

Stephen L. Vagnini
Monterey County Recorder
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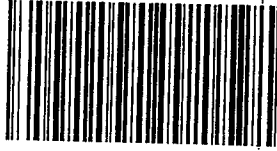
Clerk to the Board Office, 1st Floor

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**QUITCLAIM DEED FOR COUNTY OF MONTEREY, CALIFORNIA
(Former Fort Ord Parcels L20.19.1.2, E11b.6.3, E11b.7.1.2, E11b.7.2)**

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

Signed by
FOEA
Not by County
2/22/12

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

George R. Schlossberg, Esq.
Kutak Rock LLP
1101 Connecticut Avenue, NW
Suite 1000
Washington, DC 20036

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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

**QUITCLAIM DEED FOR COUNTY OF MONTEREY, CALIFORNIA
(Former Fort Ord Parcels L20.19.1.2, E11b.6.3, E11b.7.1.2, and E11b.7.2)**

THIS QUITCLAIM DEED ("Deed") is made as of the ___ day of _____, 2012, among the **FORT ORD REUSE AUTHORITY (the "Grantor")**, created under Title 7.85 of the California Government Code, Chapters 1 through 7, inclusive, commencing with Section 67650, *et seq.*, and selected provisions of the California Redevelopment Law, including Division 24 of the California Health and Safety Code, Part 1, Chapter 4.5, Article 1, commencing with Section 33492, *et seq.*, and Article 4, commencing with Section 33492.70, *et seq.*, and recognized as the Local Redevelopment Authority for the former Fort Ord, California, by the Office of Economic Adjustment on behalf of the Secretary of Defense, and the **COUNTY OF MONTEREY (the "Grantee")**.

WHEREAS, The United States of America ("Government") was the owner of certain real property, improvements and other rights appurtenant thereto together with all personal property thereon, located on the former Fort Ord, Monterey County, California, which was utilized as a military installation;

WHEREAS, The military installation at Fort Ord was closed pursuant to and in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (Public Law 101-510; 10 U.S.C. § 2687 note);

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1 **WHEREAS**, the **Grantor** and the Government entered into the *Memorandum of Agreement*
2 *Between the United States of America Acting By and Through the Secretary of the Army, United*
3 *States Department of the Army and the Fort Ord Reuse Authority For the Sale of Portions of the*
4 *former Fort Ord, California*, dated the 20th day of June 2000, as amended (“MOA”), which sets
5 forth the specific terms and conditions of the sale of portions of the former Fort Ord located in
6 Monterey County, California;
7

8 **WHEREAS**, pursuant to the MOA, the Government conveyed to **Grantor** certain former
9 Fort Ord property, a portion of which included Parcels L20.2.2, L20.2.3.1, L20.19.1.2, E11b.6.3,
10 E11b.7.1.2, and E11b.7.2 by quitclaim deed dated June 8, 2009 and recorded in the County of
11 Monterey, California on July 10, 2009, Series Number 2009043253 (“Government Deed”).
12
13

14 **WITNESSETH**
15

16 The **Grantor**, for and in consideration of the sum of one dollar (\$1.00) plus other good
17 and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,
18 releases and quitclaims to the **Grantee**, its successors and assigns forever, all such interest, right,
19 title, and claim as the **Grantor** has in and to Parcels L20.19.1.2, E11b.6.3, E11b.7.1.2, and
20 E11b.7.2 (approximately 87 acres), more particularly described in Exhibit “A,” attached hereto
21 and made a part hereof (“Property”) and including the following:
22

23 A. All buildings, facilities, roadways, and other improvements, including the storm
24 drainage systems and the telephone system infrastructure, and any other improvements thereon,
25

26 B. All appurtenant easements and other rights appurtenant thereto, permits, licenses, and
27 privileges not otherwise excluded herein, and
28

29 C. All hereditaments and tenements therein and reversions, remainders, issues, profits,
30 privileges and other rights belonging or related thereto.
31

32 The Government Deed conveying the Property to the **Grantor** was recorded prior to the
33 recordation of this Deed. In its transfer of the Property to the **Grantor**, the Government
34 provided certain information regarding the environmental condition of the Property and other
35 property conveyed under the Government Deed including without limitation the Finding of
36 Suitability for Transfer, Former Fort Ord, California, Track 0 Plug-in Group D, Track 1 Plug-in East
37 Garrison Areas 2 and 4 NE, and Track 1 Plug-in Groups 1-5 Parcels (FOST 10) (August 2007)
38 (“FOST 10”), and an environmental baseline survey (EBS) known as the Community
39 Environmental Response Facilitation Act report, which is referenced in FOST 10. The **Grantor**
40 has no knowledge regarding the accuracy or adequacy of such information. FOST 10 sets forth
41 the basis for the Government’s determination that the Property is suitable for transfer. The
42 Grantee is hereby made aware of the notifications contained in the EBS and FOST 10.
43

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1
2 The italicized information below is copied verbatim (except as discussed below) from the
3 Government Deed conveying the Property to the Grantor. The Grantee hereby acknowledges
4 and assumes all responsibilities applicable to the Property placed upon the Grantor under the
5 terms of the aforesaid Government Deed, including the Environmental Protection Provisions at
6 Exhibit "D" to the Government Deed, which are attached hereto and made a part hereof as
7 Exhibit "B" to this Deed and Grantor grants to Grantee all benefits with regard to the Property
8 under the terms of the aforesaid Government Deed. Within the italicized information only, the
9 term "Grantor" shall mean the Government, and the term "Grantee" shall mean the Fort Ord
10 Reuse Authority ("FORA"); to avoid confusion, the words "the Government" have been added in
11 parenthesis after the word "Grantor", and "FORA" has been added in parenthesis after the word
12 "Grantee".

13 14 **II. EXCLUSIONS AND RESERVATIONS**

15
16 *This conveyance is made subject to the following EXCLUSIONS and*
17 **RESERVATIONS:**

18
19 *A. The Property is taken by the Grantee ("FORA") subject to any and all*
20 *valid and existing recorded outstanding liens, leases, easements, and any other*
21 *encumbrances made for the purpose of roads, streets, utility systems, rights-of-*
22 *way, pipelines, and/or covenants, exceptions, interests, liens, reservations, and*
23 *agreements of record; and any unrecorded easements and any other*
24 *encumbrances made for the limited purpose of roads, streets, utility systems, and*
25 *pipelines set forth in Exhibit "G".*

26
27 *B. The Grantor (the "Government") reserves a right of access to any and*
28 *all portions of the Property for environmental investigation and remediation or*
29 *other corrective action. This reservation includes the right of access to and use*
30 *of, to the extent permitted by law, available utilities at reasonable cost to the*
31 *Grantor (the "Government"). These rights shall be exercisable in any case in*
32 *which a remedial action, response action or corrective action is found to be*
33 *necessary after the date of conveyance of the Property, or such access is*
34 *necessary to carry out a remedial action, response action or corrective action on*
35 *adjoining property. Pursuant to this reservation, the United States and its*
36 *officers, agents, employees, contractors, and subcontractors shall have the right*
37 *(upon reasonable notice to the Grantee ("FORA"), or the then owner and any*
38 *authorized occupant of the Property) to enter upon the Property and conduct*
39 *investigations and surveys, to include drillings, test-pitting, borings, data and/or*
40 *record compilation, and other activities related to environmental investigation,*
41 *and to carry out remedial or removal actions as required or necessary under*
42 *applicable authorities, including but not limited to monitoring wells, pumping*

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1 wells, and treatment. The Grantee ("FORA") agrees that notwithstanding any
2 other provisions of this Deed, the Grantor (the "Government") assumes no
3 liability to the Grantee ("FORA"), the then owner, or any other person, should
4 the Grantor's (the "Government") exercise of its rights hereunder interfere with
5 the Grantee's ("FORA") use of the Property, such interference to be avoided by
6 Grantor (the "Government") to the extent reasonably practicable.
7

8 C. The reserved rights and easements set forth in this section are subject
9 to the following terms and conditions:
10

11 1. Grantee ("FORA") is to comply with all applicable Federal law and
12 lawful existing regulations;
13

14 2. The Grantor (the "Government") is to allow the occupancy and use by
15 the Grantee ("FORA"), its successors, assigns, permittees, or lessees of any part
16 of the easement areas not actually occupied or required for the purpose of the full
17 and safe utilization thereof by the Grantor (the "Government"), so long as such
18 occupancy and use does not compromise the ability of the Grantor (the
19 "Government") to use the easements for their intended purposes, as set forth
20 herein;
21

22 3. The easements granted shall be for the specific use described and may
23 not be construed to include the further right to authorize any other use within the
24 easements unless approved in writing by the fee holder of the land subject to the
25 easement;
26

27 4. Any transfer of the easements by assignment, lease, operating
28 agreement, or otherwise must include language that the transferee agrees to
29 comply with and be bound by the terms and conditions of the original grant;
30

31 5. Unless otherwise provided, no interest reserved shall give the Grantor
32 (the "Government") any right to remove any material, earth, or stone for
33 consideration or other purpose except as necessary in exercising its rights
34 hereunder; and
35

36 6. The Grantor (the "Government") is to restore any easement or right of
37 access area so far as it is reasonably possible to do so upon abandonment or
38 release of any easement as provided herein, unless this requirement is waived in
39 writing by the then owner of the Property.
40

41 D. The Grantor (the "Government") reserves mineral rights that Grantor
42 (the "Government") owns with the right of surface entry in a manner that does

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1 *not unreasonably interfere with Grantee's ("FORA") development and quiet*
2 *enjoyment of the Property.*

3
4 **TO HAVE AND TO HOLD** the Property granted herein to the Grantee
5 ("FORA") and its successors and assigns, together with all and singular the
6 appurtenances thereunto belonging or in anywise appertaining, and all the estate,
7 right, title, interest, or claim whatsoever of the Grantor (the "Government"),
8 either in law or in equity and subject to the terms, reservations, restrictions,
9 covenants, and conditions set forth in this Deed.

