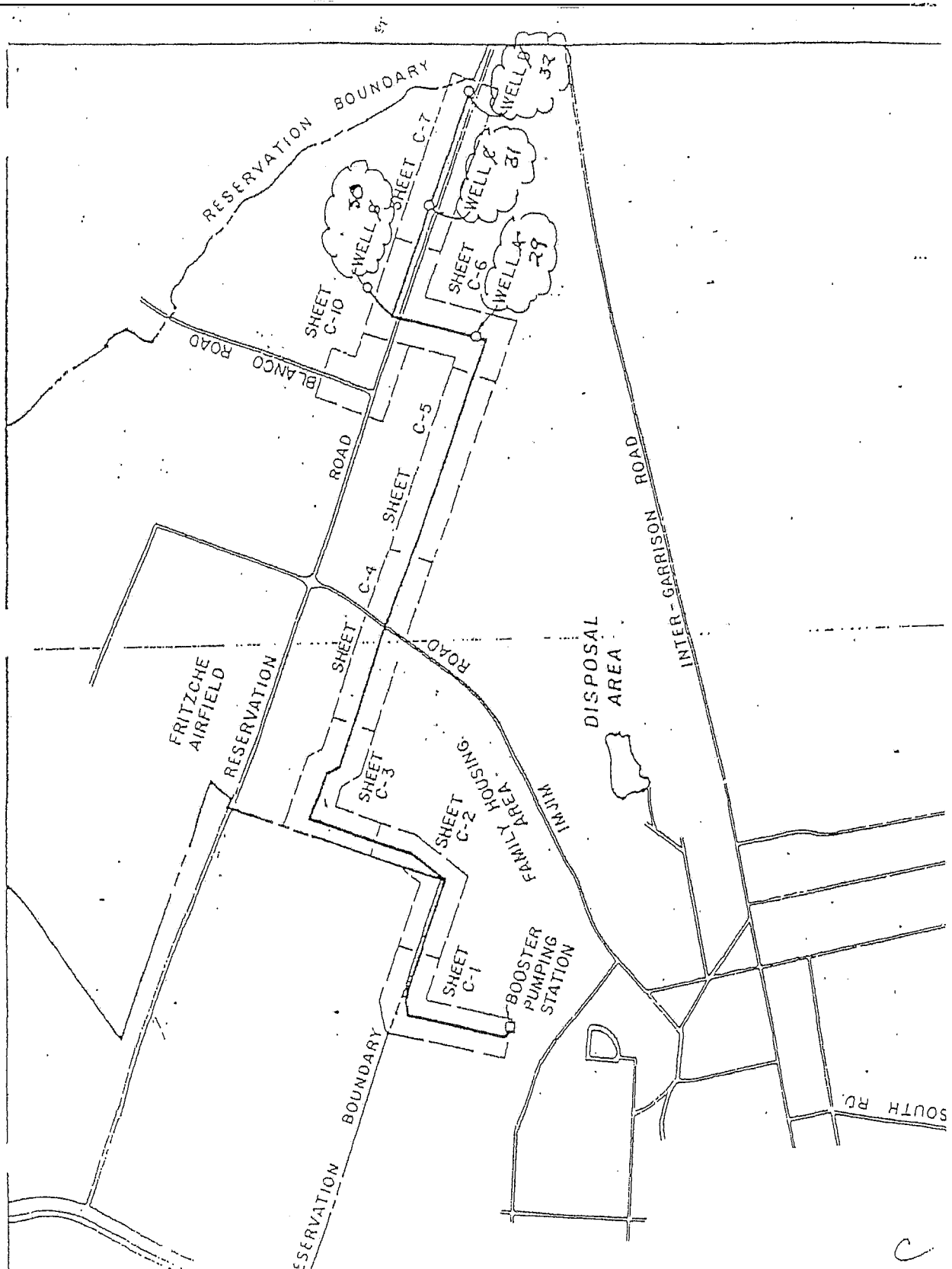
- Monterey Peninsula Water Management District jurisdiction boundary
- - - Fort Ord boundary
- U / D --- Fault. Dashed where approximately located. Querled where unknown. D-down; U-up.
- Anticline. Dashed where approximately located. Querled where unknown.
- · - · - Boundary of Salinas Valley Aquiclude Querled where unknown.
- Direction of groundwater flow
- "A" aquifer.
- 160-foot and 400-foot aquifers in Area 1. Pano Robke and Santa Margarita Formations in Area 2.
- ⊞ Buried bedrock ridge or anticline that forms a barrier to groundwater flow. Querled where unknown.
- ① Hydrogeologic area within Fort Ord. Area 3 shaded.
- Locations of known groundwater contamination on Fort Ord
- (A) Main landfill
- (B) Main Garrison sewage treatment plant
- (C) Filtzschs Army Airfield burn pit
- Municipal supply wells (well number indicated for Fort Ord wells)