10
11 **III. CERCLA NOTICE, ASSURANCES, WARRANTY, AND ACCESS PROVISIONS**

12
13 **A. CERCLA NOTICE**

14
15 For Parcels E11b.7.1.2, L20.2.2, L20.2.3.1, L23.3.2.2, and L23.3.3.1 of
16 the Property, the Grantor (the "Government") provides the following notice,
17 description, and covenants and retains the following access rights:

18
19 1. Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive
20 Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.
21 §9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity,
22 and location of hazardous substances and the time at which such substances were
23 stored, released, or disposed of, as defined in section 120(h), is provided in
24 Exhibit "B", Notification of Hazardous Substance Storage, Release, or Disposal,
25 Table 4 of the Finding of Suitability to Transfer (FOST) 10, dated August 2007.

26
27 2. Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive
28 Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.
29 §9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the
30 Property is provided in Exhibit "C", Description of Property, Table 1 of the
31 August 2007 FOST 10.

32
33 **B. CERCLA COVENANT**

34
35 Applicable to Parcels E11b.7.1.2, L20.2.2, L20.2.3.1, L23.3.2.2, and
36 L23.3.3.1:

37
38 1. Pursuant to sections 120(h)(3)(A)(ii) and (B) of the Comprehensive
39 Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.
40 §9620(h)(3)(A)(ii) and (B)), the United States warrants that -
41

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1 a) All remedial action necessary to protect human health and the
2 environment with respect to any hazardous substance identified pursuant to
3 section 120(h)(3)(A)(i)(I) of the Comprehensive Environmental Response,
4 Compensation, and Liability Act of 1980 remaining on the Property has been
5 taken before the date of this deed, and
6

7 b) Any additional remedial action found to be necessary after the
8 date of this deed shall be conducted by the United States.
9

10 2. This warranty shall not apply in any case in which the person or entity
11 to whom the Property or any portion thereof is transferred is a potentially
12 responsible party with respect to the Property or any portion thereof. For
13 purposes of this warranty, Grantee ("FORA") shall not be considered a
14 potentially responsible party solely due to the presence of a hazardous substance
15 remaining on the Property on the date of this instrument. Further, the Grantor
16 (the "Government") shall not be relieved of any obligation under CERCLA to
17 perform any remedial action found to be necessary after the date of this Deed
18 with regard to any hazardous substances remaining on the Property as of the date
19 of this Deed if the Grantee ("FORA") is subsequently determined to be a
20 potentially responsible party with respect to hazardous substances placed on the
21 Property after the date of this Deed.
22

23 C. CERCLA COVENANT
24

25 For Parcels E11b.6.3, E11b.7.2, L20.19.1.2, and L23.3.3.2 of the
26 Property, the Grantor (the "Government") provides the following covenants and
27 retains the following access rights:
28

29 1. Pursuant to section 120(h)(4)(D)(i) of the Comprehensive
30 Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.
31 §9620(h)(4)(D)(i)), the United States warrants that any response action or
32 corrective action found to be necessary after the date of this deed for
33 contamination existing on the Property prior to the date of this deed shall be
34 conducted by the United States.
35

36 2. This warranty shall not apply in any case in which the person or entity
37 to whom the Property or any portion thereof is transferred is a potentially
38 responsible party with respect to the Property or any such portion thereof. For
39 purposes of this warranty, Grantee ("FORA") shall not be considered a
40 potentially responsible party solely due to a hazardous substance remaining on
41 the Property on the date of this instrument. Further, the Grantor (the
42 "Government") shall not be relieved of any obligation under CERCLA to perform

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1 any remedial action found to be necessary after the date of this Deed with regard
2 to any hazardous substances remaining on the Property as of the date of this
3 Deed if the Grantee ("FORA") is subsequently determined to be a potentially
4 responsible party with respect to hazardous substances placed on the Property
5 after the date of this Deed.
6

7 **D. RIGHT OF ACCESS**
8

9 1. Pursuant to sections 120(h)(3)(A)(iii) and 120(h)(4)(D)(ii) of the
10 Comprehensive Environmental Response, Compensation, and Liability Act of
11 1980 (42 U.S.C. §9620(h)(3)(A)(iii) and §9620(h)(4)(D)(ii)), the United States
12 retains and reserves a perpetual and assignable easement and right of access on,
13 over, and through the Property, to enter upon the Property after the date of
14 transfer of the Property in any case in which an environmental response action or
15 corrective action is found to be necessary on the part of the United States, without
16 regard to whether such environmental response action or corrective action is on
17 the Property or on adjoining or nearby lands. Such easement and right of access
18 includes, without limitation, the right to perform any environmental investigation,
19 survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting,
20 installing monitoring or pumping wells or other treatment facilities, response
21 action, corrective action, or any other action necessary for the United States to
22 meet its responsibilities under applicable laws, related to the Fort Ord
23 Installation Restoration Program (IRP), Military Munitions Response Program
24 (MMRP), or Federal Facility Agreement (FFA), as amended, and as provided for
25 in this instrument. Such easement and right of access shall be binding on the
26 Grantee ("FORA"), its successors and assigns, and shall run with the land.
27

28 2. In exercising such easement and right of access, the United States shall
29 provide the Grantee ("FORA") or its successors or assigns, as the case may be,
30 with reasonable notice of its intent to enter upon the Property and exercise its
31 rights under this covenant, which notice may be severely curtailed or even
32 eliminated in emergency situations. The United States shall use reasonable
33 means, but without significant additional costs to the United States, to avoid and
34 to minimize interference with the Grantee's ("FORA") and the Grantee's
35 ("FORA") successors' and assigns' quiet enjoyment of the Property. Such
36 easement and right of access includes the right to obtain and use utility services,
37 including water, gas, electricity, sewer, and communications services available on
38 the Property at a reasonable charge to the United States. Excluding the
39 reasonable charges for such utility services, no fee, charge, or compensation will
40 be due the Grantee ("FORA") nor its successors and assigns, for the exercise of
41 the easement and right of access hereby retained and reserved by the United
42 States.

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1
2 3. In exercising such easement and right of access, neither the Grantee
3 ("FORA") nor its successors and assigns, as the case may be, shall have any
4 claim at law or equity against the United States or any officer, employee, agent,
5 contractor of any tier, or servant of the United States based on actions taken by
6 the United States or its officers, employees, agents, contractors of any tier, or
7 servants pursuant to and in accordance with this covenant. In addition, the
8 Grantee ("FORA"), its successors and assigns, shall not interfere with any
9 response action or corrective action conducted by the Grantor (the
10 "Government") on the Property.

11
12 **IV. "AS IS"**

13
14 The Grantee ("FORA") acknowledges that it has inspected or has had the
15 opportunity to inspect the Property and accepts the condition and state of repair
16 of the subject Property. Except as otherwise provided herein, the Grantee
17 ("FORA") understands and agrees that the Property and any part thereof is
18 offered "AS IS" without any representation, warranty, or guaranty by the
19 Grantor (the "Government") as to quantity, quality, title, character, condition,
20 size, or kind, or that the same is in condition or fit to be used for the purpose(s)
21 intended by the Grantee ("FORA"), and no claim for allowance or deduction
22 upon such grounds will be considered. Nothing in this "As Is" provision will be
23 construed to modify or negate the Grantor's (the "Government") obligation
24 under the CERCLA Covenant or any other statutory obligations.