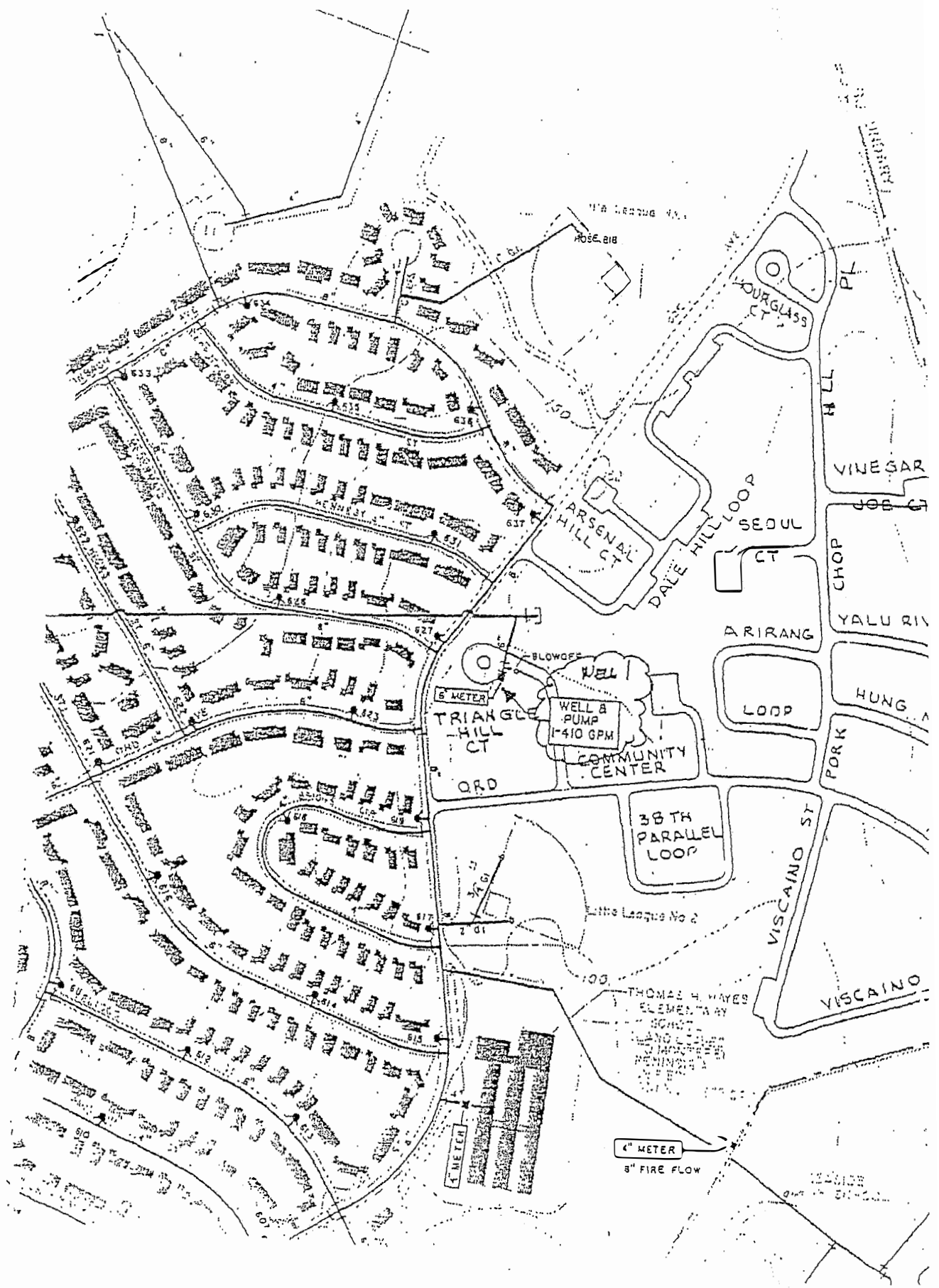
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Scale: 1:60,000



APPENDIX C





1/2" LEADUNG 44.1
ROSE 218

HOURGLASS CT

VINEGAR

JOB CT

DALE HILL LOOP

SEDUL CT

CHOP

ARIRANG

YALU RIN

LOOP

HUNG A

FORK

38TH PARALLEL LOOP

VISCANO ST

VISCANO

TRIANGLE HILL CT

WELL & PUMP 1410 GPM

COMMUNITY CENTER

38TH PARALLEL LOOP

THOMAS H. WAYES ELEMENTARY SCHOOL

6" METER
8" FIRE FLOW

6" METER

ANNEXATION ASSEMBLY AND EVALUATION REPORT
FOR THE ANNEXATION OF FORT ORD
BY THE
MONTEREY COUNTY WATER RESOURCES AGENCY
10 SEPTEMBER 1993

I. EXECUTIVE SUMMARY. The purpose of this annexation by the Monterey County Water Resources Agency (MCWRA) is to provide the basis for a long term, reliable, potable water supply to support the Army's residual mission at Fort Ord after it is realigned per the Base Closure and Realignment Act of 1990. Annexation will also facilitate the disposal and reuse of the portions of Fort Ord not needed to support the Army's residual mission. This report provides the background and justification for the annexation, which is contingent on the conditions in the accompanying Agreement. See Exhibit 1 for a regional map showing Fort Ord, and Exhibit 2 for the location of cities surrounding Fort Ord.

II. INTRODUCTION.

A. Overview of Annexation.

1. Fort Ord, like all large communities in North Monterey County, obtains all of its water supply from groundwater. From the map at Exhibit 3, it can be seen that the northwestern part of Fort Ord (Area 1) overlies part of the Salinas Valley Groundwater Basin (Salinas Basin). Within Area 1, there are three aquifers known as the 180-foot, 400-foot, and 900-foot aquifers. These aquifers are not necessarily found in every location of Area 1. Presently, Fort Ord has three active potable wells in the 180-foot and 400-foot aquifers of the Salinas Basin (wells 29, 30, and 31). By California law, the MCWRA has water management authority over the Salinas Basin. The Salinas Basin has been in an overdraft condition for many years.

2. The southwestern part of Fort Ord (Area 2 on the map) overlies the Seaside Groundwater Basin (Seaside Basin), which is divided into several subbasins due to geologic conditions. The part of Fort Ord which overlies the Seaside Basin supplies a substantial amount of recharge to this basin. Presently, Fort Ord has only one active well in the Seaside Basin to irrigate the Fort Ord golf courses (well 1). Due to occasional high salinity, water from this well is considered to be non-potable. By California law, the Monterey Peninsula Water Management District (MPWMD) has water Management authority over the Seaside Basin. In contrast to the Salinas Basin, the Seaside Basin appears to be in a nearly balanced condition.

3. In the eastern part of Fort Ord (Area 3 on the map), the boundary between the Salinas and Seaside Basins is not defined. This is not a significant issue since this area has a low

infiltration rate and subsurface permeability. As a result, the area is unsuitable for significant groundwater development, and it probably doesn't contribute a substantial amount of recharge to the western basins.

4. Pumping by Fort Ord has contributed to the Salinas Basin overdraft, but only to a limited extent as the Fort Ord withdrawals from 1988 to 1992 averaged only 5,200 acre-feet per year compared to the estimated Salinas Basin overdraft of about 50,000 acre-feet per year. The overdraft has resulted in the intrusion of seawater into the Salinas Basin which has caused the contamination of many wells along the entire coastal region, including several on Fort Ord. Although recent studies show that the rate of seawater intrusion may have slowed in the Fort Ord area, the seawater is continuing at a rapid pace in the Castroville-Salinas area several miles north of Fort Ord. Exhibit 4 shows the seawater intrusion problem. The MCWRA has requested the annexation of all of Fort Ord as part of its long term effort to halt all pumping along the Salinas Basin coastal region by providing a replacement water supply. In this manner, the seawater intrusion could be stopped and perhaps even reversed.

5. Fort Ord realized that the seawater intrusion would eventually contaminate its remaining wells, so in January 1990 the President requested Congress approve a military construction project for \$7,400,000 to "Purchase part of a regional water supply system, as the first phase of a two-phase regional water supply project to provide a dependable long-term water supply for Fort Ord and the cities of Marina and Castroville." The fiscal year 1991 Defense legislation provided a \$7,400,000 authorization and appropriation for the annexation of Fort Ord into the MCWRA. Additional funds for the Army's share of the regional water supply project (second phase) were never budgeted because the 1991 Defense Base Realignment and Closure process (BRAC 91) dictated that the 7th Light Infantry Division stationed at Fort Ord relocate to Fort Lewis, Washington. As a consequence, the Army deferred action on the annexation until the future status of Fort Ord was determined, and more information was available on the cost for the Army to participate in a regional water supply project.

6. Pursuant to BRAC 91, part of Fort Ord will be retained to support the Defense Language Institute (DLI) at the nearby Presidio of Monterey (POM). This Fort Ord enclave is designated as the POM Annex. Additionally, a 12 acre Reserve Center within Fort Ord will be retained (not contiguous to the POM Annex). As part of the BRAC 93 process, the Army recommended that the POM and POM Annex be closed, and the DLI be relocated to Fort Huachuca, Arizona. However, the 1993 Defense Base Closure and Realignment Commission's recommendations, which the President endorsed to Congress, call for the DLI to remain at the POM, and for the POM Annex to be downsized to only include housing and the commissary, child care facility, and post exchange. Congress is not expected to disapprove the Commission's recommendations.

7. With a BRAC 93 decision to retain an Army presence at Fort Ord, it is imperative that the Army obtain a reliable water supply to support the residual mission. For the Army to gain access to a regional water supply project being developed by the MCWRA, annexation is required. Annexation will also benefit the Army by facilitating the disposal and reuse of the parts of Fort Ord to be excessed. More detail on these and other benefits is provided in section IV.E. of this report.

B. Area to be Annexed. The area to be annexed is the whole of Fort Ord, California, which is made up of 28,602.84 acres. Refer to Exhibits 14 through 18 for real estate maps of the installation.

C. Purpose of the Area and Mission Objectives. Prior to BRAC 91, Fort Ord's primary purpose was to station the 7th Light Infantry Division. Subsequent to BRAC 93, the installation's primary purpose will be to provide housing and other facilities in support of the nearby POM and Naval Post Graduate School.

D. Present and Future Uses of the Property. Relocation of the 7th Light Infantry Division is in progress with the last units scheduled for departure by December 1993. Pursuant to BRAC 91, the Army is disposing of excess property in accordance with applicable law. To support the residual mission, the POM Annex is presently configured to occupy about 1,500 acres. However, under BRAC 93, the POM Annex is to be downsized by excessing facilities such as both golf courses. The Environmental Impact Statement for the disposal and reuse of Fort Ord, which is nearing completion, has identified the following possible uses for the parts of Fort Ord to be excessed: educational, office park (private and government), commercial, recreational, aviation, natural resource management, and housing.

E. Acquisition Origin of Fort Ord. The original Fort Ord reservation comprising 15,809.50 acres was purchased by the United States from the David Jacks Corporation on 4 August 1917. After 1940, an additional 12,793.34 acres were acquired. The total area is 28,602.84 acres.

F. Political Subdivision Seeking Annexation. The subdivision seeking annexation of all the lands comprising Fort Ord is the MCWRA which, per California law, is responsible for managing the surface water and groundwater resources in the Salinas Valley and providing flood control and water conservation services throughout Monterey County. MCWRA is requesting that Fort Ord be annexed into Zones 2 and 2A. The MCWRA established Zone 2 as the benefit assessment zone in connection with the construction of Nacimiento Reservoir (completed in 1957), and established Zone 2A as the benefit assessment zone in connection with the construction of San Antonio Reservoir (completed in 1967). Since the construction of these reservoirs, the MCWRA has operated a groundwater recharge program for the benefit of Zones 2 and 2A, using waters from the

two reservoirs and other programs to enhance natural percolation in the Salinas Basin. It is appropriate for Fort Ord to be annexed into Zones 2 and 2A because Fort Ord's potable water supply has historically come from the Salinas Basin. Per a Memorandum of Agreement signed in May 1993 between the MPWMD and MCWRA, the MPWMD does not object to the MCWRA annexing that part of Fort Ord overlying the Seaside basin provided that the MPWMD retains water management authority over the portion of the Seaside Basin underlying Fort Ord. Refer to Exhibit 19 for a large map showing the existing boundaries of Fort Ord and Zones 2 and 2A. Note that although a small portion of Fort Ord is currently shown to be within Zones 2 and 2A, the property is not presently annexed. Refer to Exhibit 20 for a large map showing the entire area of Zones 2 and 2A.