25
26 **V. POST-TRANSFER DISCOVERY OF CONTAMINATION**

27
28 Grantee ("FORA"), its successors and assigns, as consideration for the
29 conveyance of the Property, agree to release Grantor (the "Government") from
30 any liability or responsibility for any claims arising solely out of the release of
31 any hazardous substance or petroleum product on the Property occurring after
32 the date of the delivery and acceptance of this Deed and not attributable to the
33 activities of Grantor (the "Government"), where such substance or product was
34 placed on the Property by the Grantee ("FORA"), or its successors, assigns,
35 employees, invitees, agents or contractors, after the conveyance. This paragraph
36 shall not affect the Grantor's (the "Government") responsibilities to conduct
37 response actions or corrective actions that are required by applicable laws, rules
38 and regulations, or the Grantor's (the "Government") indemnification
39 obligations under applicable laws.

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1
2 **VI. ENVIRONMENTAL PROTECTION PROVISIONS**
3

4 *The Environmental Protection Provisions are at Exhibit D, which is attached*
5 *hereto and made a part hereof. These provisions are intended to ensure*
6 *protection of human health and the environment and to preclude any interference*
7 *with ongoing or completed remediation activities at the former Fort Ord. The*
8 *Grantee ("FORA") shall not transfer or lease the Property or any portion*
9 *thereof, or grant any interest, privilege, or license whatsoever in connection with*
10 *the Property, or any portion thereof, without the inclusion of the Environmental*
11 *Protection Provisions contained herein to the extent applicable to the Property or*
12 *a portion thereof, and shall require the inclusion of the applicable Environmental*
13 *Protection Provisions in all further deeds, easements, transfers, leases, or grant*
14 *of any interest, privilege, or license concerning the Property or the applicable*
15 *portion thereof.*
16

17 **VII. AIR NAVIGATION RESERVATION AND RESTRICTIONS**
18

19 *The Monterey Peninsula Airport and the former Fritzsche Army Airfield,*
20 *now known as the Marina Municipal Airport, are in close proximity to the*
21 *Property. Accordingly, in coordination with the Federal Aviation Administration,*
22 *the Grantee ("FORA") covenants and agrees, on behalf of itself, its successors*
23 *and assigns and every successor in interest to the Property herein described, or*
24 *any part thereof, that there will be no construction or alteration unless a*
25 *determination of no hazard to air navigation is issued by the Federal Aviation*
26 *Administration in accordance with Title 14, Code of Federal Regulations, Part*
27 *77, entitled, "Objects Affecting Navigable Airspace," or under the authority of*
28 *the Federal Aviation Act of 1958, as amended.*
29

30 **VIII. ENFORCEMENT AND NOTICE REQUIREMENT**
31

32 *The provisions of this Deed benefit the governments of the United States of*
33 *America, the State of California, acting on behalf of the public in general, the local*
34 *governments, and the lands retained by the Grantor (the "Government") and,*
35 *therefore, are enforceable, by resort to specific performance or legal process by the*
36 *United States, the State of California, the local governments, and by the Grantee*
37 *("FORA"), and its successors and assigns. Enforcement of this Deed shall be at the*
38 *discretion of the parties entitled to enforcement hereof, and any forbearance, delay*
39 *or omission to exercise their rights under this Deed in the event of a breach of any*
40 *term of this Deed, shall not be deemed to be a waiver by any such party of such term*
41 *or of any subsequent breach of the same or any other terms, or of any of the rights*
42 *of said parties under this Deed. All remedies available hereunder shall be in*

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1 *addition to any and all other remedies at law or in equity, including CERCLA. The*
2 *enforcement rights set forth in this Deed against the Grantee ("FORA"), or its*
3 *successors and assigns, shall only apply with respect to the Property conveyed*
4 *herein and held by such Grantee ("FORA"), its successors or assigns, and only*
5 *with respect to matters occurring during the period of time such Grantee*
6 *("FORA"), its successors or assigns, owned or occupied such Property or any*
7 *portion thereof.*

8 9 **IX. NOTICE OF NON-DISCRIMINATION**

10
11 *With respect to activities related to the Property, the Grantee ("FORA")*
12 *covenants for itself, its successors and assigns, that the Grantee ("FORA"), and*
13 *such successors and assigns, shall not discriminate upon the basis of race, color,*
14 *religion, sex, age, handicap, or national origin in the use, occupancy, sale or lease*
15 *of the Property, or in their employment practices conducted thereon in violation of*
16 *the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §*
17 *2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); and the*
18 *Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794). This covenant shall not*
19 *apply, however, to the lease or rental of a room or rooms within a family dwelling*
20 *unit; nor shall it apply with respect to religion to premises used primarily for*
21 *religious purposes. The Grantor (the "Government") shall be deemed a beneficiary*
22 *of this covenant without regard to whether it remains the owner of any land or*
23 *interest therein in the locality of the Property hereby conveyed, and shall have the*
24 *sole right to enforce this covenant in any court of competent jurisdiction.*

25
26 The responsibilities and obligations placed upon, and the benefits provided to, the
27 **Grantor** by the Government shall run with the land and be binding on and inure to the benefit of
28 all subsequent owners of the Property unless or until such responsibilities, obligations, or
29 benefits are released pursuant to the provisions set forth in the MOA and the Government Deed.
30 **Grantee** and its successors and assigns, respectively, shall not be liable for any breach of such
31 responsibilities and obligations with regard to the Property arising from any matters or events
32 occurring after transfer of ownership of the Property by **Grantee** or its successors and assigns,
33 respectively; provided, however, that each such party shall, notwithstanding such transfer, remain
34 liable for any breach of such responsibilities and obligations to the extent caused by the fault or
35 negligence of such party.

36 37 **General Provisions:**

38
39 A. **Liberal Construction.** Any general rule of construction to the contrary
40 notwithstanding, this Deed shall be liberally construed to effectuate the purpose of this Deed and
41 the policy and purpose of CERCLA. If any provision of this Deed is found to be ambiguous, an

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1 interpretation consistent with the purpose of this Deed that would render the provision valid shall
2 be favored over any interpretation that would render it invalid.

3
4 B. Severability. If any provision of this Deed, or the application of it to any person
5 or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the
6 application of such provisions to persons or circumstances other than those to which it is found
7 to be invalid, shall not be affected thereby.

8
9 C. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of
10 title in any respect.

11
12 D. Captions. The captions in this Deed have been inserted solely for convenience of
13 reference and are not a part of this Deed and shall have no effect upon construction or
14 interpretation.

15
16 E. Right to Perform. Any right which is exercisable by the **Grantee**, and its
17 successors and assigns, to perform under this Deed may also be performed, in the event of non-
18 performance by the **Grantee**, or its successors and assigns, by a lender of the **Grantee** and its
19 successors and assigns.

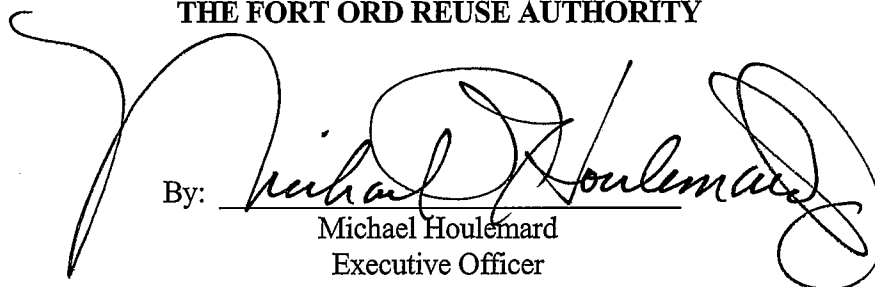
20
21 The conditions, restrictions, and covenants set forth in this Deed are a binding servitude
22 on the herein conveyed Property and will be deemed to run with the land in perpetuity.
23 Restrictions, stipulations and covenants contained herein will be inserted by the **Grantee**
24 verbatim or by express reference in any deed or other legal instrument by which it divests itself
25 of either the fee simple title or any other lesser estate in the Property or any portion thereof. All
26 rights and powers reserved to the **Grantor**, and all references in this Deed to **Grantor** shall
27 include its successors in interest. The **Grantor** may agree to waive, eliminate, or reduce the
28 obligations contained in the covenants, PROVIDED, HOWEVER, that the failure of the **Grantor**
29 or its successors to insist in any one or more instances upon complete performance of any of the
30 said conditions shall not be construed as a waiver or a relinquishment of the future performance
31 of any such conditions, but the obligations of the **Grantee**, its successors and assigns, with
32 respect to such future performance shall be continued in full force and effect.

33
34
35
36 [Signature Pages Follow]
37

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

1 IN WITNESS WHEREOF, the Grantor, the FORT ORD REUSE AUTHORITY, has
2 caused this Deed to be executed this 22nd day of FEBRUARY, 2012.