III. LEGAL STATUS OF THE PROPERTY

A. Title Held by the Government. The Army has a fee title interest in the property proposed for annexation. This action by the MCWRA will not affect the Army's title.

B. Degree of Legislative Jurisdiction. The degree of jurisdiction over most of the property is exclusive federal jurisdiction. Annexation will not alter this jurisdiction and it will not interfere with official Army activities or functions including those remaining after realignment and closure.

C. Applicable State Annexation Laws and Ordinances. The procedures for annexation are found in California Water Code, Appendix 52-43 (see Appendix A to the Agreement). The Army intends to petition the MCWRA Board of Supervisors for annexation pursuant to section 43.(b)(3). Pursuant to section 43.(b)(5), annexation may require a fee. See section IV.F. of this report for a discussion of the annexation fee.

D. Regulations on Annexation. The following govern the actions of the Army in annexations:

1. Army Regulation 405-25, Annexation (1 April 1974).
2. Engineering Regulation 405-1-12, Chapter 9, Federal Legislative Jurisdiction and Annexation (Change 4, 5 September 1978).

IV. POTENTIAL IMPACT OF ANNEXATION.

A. Source of Utilities. Water is the only utility that will be affected by the proposed annexation. Fort Ord now receives all of its water from wells on Fort Ord that are owned and operated by the Army. Since seawater intrusion is threatening these wells, the Army needs a long term, reliable, replacement water supply. Such

a water supply would likely come from a future MCWRA project; however, the Agreement provides the Army with the flexibility to obtain a replacement water supply from another source if the opportunity arises and it is in the Army's best interests. The replacement water supply system will provide water in bulk to the installation. The Army or a successor entity will continue to be responsible for operating and maintaining the water distribution system on Fort Ord Lands. Paragraph 4.d. of the Agreement addresses the fact that the Army will retain the necessary easements to operate and maintain Army wells.

B. Adverse Impacts on the Mission.

1. Utilities and Services. Annexation will have no impact on Fort Ord utilities and services, or the installation's plan to find a water purveyor to take over the water distribution system.

2. Taxation and Licensing. Municipalities acquire the power to tax private persons and private property by annexation. Military personnel, to some extent, and Government instrumentalities such as Post Exchanges are exempt from such taxation. The Agreement states that the Army will provide the MCWRA with \$7,400,000 in consideration for the annexation. However, the Agreement also stipulates that the Army will not pay any MCWRA assessments (including standby charges) until after the POM Annex and Reserve Center gain access to a replacement water supply provided by the MCWRA (see paragraph IV.F.2.). To the extent that federal property may be exempt from local assessments, a utility service contract in accordance with AR 420-41 between the Army and the MCWRA may require the payment of a contractual fee to replace any assessments. Such fee will be mutually agreed upon.

C. Effect on Installation Master Plans. Upon annexation, the MCWRA will acquire some control over Fort Ord's water supply. From a practical standpoint, this control should not prevent the Army from constructing any projects needed to support Fort Ord's residual mission. Additionally, the Agreement provides Fort Ord with special rights to obtain any water needed in the event of war, national emergency, contingency operation, troop mobilization, or unexpected mission requirements.

D. Annexor's Capability to Furnish Benefits.

1. The main benefit the Army expects to receive from the MCWRA is a long term, reliable water supply. Based on its charter, the MCWRA should be the most capable organization to plan, finance, construct, and operate a regional water supply system. The MCWRA's first attempt to develop a water supply system for Fort Ord and Marina was halted in 1992 due to opposition from land owners in and around the proposed Buena Vista well field (located inland from Fort Ord). This project had a capacity of 11,600 acra-feet/year.

2. An alternative project now being studied by the MCWRA consists of dispersed wells along a 20 mile stretch of the Salinas River and storing excess runoff from the Arroyo Seco River (a tributary of the Salinas River) in a shallow aquifer using percolation ponds. Water would then be pumped from the dispersed well system and from the shallow aquifer to replace the potable wells serving Fort Ord, Marina, Salinas, Toro Park, and perhaps other areas in north Monterey County. Water would also be provided to recharge the Salinas Basin near the coast to raise the groundwater level and halt (or even reverse) the seawater intrusion. The Water Transfer Project is being planned for a capacity of about 50,000 acre-feet per year. Construction completion is planned by the year 2000. The MCWRA's current estimated cost of this project is \$157 million, which equates to a capital cost of \$3,155 per acre-foot per year.

3. There is another MCWRA project to mitigate seawater intrusion which is already under design. The project will upgrade the existing regional sewage treatment plant to tertiary standards, and pipe the effluent to Castroville for crop irrigation. This project should provide about 19,500 acre-feet per year, and is estimated to cost \$71 million. When this project comes on line (maybe as early as 1996), the estimated 50,000 acre-feet per year Salinas Basin overdraft will be significantly reduced. This should extend the life of all wells near the coast, including those on Fort Ord. The MCWRA intends to use the Army's \$7.4 million annexation fee to complete design of the Castroville Project.

4. Based on the above reasons, it is concluded that the MCWRA is the most capable organization to provide a reliable water supply for the Fort Ord Lands. This is a challenging task as the MCWRA is under considerable pressure to develop a regional water supply project quickly because the wells serving over 100,000 people in the coastal region are being threatened by seawater intrusion. Because of this threat, the State Water Resources Control Board is monitoring the MCWRA's progress in this area. If the MCWRA, for whatever reason, is unable to develop a regional water supply system, then the Agreement permits the Army to obtain a long term water supply for the POM Annex and Reserve Center from another party. Additionally, even if the MCWRA is making progress in developing a regional water supply project, the Agreement provides the Army the option of obtaining a long term water supply for the POM Annex and Reserve Center from another party if it is in the Army's best interests, e.g., the other water source is less costly or available at a more advantageous time.

E. Benefits to Accrue from Annexation. Upon annexation of Fort Ord into Zones 2 and 2A, the MCWRA will not immediately provide any direct governmental service on the installation. The benefits of annexation will accrue initially on an indirect basis, and direct services will be provided later. The benefits to the Army from annexation are as follows:

1. The most important benefit of annexation is that it will allow the Fort Ord Lands to gain access to a regional water supply project being developed by the MCWRA. Fort Ord's existing wells are being threatened by seawater intrusion due to the existing Salinas Basin overdraft. The MCWRA is the most capable, and most likely entity to implement a regional water supply project to support the POM Annex and Reserve Center.

2. Another important benefit is that annexation will facilitate the disposal and reuse of the parts of Fort Ord to be excessed under base closure and realignment. This is the main reason for annexing all Fort Ord Lands at this time instead of waiting to annex just the POM Annex and Reserve Center after the MCWRA has better defined its proposed regional water supply project, i.e., all environmental permits and approvals obtained. Under the Agreement, the new owners of Fort Ord excessed property would have the right to drill and pump on their property subject to the conditions described in paragraph IV.E.3. below, and paragraph 4.c. of the Agreement. Also, property which has already been annexed by the MCWRA will be easier to dispose because of its potential access to a long term water supply project being developed by the MCWRA, and a short term water supply from Fort Ord's existing wells (see paragraph IV.E.3. below). Without annexation, the MCWRA or state regulatory agencies could object to the Army providing water to owners of excessed Fort Ord property, even if only for a short duration. Additionally, these same agencies could severely limit or control pumping by the owners of excessed Fort Ord property due to the Salinas Basin overdraft. Lastly, even if all of these new property owners wanted to be annexed, it would be an administrative burden for the MCWRA compared to annexing just Fort Ord.

3. Until the MCWRA's regional water supply project is implemented, annexation will give the Army the right to withdraw up to 6,600 acre-feet per year from the Salinas Basin underlying Fort Ord Lands, and allow the Army to allocate some of this water for reuse. The Army or its successor water purveyor, utility, or agency may also develop groundwater supplies located outside the Salinas Basin. The amount of water needed to support the Fort Ord residual mission was the subject of a June 1993 Report titled "Water Requirements at Fort Ord Under Base Realignment and Closure", which was prepared under the supervision of the Army Corps of Engineers, Institute for Water Resources (IWR). This report concluded that the POM Annex, as presently configured, would require in fiscal year 1995 1,085 acre-feet of potable water provided that additional water conservation measures are implemented. This report also estimated that 403 acre-feet of non-potable water would be used in fiscal year 1995. The non-potable water is pumped for the golf courses from a well located in the Seaside Basin. These requirements would decrease if the POM Annex is downsized in accordance with BRAC 93. Based on a POM Annex potable water requirement of 1,429 acre-feet per year (IWR estimate plus appropriate adjustments computed by Fort Ord), there could be

up to 5,171 acre-feet per year of water available for reuse and to maintain any undisposed Fort Ord Lands and facilities in a caretaker status. Note that the Agreement only allows 5,200 of the 6,600 acre-feet per year threshold to be pumped from the 180-foot and 400-foot aquifers in the Salinas Basin. Fort Ord's active potable wells draw from the 180-foot aquifer, so a new well into the 900-foot aquifer would be needed to gain access to the additional 1,400 acre-feet per year. The Agreement also states that Fort Ord groundwater withdrawals for environmental restoration will not count toward the 6,600 acre-feet per year threshold because either the withdrawals will be small, or if they are large, the water will probably be disposed in the sanitary sewer system where it will be used by the Castroville Sewage Reclamation/Irrigation Project to help reduce seawater intrusion.

4. There is concern that the Fort Ord wells could become contaminated with seawater before the MCWRA implements their regional water supply project. In this event, annexation would be a benefit to the Army because the MCWRA will provide Fort Ord with the same services as they would provide to any other municipal water supplier in the Zones under this circumstance, i.e., assistance in finding an interim water supply and in obtaining any permits. The Army would bear the cost of obtaining this interim water supply. Under the Agreement, the MCWRA will periodically provide Fort Ord with the estimated remaining life of their wells, and the progress on the MCWRA Water Transfer Project.

5. Annexation will resolve questions concerning Fort Ord's right to withdraw groundwater from the Salinas Basin. The Agreement states that in consideration of the \$7,400,000 annexation fee, the MCWRA will release the Government from any financial responsibility for existing MCWRA water projects from which Fort Ord may have benefitted (Nacimiento and San Antonio Reservoirs). Additionally, the Agreement states the MCWRA will release the Government from any claims related to seawater intrusion in the Salinas basin.

6. Under California law, annexation will provide the Fort Ord with the same representation in MCWRA matters as any other property owner in Zones 2 and 2A.

7. Another benefit of annexation is that the enclosed Agreement includes some of the conditions which must be satisfied for the Army to participate in a future MCWRA regional water supply project. The objective of these conditions is to assure that the regional water project costs assigned to the Army are equitable in comparison to the Army's allocation of water from the project. These protections are very important in view of the fact that the Army believed it was being saddled with a disproportionate cost share of the original Buena Vista project, and the fact that the POM Annex will only require a small part of the capacity of MCWRA's proposed regional water project. The Army strongly believes that part of the cost of a regional water project must be funded by all

members of Zones 2 and 2A. The water supply project is just as important to halting seawater intrusion as the Castroville Sewage Reclamation and Irrigation project, and the MCWRA plans to have 50 percent of this project funded by Zone 2 and 2A members not receiving water from the Castroville project.