3
4
5 THE FORT ORD REUSE AUTHORITY

6
7
8
9
10 By: 
11 Michael Houlemard
12 Executive Officer
13

14 STATE OF CALIFORNIA

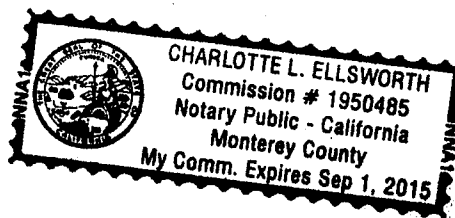
15
16 COUNTY OF Monterey

17
18 On 2/22/2012 before me, Charlotte Ellsworth, (name of notary
19 public) personally appeared Michael Houlemard who proved
20 to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
21 the within instrument and who acknowledged to me that he/she/they executed the same in their
22 authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or
23 entity upon behalf of which the person(s) acted, executed the instrument.
24

25
26 I certify under PENALTY of PERJURY under the laws of the state of California that the
27 foregoing paragraph is true and correct.
28

29 WITNESS my hand and official seal.

30
31 Charlotte L. Ellsworth
32
33



FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

ACCEPTANCE:

In Testimony Whereof, witness the signature of the **COUNTY OF MONTEREY**, this ___ day of _____, 2012 hereby accepts and approves this Deed for itself, its successors and assigns, and agrees to all the conditions, reservations, restrictions, and terms contained therein.

COUNTY OF MONTEREY

By: _____
Dave Potter, Chair
Board of Supervisors



STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____, (name of notary public) personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and who acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) 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.

FORA FOST 10 OUTDEED, COUNTY OF MONTEREY

EXHIBIT "A"

Description of Property

1
2
3

EXHIBIT "A"

Public Works Parcel Barloy Canyon Road L20.19.1.2

Fort Ord Military Reservation

Monterey County California

All that certain real property situated in the County of Monterey, State of California, described as follows:

Situate in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Track No. 1, the City of Marina, County of Monterey, State of California;

Being a portion of Parcel C as shown and recorded in Volume 28 of Surveys, at page 143, Official Records of Monterey County, also being a portion of Parcel 17 as shown on that certain map recorded in Volume 20 of Surveys at Page 110 Official Records of Monterey County, State of California; being more particularly described as follows:

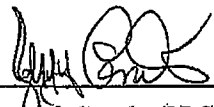
BEGINNING at the most northern corner common to Parcels B and C as shown on that certain map recorded in Volume 28 of Surveys at Page 143; thence from said POINT OF BEGINNING and continuing southwesterly along said boundary line common to said Parcel B and C, also being the westerly boundary line of said Parcel 17 (Barloy Canyon Road); thence curving non-tangentially

1. Southwesterly on the arc of a circular curve to the left (the center of which bears S. 55° 04' 55" W., 230 feet distant) through a central angle of 30° 51' 25" for an arc distance of 123.87 feet; thence leaving said curve tangentially
2. S. 4° 03' 40" W., 661.18 feet; thence curving tangentially
3. Southerly on the arc of a circular curve to the left (the center of which bears S. 85° 56' 20" E., 430 feet distant) through a central angle of 12° 00' 24" for an arc distance of 90.11 feet to a 5/8 "Iron Rod Tagged LS 5321; thence leaving said boundary line common to Parcel B and C and continuing along said curve tangentially along said westerly boundary line of Parcel 17 (Barloy Canyon Road)
4. Southeasterly on the arc of a circular curve to the left (the center of which bears N. 82° 03' 16" E., 430 feet distant) through a central angle of 13° 18' 06" for an arc distance of 99.83 feet; thence continuing along said westerly boundary line of Parcel 17 tangentially
5. S. 21° 14' 50" E., 626.02 feet; thence curving tangentially
6. Southeasterly on the arc of a circular curve to the left (the center of which bears N. 68° 45' 10" E., 730 feet distant) through a central angle of 21° 34' 20" for an arc distance of 274.85 feet to a point of reverse curvature; thence curving tangentially

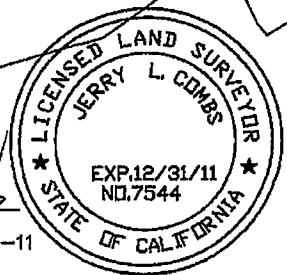
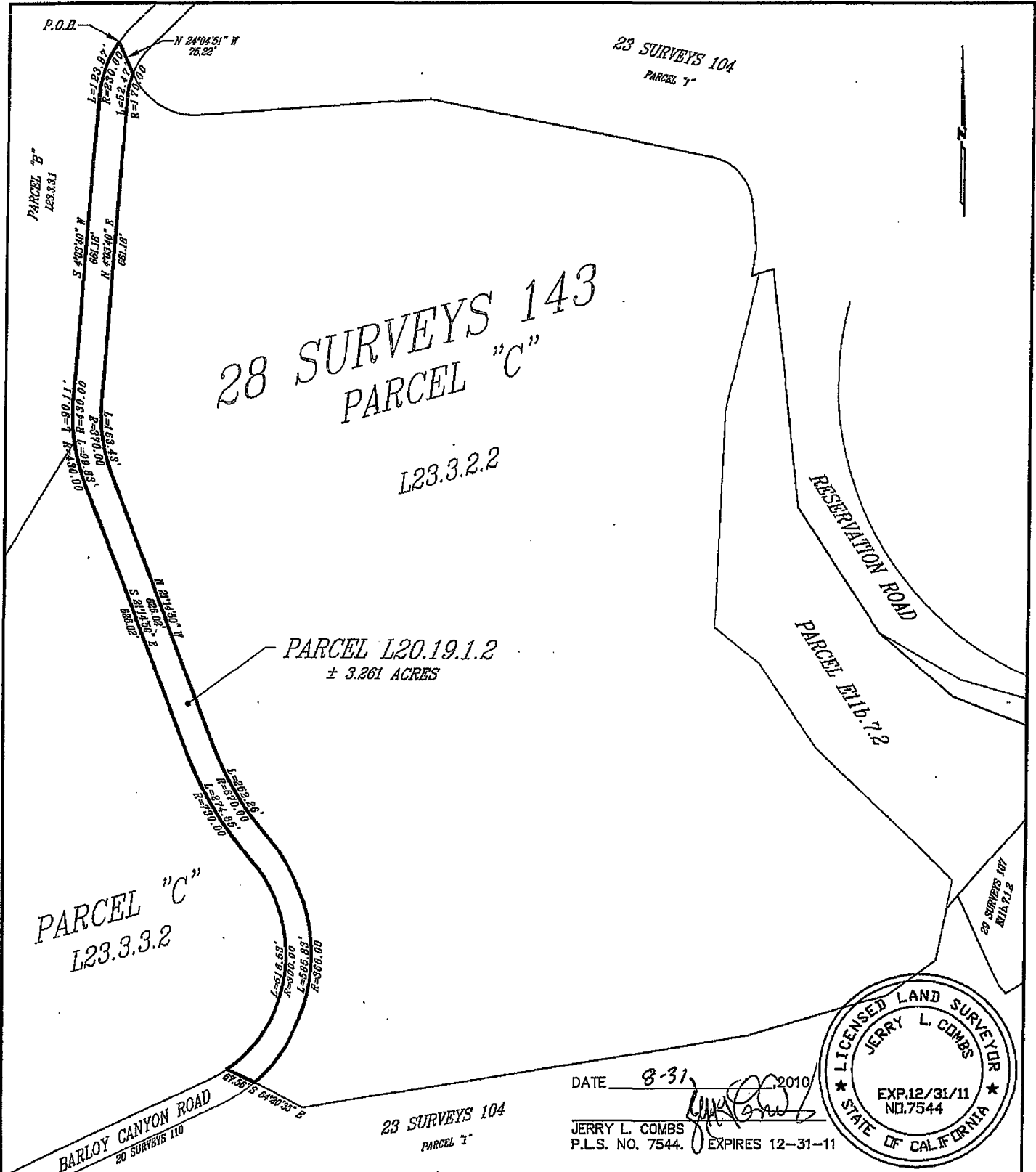
7. Southeasterly and Southwesterly on the arc of a circular curve to the right (the center of which bears S. 47° 10' 50" W., 300 feet distant) through a central angle of 98° 38' 58" for an arc distance of 516.53 feet; thence leaving said curve non-tangentially and leaving said western boundary of Parcel 17 (Barloy Canyon Road)
8. S. 64 ° 20' 35" E., 67.56 feet to the 5/8 "Iron Rod Tagged LS 5321 being on the easterly boundary line of Parcel 17 (Barloy Canyon Road) and also the terminus of course 19 per EDC Parcel L23.3.2.2 recorded in Document 2010028915 on May 5, 2010 with the county recorder, Monterey County Records; thence curving non-tangentially along the easterly boundary of Parcel 17 (Barloy Canyon Road) and along said document boundary.
9. Northeasterly and Northwesterly on the arc of a circular curve to the left (the center of which bears N. 39° 34' 53" W., 360 feet distant) through a central angle of 93° 14' 17" for an arc distance of 585.83 feet to a point of reverse curvature; thence curving tangentially
10. Northwesterly on the arc of a circular curve to the right (the center of which bears N. 47° 10' 50" E., 670 feet distant) through a central angle of 21° 34' 20" for an arc distance of 252.26 feet; thence leaving said curve tangentially
11. N. 21 ° 14' 50" W., 626.02 feet; thence curving tangentially
12. Northerly on the arc of a circular curve to the right (the center of which bears N. 68° 45' 10" E., 370 feet distant) through a central angle of 25° 18' 30" for an arc distance of 163.43 feet; thence leaving said curve tangentially
13. N. 4 ° 03' 40" E., 661.18 feet; thence curving tangentially
14. Northeasterly on the arc of a circular curve to the right (the center of which bears S. 85° 56' 20" W., 170 feet distant) through a central angle of 17° 41' 03" for an arc distance of 52.47 feet; thence leaving said curve non-tangentially and said eastern boundary of Parcel 17 (Barloy Canyon Road)
15. N. 24 ° 04' 51" W., 75.22 feet, to the western boundary of said Parcel 17 and the POINT OF BEGINNING