F. Effect on the Budget of the Installation.

1. Annexation Fee: The Army and the MCWRA have agreed upon an annexation fee of \$7,400,000, which was authorized and appropriated by Congress in the fiscal year 1991 Defense legislation. The amount of the fee is related to the benefits provided by MCWRA's existing water projects (Nacimiento and San Antonio Dams) and water management practices which protect the yield of the Salinas Basin. It is from this basin that Fort Ord has historically obtained its potable water supply. The annexation fee is consistent with the current MCWRA Annexation Policy at Exhibit 5. There are two components of the fee - for area and water use. The area component is the area to be annexed in acres times \$277. The \$277 is the sum of the present worth capital cost of each dam divided by the acreage of its respective zone. The water use component is \$783 times the maximum amount of water to be pumped from the Salinas Basin in acre-feet per year. The \$783 is the present worth, on a acre-foot per year basis, of past operation and maintenance costs for Zones 2 and 2A. Based on information from current and former Fort Ord personnel, it appears that MCWRA's current annexation policy was in effect when the Congressional budget estimate for the annexation fee was developed in 1989. The area component of the fee was apparently computed by using 8,000 acres multiplied by \$277/acre or \$2,216,000. Since the existing Fort Ord developed area is about 5,000 acres, the 8,000 acre figure was apparently used to account for future growth. The water use component apparently was developed using the peak withdrawal of 6,600 acre-feet/year (1984) multiplied by \$783/acre-foot/year or \$5,167,000. The area and water use components total \$7,383,800, which was rounded to \$7,400,000. The Agreement stipulates that the \$7,400,000 fee will be paid to the MCWRA after completion of the annexation.

2. Annual Assessments: The Agreement stipulates that until the POM Annex and Reserve Center receive water from a MCWRA water supply project, the Army shall not pay any assessments such as standby charges, water delivery charges, or water project assessments. Standby charges, which generally fund the MCWRA administrative costs, vary from year to year and have increased over time. At present, these charges are limited to a maximum of \$15 per acre per year for each zone, per the California Water Code, Appendix 52-12. For the POM Annex and the Reserve Center, which after annexation will be in two zones (2 and 2A), this would amount to a maximum of \$30 per acre. The Army's potential water project assessments (capital costs) and water delivery charges (operation and maintenance) are discussed in Agreement paragraphs 4.j.(3) and

4.j.(4), respectively. The Agreement stipulates that the Army will not pay any assessments or charges on Fort Ord property in a caretaker status awaiting disposal. Additionally, paragraph 7 of the Agreement provides the MCWRA with expanded authority to collect assessments from Fort Ord property leased to private interests by the Army.

V. POSITION OF COUNTY AND OTHER GOVERNMENT ENTITIES ON ANNEXATION.

A. MCWRA. The MCWRA initiated the annexation of Fort Ord to help solve the Salinas Basin seawater intrusion problem, and guarantee a continuing supply of potable water for Fort Ord. Annexation is a necessary step in this process. The MCWRA is moving toward annexing all property within the Salinas Basin so they can effectively manage the aquifer. With the annexation of Fort Ord and Marina, which are both in progress, all major properties within the Salinas Basin will be annexed.

B. Other Political Subdivisions. Letters were sent by the MCWRA to other communities and agencies that share boundaries with Fort Ord or have an interest in the annexation of Fort Ord by the MCWRA. The respondents, with their comments, are listed below. A sample copy of the letter is attached (Exhibit 6), as well as copies of the responses.

1. City of Monterey, CA; voted not to oppose annexation (Exhibit 7).

2. Monterey County Local Agency Formation Commission; voted to support (Exhibit 8).

3. Marina Coast Water District (formerly known as the Marina County Water District); voted not to oppose annexation (Exhibit 9). The Marina Coast Water District is currently working with the MCWRA to be annexed into zones 2 and 2A because of their concerns over the long term reliability of their existing groundwater supply.

4. Monterey Peninsula Water Management District; approved the annexation (Exhibit 10).

5. City of Del Rey Oaks, CA; voted not to oppose annexation (Exhibit 11).

6. City of Marina, CA; initially voted to table consideration of support or opposition to the annexation. The City of Marina has subsequently agreed not to oppose annexation provided that the Agreement stipulates that Fort Ord may pump up to 6,600 acre-feet of water per year from its wells, and that water not needed for the residual mission can be provided for reuse (Exhibit 12). This provision is contained in paragraph 4.c. of the Agreement.

7. City of Seaside, CA; opposes the annexation (Exhibit 13). It is concluded that in spite of this opposing response, Fort Ord should be annexed by the MCWRA. The first reason is that annexation under the terms of the attached Agreement is in the Army's best interest. The second reason is that the Army concludes there is no reasonable basis for a conflict because the Seaside groundwater supply, which is managed by the MPWMD, will not be affected by the MCWRA's annexation of Fort Ord.

VI. CONCLUSION AND RECOMMENDATIONS. This annexation is in the best interests of the Government, and it is recommended that it be approved contingent on the provisions in the attached Agreement.

EXHIBITS:

- 1 - Regional map
- 2 - Vicinity map
- 3 - Map of the Salinas Valley Groundwater Basin
- 4 - Figures showing the seawater intrusion problem
- 5 - MCWRA annexation policy
- 6 - Typical MCWRA letter sent to local interests to obtain comments on the MCWRA's proposed annexation of Fort Ord
- 7 - Response, City of Monterey
- 8 - Response, Monterey County Local Agency Formation Commission
- 9 - Response, Marina Coast Water District
- 10 - Response, Monterey Peninsula Management District
- 11 - Response, City of Del Rey Oaks
- 12 - Response, City of Marina
- 13 - Response, City of Seaside
- 14 - Fort Ord real estate map, entire installation
- 15 - Fort Ord real estate map, segment 1A
- 16 - Fort Ord real estate map, segment 1B
- 17 - Fort Ord real estate map, segment 1C
- 18 - Fort Ord real estate map, segment 1D
- 19 - Map showing boundaries of Fort Ord and Zones 2 and 2A
- 20 - Map showing entire Zones 2 and 2A

REPORT TO THE BOARD OF SUPERVISORS OF THE
MONTEREY COUNTY WATER RESOURCES AGENCY

| SUBJECT | BOARD MEETING DATE | AGENDA NUMBER |
|---|---------------------|---------------|
| APPROVE AND AUTHORIZE THE CHAIR TO SIGN THE AGREEMENT AND ANNEKATION RESOLUTION OUTLINING THE TERMS AND CONDITIONS TO ANNEX FORT ORD INTO MONTEREY COUNTY WATER RESOURCES AGENCY ZONES 2 AND 2A | 9-21-93 10:50 AM | |
| WATER RESOURCES AGENCY | | |

RECOMMENDATION

Approve and authorize the Chair to sign the Agreement and Annexation Resolution outlining the terms and conditions to annex Fort Ord into Monterey County Water Resource Agency Zones 2 and 2A.