Containing an area of 3.261 acres of land, more or less




 8-31-2010
 Jerry L Combs PLS 7544
 Monterey County Public Works

END OF DOCUMENT



DATE 8-31-2010
 JERRY L. COMBS
 P.L.S. NO. 7544. EXPIRES 12-31-11



MONTEREY COUNTY PUBLIC WORKS

ENGINEERING DIVISION
 SURVEY/ MINOR DESIGN SECTION
 188 WEST ALISAL STREET
 SALINAS, CALIFORNIA 93901
 (831) 755-4800/FAX (831) 755-4958

PUBLIC WORKS PARCEL BARLOY CY RD L20.19.1.2
 A PORTION OF PARCEL C VOL 28 SURVEYS Pg 143

EXHIBIT "B"

DATE 08/25/10	DRAWING C:\Land Projects 2008\BARLOYCYNRD\DD2008	SHEET 1 OF 1
SCALE NO SCALE	VIEW EXHIBIT B	DRAWN BY: K.A. PEAKE

EXHIBIT "A"

Habitat Parcel E 11b.6.3
Fort Ord Military Reservation
Monterey County California

All that certain real property situated in the County of Monterey, State of California, described as follows:

Situate in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Track No. 1, the City of Marina, County of Monterey, State of California;

Being a portion of Parcel C as shown and recorded in Volume 28 of Surveys, at page 143, Official Records of Monterey County, being more particularly described as follows:

BEGINNING at a 5/8" rebar with a cap marked "LS 5321" at the corner common Parcels A, B, and C as shown on said map recorded in Volume 28 of Surveys at Page 143.; thence from said POINT OF BEGINNING and continuing southwesterly along the westerly boundary line of said Parcel C


1. S. 39° 51' 25" W., 9.31 feet; thence
2. S. 56° 41' 21" E., 16.60 feet to a 3" Brass Disc Stamped "BLM AP 15 C";
thence
3. S. 42° 20' 41" W., 438.01 feet to a 3" Brass Disc Stamped "BLM AP 14 C";
thence
4. S. 36° 41' 35" W., 166.67 feet to a 3" Brass Disc Stamped "BLM AP 13 C";
thence
5. S. 46 ° 27' 29" W., 153.46 feet; thence
6. S. 41 ° 48' 01" W., 106.93 feet; thence continuing along the southern boundary
line of said Parcel C
7. S. 79 ° 42' 05" E., 266.22 feet; thence
8. N. 86 ° 28' 56" E., 234.92 feet; thence
9. N. 55 ° 08' 30" E., 263.54 feet; thence

10. N. 68 ° 58' 45" E., 222.12 feet; thence

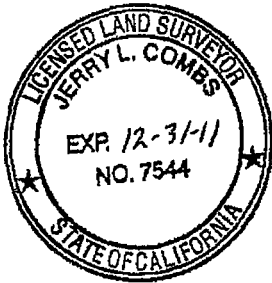
11. N. 79 ° 25' 03" E., 234.60 feet, thence leaving said Parcel C boundary line

12. N. 54 ° 13' 43" W., 716.56 feet, to the POINT OF BEGINNING

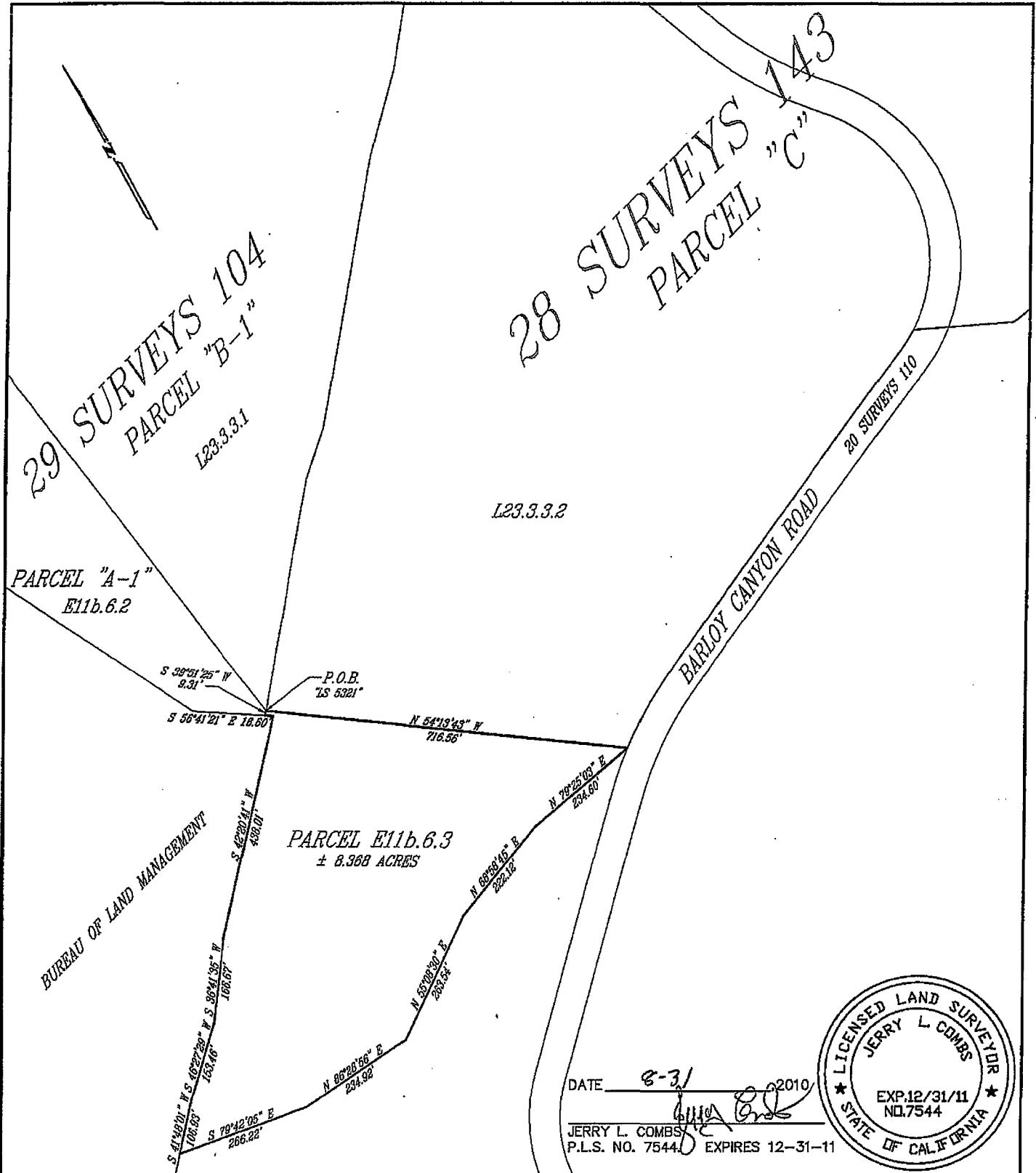
Containing an area of 8.368 acres of land, more or less

 - 8-31-2010

Jerry L Combs PLS 7544
Monterey County Public Works



END OF DOCUMENT



MONTEREY COUNTY PUBLIC WORKS

ENGINEERING DIVISION
SURVEY / MINOR DESIGN SECTION

168 WEST ALISAL STREET
SALINAS, CALIFORNIA 93901
(831) 755-4800/FAX (831) 755-4958

HABITAT PARCEL E11b.6.3
A PORTION OF PARCEL C, VOL 28 SUR Pg 143

EXHIBIT "B"

DATE 08/25/10	DRAWING C:\Land Projects 2008\BARLOYCYNRD\DD2008	SHEET 1
SCALE 1"=250'	VIEW EXHIBITB	DRAWN BY: K.A. PEAKE
		OF 1

EDC Parcel E11b.7.1.2
FOST 10
Fort Ord Military Reservation
Monterey County, California

Legal Description

SITUATE in a portion of Parcel 1, "Monterey County IV", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 104, being also a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, County of Monterey, State of California; being more particularly described as follows:

BEGINNING at the most easterly corner of Parcel C, as said parcel is shown on that certain map recorded in Volume 28 of Surveys at Page 143, being also a point on the southerly boundary of Parcel 4, as said parcel is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence from said Point of Beginning, along said southerly boundary

1. Along a curve to the left, the center of which bears North $10^{\circ} 41' 27''$ East through a central angle of $07^{\circ} 19' 11''$, having a radius of 800.04 feet (shown on said map as a radius of 800.00 feet), for an arc length of 102.21 feet, and whose long chord bears South $82^{\circ} 58' 09''$ East for a distance of 102.14 feet to a point of intersection with a non-tangential line; thence
2. South $84^{\circ} 51' 45''$ East for a distance of 485.28 feet; thence
3. North $80^{\circ} 12' 15''$ East for a distance of 226.96 feet; thence
4. North $78^{\circ} 19' 55''$ East for a distance of 247.13 feet to the beginning of a tangent curve; thence
5. Along a curve to the right, through a central angle of $47^{\circ} 49' 40''$, having a radius of 720.00 feet, for an arc length of 601.02 feet, and whose long chord bears South $77^{\circ} 45' 15''$ East for a distance of 583.72 feet to a point of intersection with a tangent line; thence
6. South $53^{\circ} 50' 25''$ East for a distance of 112.97 feet, more or less, to an angle point on the perimeter boundary of said Fort Ord Military Reservation; thence along said perimeter boundary

EDC Parcel E11b.7.1.2
FOST 10
Fort Ord Military Reservation
Monterey County, California

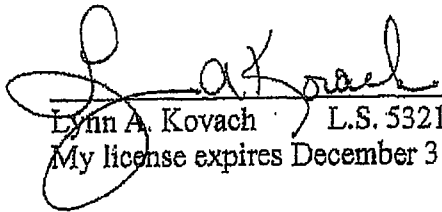
7. South 40° 22' 12" East for a distance of 376.83 feet; thence
8. South 25° 51' 48" East for a distance of 499.86 feet; thence
9. South 49° 15' 49" East for a distance of 611.56 feet to the most easterly corner of said Parcel 1, "Monterey County IV;" thence leaving said perimeter boundary and continuing along the southerly boundary of said Parcel 1, "Monterey County IV,"
10. South 39° 53' 17" West for a distance of 419.59 feet; thence
11. North 53° 09' 53" West for a distance of 118.67 feet; thence
12. North 76° 14' 26" West for a distance of 133.18 feet; thence
13. South 89° 16' 30" West for a distance of 312.13 feet; thence
14. South 75° 13' 57" West for a distance of 162.19 feet; thence
15. North 67° 47' 56" West for a distance of 222.99 feet; thence
16. North 69° 41' 06" West for a distance of 487.88 feet; thence
17. North 61° 24' 48" West for a distance of 227.60 feet; thence
18. North 81° 03' 43" West for a distance of 130.16 feet; thence
19. South 19° 51' 16" West for a distance of 153.74 feet; thence leaving said southerly boundary of Parcel I
20. North 00° 02' 57" West for a distance of 332.86 feet; thence
21. North 77° 51' 15" West for a distance of 246.61 feet; thence
22. North 37° 46' 00" West for a distance of 411.32 feet; thence
23. South 57° 19' 19" West for a distance of 251.86 feet; thence
24. North 38° 10' 16" West for a distance of 24.19 feet; thence

EDC Parcel E11b.7.1.2
POST 10
Fort Ord Military Reservation
Monterey County, California

25. North 27° 21' 27" West for a distance of 230.78 feet; thence
26. North 24° 38' 38" West for a distance of 213.55 feet to an angle point in the southeasterly boundary of said Parcel C; thence following the southeasterly boundary of said Parcel C
27. North 40° 57' 32" East (shown on the aforesaid map as North 40° 50' 58" East) for a distance of 434.43 feet to the POINT OF BEGINNING.

Containing an area of 63.227 acres, more or less.

This legal description was prepared by


Lynn A. Kovach L.S. 5321
My license expires December 31, 2007

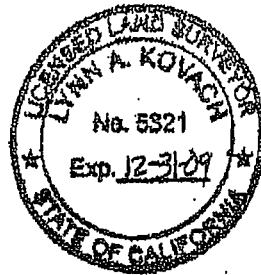


EXHIBIT
of
EDC Parcel E11b.7.1.2
Being a Portion of "Monterey County IV" as shown on Vol. 23 of Surveys at Page 104
Monterey County Jurisdiction
Fort Ord FOST 10
Lying within the Fort Ord Military Reservation
as shown on Vol. 19 of Surveys at Page 1
Being also within Monterey City Lands Tract No. 1
Monterey County, California

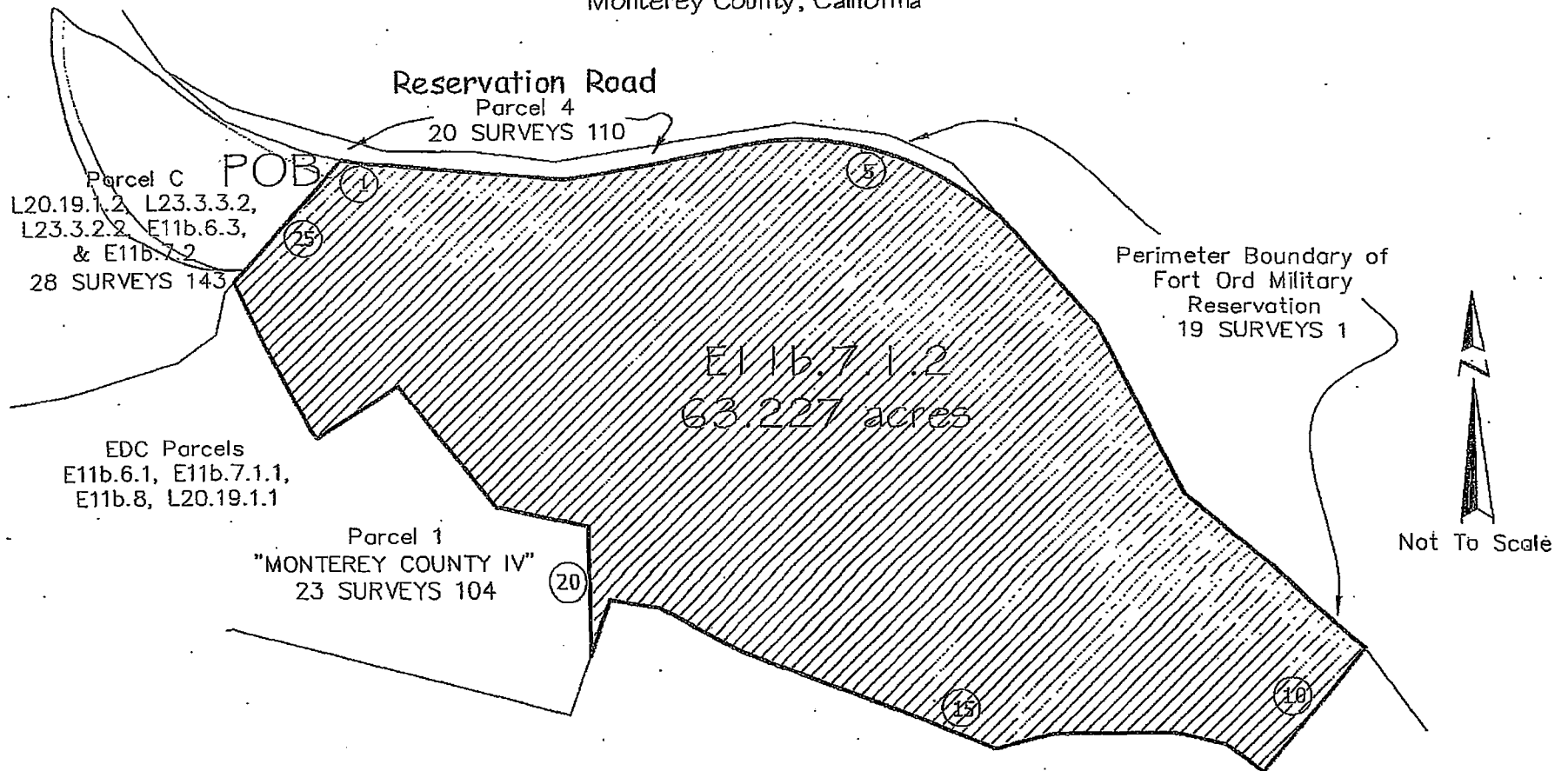


EXHIBIT A

Note: Course Numbers Refer to the Legal Description.