SUMMARY

The United States Army has presented the Monterey County Water Resources Agency (MCWRA) with a petition to be annexed into MCWRA's Zones 2 and 2A. The petition includes an Agreement covering the terms and conditions for the annexation (copy attached). On September 13, 1993 the MCWRA Board of Directors received the Agreement and voted to recommend it be approved by your Board. Since the Agreement has been signed by the authorized representative for the Army, your Board's approval and signature by your Board Chair on the Agreement and Annexation Resolution will complete the annexation action and obligate the Army to a payment of \$7.4 million to the MCWRA.

DISCUSSION

✓ On July 10, 1990 the Monterey County Board of Supervisors, acting then for the Monterey County Flood Control and Water Conservation District, authorized the Chair of the Board of Supervisors to sign a Memorandum of Agreement (MOA) that contained the terms and conditions for the annexation of Fort Ord into MCWRA Zones 2 and 2A. The MOA was never co-signed by the Army at that time because it did not address the closure of Fort Ord.

✓ On April, 1993 Army officials on Fort Ord submitted an MOA to the MCWRA for approval. This MOA was approved by the Board of Supervisors on April 20, 1993. When this version of the MOA was received by Army officials in Washington DC, it was rejected on the grounds that it did not sufficiently address the down-sizing of Fort Ord or the Installation's future reuse.

The MOA was changed to an "Agreement" and re-written by Army officials in the Pentagon. The Agreement as is now being presented preserves the key components of the earlier MOA and more completely addresses the Army's declining presence on Fort Ord. It establishes a total cap on groundwater pumping from the Salinas Groundwater Basin, quantifies the amount of water the Army will need for their residual presence and quantifies the amount of water that will be available for civilian reuse.

Approval of the Agreement and the Annexation Resolution by the Board of Supervisors at this time will complete the annexation. The Army will become contractually obligated to pay the agreed annexation fee of \$7,400,000 upon being presented with the signed Agreement and Annexation Resolution.

The Agreement consists of the Petition for Annexation and Appendices A, B, C, and D. Exhibits to Appendix D, are available upon request at the offices of the MCWRA.

OTHER AGENCY INVOLVEMENT

In August of 1992 the MCWRA sent a letter to all the Communities surrounding Fort Ord and to other agencies that might be affected by the annexation of the Fort into MCWRA Zones 2 and 2A. The letter indicated the MCWRA's intent to pursue the annexation and it asked the addressees to indicate their support or opposition to the intended action. A summary of the responses is shown on pages 10 and 11 of Appendix D, the Annexation Assembly and Evaluation Report. In addition, on September 9, 1993 the Fort Ord Reuse Group wrote a letter to the Army in support of the annexation.

FINANCING

There is no impact to the General Fund. After annexation, the MCWRA would receive \$7.4 million from FY 1991 Military Construction Army appropriated funds. The full amount is scheduled to be applied against the costs of the Castroville Reclamation and Irrigation Project.


William F. Hurst
General Manager

Before the Board of Supervisors in and for the
County of Monterey, State of California

COPY

Agreement No. A-06404 --)
Agreement Between the United States of)
America and the Monterey County Water)
Resources Agency Concerning Annexation of)
Fort Ord Into Zones 2 and 2A of the Monterey)
County Water Resources Agency, Approved;)
Chairwoman Authorized to Sign)

Upon motion of Supervisor Johnsen, seconded by Supervisor Strasser Kauffman, and carried, the Board hereby approves Agreement No. A-06404 between the United States of America and the Monterey County Water Resources Agency concerning annexation of Fort Ord into Zones 2 and 2A of the Monterey County Water Resources Agency, and authorizes the Chairwoman to sign said agreement.

PASSED AND ADOPTED this 21st day of September, 1993, by the following vote, to-wit:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen and Karas.

NOES: None.

ABSENT: None.

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page of Minute Book 67, on September 21, 1993
Dated: September 21, 1993

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California.

By Nancy Russell De:

*Before the Board of Supervisors in and for the
County of Monterey, State of California*

Resolution No. 93-387 --)
A Resolution of the Board of Supervisors)
of the Monterey County Water Resources)
Agency Making findings for the Annexation)
of Certain Territory, Known as the Ft. Ord)
Annexation, to Zones 2 and 2A of the)
Monterey County Water Resources Agency,)
Setting Forth the Conditions for Said)
Annexation, and Approving Said Annexation.)

WHEREAS,

- A. For many years, the territory known as Ft. Ord, in Monterey County, California, has obtained its potable water from the Salinas Valley Groundwater Basin.
- B. Much of the water in the Salinas Valley Groundwater Basin is derived from the Groundwater recharge program made possible through the operation of Lake Nacimiento and Lake San Antonio. The dams that impound these lakes were built and are operated by the Monterey County Water Resources Agency (MCWRA). The capital, operating and maintenance expenses of these reservoirs have been paid for by the property owners in MCWRA Zones 2 and 2A.
- C. Ft. Ord is not in Zones 2 and 2A, and has never paid any of the assessments for the reservoirs, although it has benefited from the groundwater recharge program maintained by Zones 2 and 2A.
- D. Over the years, seawater intrusion has progressively advanced into the northern portions of the Salinas Valley Groundwater Basin, rendering wells useless for potable and agricultural purposes and threatening nearby water supplies. Several wells previously used to supply water to Fort Ord have been lost to seawater intrusion.
- E. The MCWRA proposes to develop a seawater intrusion program that would replace groundwater wells in the northern portion of the Salinas Valley. The program would rely on groundwater or surface water developed in Zones 2 and 2A. The program would require that all properties to be benefited by the program be in Zones 2 and 2A.
- F. The territory of Fort Ord is not in Zone 2 and 2A. The U. S. Government, as owner of said property, desires that the territory of Fort Ord be annexed to Zones 2 and 2A, in order to compensate Zones 2 and 2A for past benefits received and to insure the territory's right to participate in the seawater

intrusion program, should a water project be built in Zones 2 and 2A for the benefit of this area.