Note:

PARCEL C BOUNDARY HAS BEEN ADJUSTED TO CLOSE ON THE PERIMETER BOUNDARY OF FORT ORD PER VOL. 19 OF SURVEYS AT PAGE 1 BASED ON FOUND MONUMENTS AS SHOWN HEREON & CALCULATED POSITIONS FOR THE PERIMETER BOUNDARY. THERE WAS AN ERROR INTRODUCED ON THE RECORD OF SURVEY OF PARCEL C RECORDED IN VOL. 28 OF SURVEYS AT PAGE 143 WHICH WAS FOUND SUBSEQUENT TO THE RECORDED OF THAT MAP. THE COURSES SHOWN HEREON REDEFINE THE BOUNDARY OF PARCEL C AND ARE REFLECTED IN THE REVISED LEGAL DESCRIPTION OF PARCEL C TO BE USED IN FOST 10.

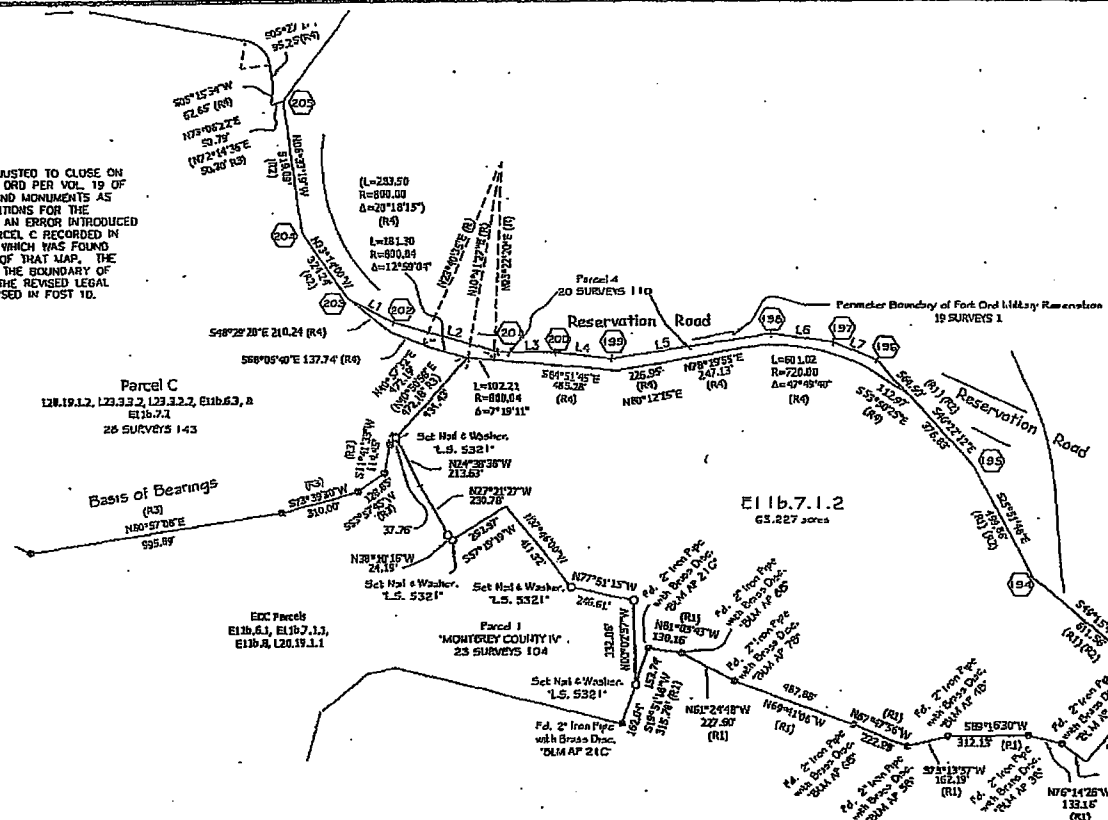


BASIS OF BEARINGS

THE BEARING OF ALL COURSES ALONG A PORTION OF THE SOUTHERLY BOUNDARY LINE OF PARCEL C AS SHOWN ON THIS MAP RECORDED IN VOLUME 28 OF SURVEYS AT PAGE 143, AS POINTS INDICATED, WAS TAKEN AS BASIS OF BEARINGS SHOWN UPON THIS MAP.

NOTE

DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.



LINE TABLE			
LINE	Record	LENGTH	BEARING
L1	(R1, R2)	201.47	S59°2'
L2	(R1, R2)	420.45	S73°2'
L3	(R1, R2)	224.32	S59°2'
L4	(R1, R2)	221.75	S62°5'
L5	(R1, R2)	627.75	N60°5'
L6	(R1, R2)	244.90	S62°2'
L7	(R1, R2)	161.02	S65°3'

LEGEND

- SET 5/8" NAIL TAGGED L.S. 5321 UNLESS NOTED OTHERWISE
- FOUND 5/8" NAIL TAGGED L.S. 5321 UNLESS NOTED OTHERWISE
- R1 RECORD DATA PER VOL. 23 - SURVEYS - PG. 104
- R2 RECORD DATA PER VOL. 19 - SURVEYS - PG. 1
- R3 RECORD DATA PER VOL. 28 - SURVEYS - PG. 143
- R4 RECORD DATA PER VOL. 20 - SURVEYS - PG. 110
- FORT ORD PERIMETER BOUNDARY CORNER PER VOL. 19 - SURVEYS - PG. 1

SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF FORA, IN SEPTEMBER, 2006.

DATED _____ BY LYNN A. KOVACH
L.S. 5321
MY REGISTRATION EXPIRES
DECEMBER 31, 2007

COUNTY SURVEYOR'S STATEMENT

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8766 OF THE PROFESSIONAL LAND SURVEYORS' ACT THIS DAY OF _____ 2007.

BY JERRY COMBS
DEPUTY COUNTY SURVEYOR

COUNTY RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____ 2007
AT _____ IN VOLUME _____ OF
SURVEYS AT PAGE _____ AT THE REQUEST OF
LYNN A. KOVACH

COUNTY RECORDER _____ BY: _____ DEPUTY
SERIAL NO. _____ FEE: \$ _____

**RECORD OF SURVEY
OF
EDC PARCEL E11b.7.1.2**

A PORTION OF 'MONTEREY COUNTY IV'
AS SHOWN ON VOL. 25 OF SURVEYS AT PAGE 104

BEING ALSO WITHIN FORT ORD MILITARY RESERVATION
AS SHOWN ON VOL. 19 OF SURVEYS AT PAGE 1
BEING ALSO WITHIN MONTEREY CITY LANDS TRACT NO. F
MONTEREY COUNTY, CALIFORNIA

PREPARED FOR: **FORT ORD REUSE AUTHORITY**
SURVEYED BY: **POLARIS CONSULTING**
P. O. BOX 1378
CARMEL VALLEY, CA 93924
831-659-8564

SCALE 1" = 300' VLM; RDS DATE FEBRUARY 19, 2007
FILE NAME: FORA FOST 10 MOCCO E11b.7.1.2.DWG SHEET ONE OF C



EXHIBIT "A"

Habitat Parcel E 11b.7.2
Fort Ord Military Reservation
Monterey County California

All that certain real property situated in the County of Monterey, State of California, described as follows:

Situate in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Track No. 1, the City of Marina, County of Monterey, State of California;

Being a portion of Parcel C as shown and recorded in Volume 28 of Surveys, at page 143, Official Records of Monterey County, being more particularly described as follows:

BEGINNING at point numbered 205 on the Perimeter Boundary of Fort Ord Military Reservation as shown on the map recorded in Volume 19 of Surveys at Page 1, said point also shown on the map recorded in Volume 29 of Surveys at Page 107, Records of Monterey County, California; thence from said point BEGINNING and continuing south and easterly along said Perimeter Boundary Line and said Parcel C Boundary Line