- G. The proposed annexation is not a project within the meaning of CEQA because (1) the terms of the annexation limit the use of water on Ft. Ord to present or historical levels of water use, pending the completion of a water supply project for the benefit of this area, and (2) the annexation does not commit the MCWRA or Ft. Ord to the development of any particular water project or to any other action that will result in changes in the environment. Therefore, it can be seen with certainty that there is no possibility that the annexation will result in significant environmental effects.
- H. This annexation is conducted pursuant to the Monterey County Water Resources Agency Act, Section 43.

NOW, THEREFORE BE IT RESOLVED:

1. It is in the best interest of Zones 2 and 2A and the territory described in Exhibit A, referred to herein as the Ft. Ord annexation, that the territory described in Exhibit A be annexed to the zones.
2. The boundaries of the territory to be annexed, as set forth in Exhibit A, are appropriate and need not be modified.
3. There are no other annexation petitions pending before the Agency that involve annexation of any of the same territory to the same zones.
4. The territory described in Exhibit A is hereby annexed to Monterey County Water Resources Agency Zones 2 and 2A, subject to the conditions set forth in the annexation agreement, attached hereto as Exhibit B.. The annexation fee shall be paid as provided in Exhibit B.
5. The annexation shall take effect immediately upon the adoption of this resolution.
6. On the effective date of the annexation, the territory described in Exhibit A shall be subject to all the liabilities and entitled to all the benefits of the zone, except as otherwise provided in the annexation agreement, attached hereto as Exhibit B.

Upon motion of Supervisor Johnsen, seconded by Supervisor Karas, the foregoing resolution is adopted this 21st day of September, 1993, by the following vote, to-wit:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnson and Karas.

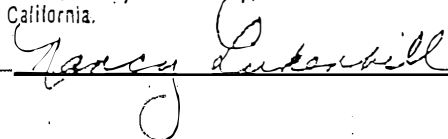
NOES: None.

ABSENT: None.

I, ERNEST K. MORISHITA, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page of Minute Book 67 on September 21, 1993
Dated: September 21, 1993

ERNEST K. MORISHITA, Clerk of the Board
of Supervisors, County of Monterey,
State of California.

By



Deputy

PETITION FOR ANNEXATION
TO ZONES 2 AND 2A
MONTEREY COUNTY WATER RESOURCE AGENCY
MONTEREY COUNTY, CALIFORNIA

AFFIDAVIT

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the attached Memorandum of Agreement with attachments, when executed by the parties thereto, constitutes a petition for the annexation of the territory of Fort Ord, in Monterey County, California, to Zones 2 and 2A of the Monterey County Water Resource Agency, Monterey County, California, by 100 per cent of the owners of the land described therein, and I am informed and believe that the information contained therein is true and correct.

Dated: 9/10/93

Michael W. Owen

Signature

Name: MICHAEL W. OWEN

Title: Acting Assistant Secretary of the Army
(Installations, Logistics and Environment)

Exhibit "C"
MCWRA Letter

ARMY/FORA AGREEMENT IN ACCORDANCE WITH AMENDMENT NO. 7

MONTEREY COUNTY

WATER RESOURCES AGENCY

PO BOX 930
SALINAS, CA 93902
(831)755-4860
FAX (831) 424-7935

DAVID E. CHARDAVOYNE
GENERAL MANAGER



STREET ADDRESS
1441 Schilling Place North Building
SALINAS, CA 93901

November 20, 2017

Michael A. Houlemard, Executive Officer
Fort Ord Reuse Authority
920 2nd Avenue, Suite A
Marina, CA 93933

Dear Mr. Houlemard:

Re: Concurrence in Permanent Transfer of 15 Acre Feet of Water Rights from the United States to the Fort Ord Reuse Authority

This correspondence communicates the Monterey County Water Resources Agency's (Agency) concurrence in the proposed permanent transfer of 15 acre-feet-per-year (ACY) of water by the United States of America acting by and through the Department of the Army (US Army) to the Fort Ord Reuse Authority (FORA) for use by (i) the City of Marina, California at the Veterans Transition Center of Monterey County (VTCM) housing project, and/or (ii) veteran service programs. Because Fort Ord Reuse Authority (FORA) is the single local redevelopment authority for the former Fort Ord as recognized by the Secretary of Defense and established by California State Law, the transfer authority and appurtenant considerations are within the prescribed duties and responsibilities of FORA. We understand that FORA plans to authorize the City of Marina to use such water rights for the VTCM housing project and related veteran service programs, and we also concur with such authorization.

Our Agency's primary and ongoing concern is that FORA's allocation of its available groundwater remains consistent with the Annexation Agreement (Agreement) between the US Army and the MCWRA. FORA has committed to following that Agreement. The Agreement between the Agency and the US Army provides the basis for groundwater allocation to the former Fort Ord. The Agreement does not provide a parcel by parcel delineation of water allocation. The Agency has relied and will continue to rely upon FORA, as part of its redevelopment responsibilities, to reallocate available water supplies to the various jurisdictions (cities, agencies and County) and coordinate those reallocations with the US Army.

Sincerely,

cc: Howard Franklin
Jesse Avila