1. S. 6° 33' 19" E., 519.89 feet to point numbered 204; thence
2. S. 33° 14' 00" E., 324.24 feet to point numbered 203; thence leaving said Perimeter Boundary Line and continuing along said Parcel C boundary.
3. S. 48° 29' 20" E., 210.24 feet; thence
4. S. 68° 06' 40" E., 137.74 feet; thence curving non-tangentially
5. Southeasterly on the arc of a circular curve to the left (the center of which bears N. 23° 40' 35" E., 800.04 feet distant) through a central angle of 12° 59' 04" for an arc distance of 181.30 feet to the northerly boundary line of the 63.227 acre parcel E11b.7.1.2 as shown on said map Volume 29 of Surveys at Page 107; thence leaving said curve non-tangentially along said westerly boundary line and continuing along Parcel C boundary
6. S. 40° 57' 32" W., 472.19 feet to 5/8" rebar with cap marked LS 5321 common to Parcel C and the boundary of Parcel L23.3.2.2; thence leaving said Parcel C Boundary and continuing northerly along said boundary line of Parcel L23.3.2.2
7. N. 10° 52' 29" E., 62.55 feet more or less; thence
8. N. 45° 00' 00" W., 114.55 feet; thence
9. N. 46° 05' 28" W., 297.04 feet; thence
10. N. 33° 41' 24" W., 223.54 feet; thence

11. N. 51 ° 41' 29" W., 127.44 feet; thence

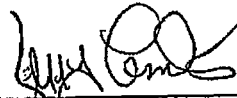
12. N. 2 ° 19' 12" E., 469.38 feet; thence

13. N. 13 ° 29' 18" E., 304.85 feet, thence

14. N. 73 ° 06' 22" E., 32.91 feet more or less, to point numbered 205 the POINT OF BEGINNING

Containing an area of 7.40 acres of land, more or less

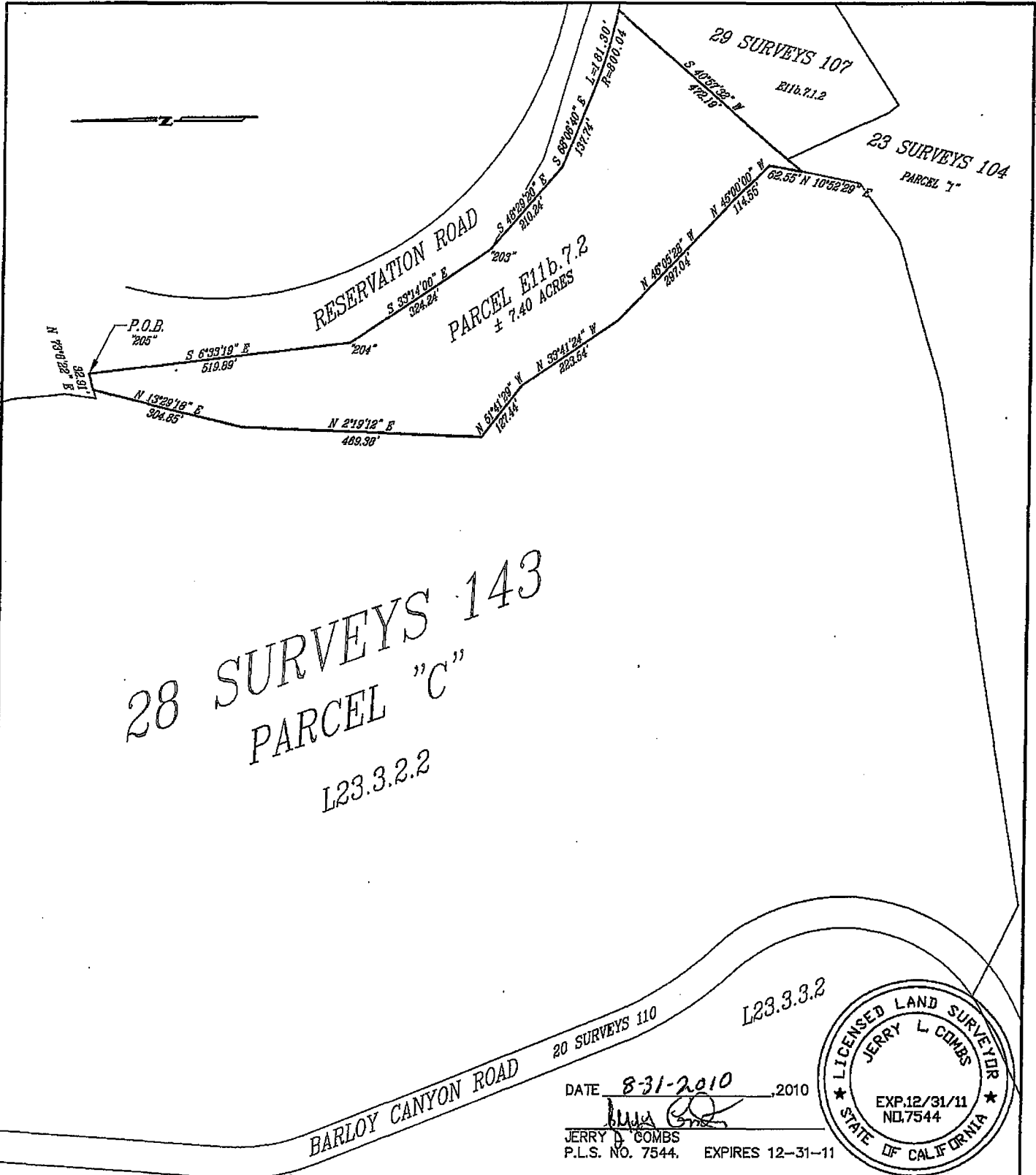
8-31-2010



Jerry L Combs PLS 7544
Monterey County Public Works

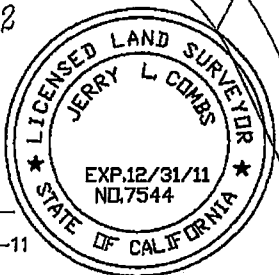


END OF DOCUMENT



DATE 8-31-2010 ,2010

JERRY D. COMBS
P.L.S. NO. 7544. EXPIRES 12-31-11



MONTEREY COUNTY PUBLIC WORKS

ENGINEERING DIVISION
SURVEY/ MINOR DESIGN SECTION

168 WEST ALisal STREET
SALINAS, CALIFORNIA 93901
(831) 755-4800/FAX (831) 755-4958

HABITAT PARCEL E11b.7.2
A PORTION OF PARCEL C VOL 28 SURVEYS Pg 143

EXHIBIT "B"

DATE 08/25/10	DRAWING C:\Land Projects 2008\BARLOYCYNRD\DD2008	SHEET 1
SCALE 1"=250'	VIEW EXHIBITS	OF 1
DRAWN BY: K.A. PEAKE		

EXHIBIT "B"

1
2
3
4

**Exhibit "D" to the Government Deed
Environmental Protection Provisions**

EXHIBIT "D"

ENVIRONMENTAL PROTECTION PROVISIONS

1. FEDERAL FACILITY AGREEMENT

The Grantor acknowledges that the former Fort Ord has been identified as a National Priorities List (NPL) site under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, as amended. The Grantee acknowledges that the Grantor has provided it with a copy of the Fort Ord Federal Facility Agreement, and any additional amendments thereto (FFA), entered into by the United States Environmental Protection Agency Region IX (USEPA), the State of California, and the Department of the Army, effective on November 19, 1990, and will provide the Grantee with a copy of any future amendments thereto. For so long as the Property remains subject to the FFA, the Grantee, its successors and assigns, agree that they will not interfere with United States Department of the Army activities required by the FFA. Grantor shall give Grantee reasonable notice of its action required by the FFA and use all reasonable means to the extent practicable to avoid and/or minimize interference with Grantee's, its successors' or assigns' use of the Property. In addition, should any conflict arise between the FFA and any amendment thereto and the deed provisions, the FFA provisions will take precedence. The Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA interfere with their use of the Property. Grantor agrees to use its best efforts to the extent practicable to avoid and/or minimize interference with Grantee's, its successors' or assigns' use of the Property, and to provide Grantee with a copy of any amendments to the FFA.

2. LAND USE RESTRICTIONS

Applicable to Parcels L20.2.2, L20.2.3.1, and L23.3.3.1:

A. The United States Department of the Army (Army) has undertaken careful environmental study of the Property and concluded that the land use restrictions set forth below are required to ensure protection of human health and the environment. The Grantee, its successors or assigns, shall not undertake nor allow any activity on or use of the Property that would violate the land use restrictions contained herein.

B. **Groundwater Restriction.** As described in the NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER, the Grantee is hereby informed and acknowledges that the groundwater under portions of the Property and associated with the Operable Unit 2 (OU2) groundwater plume is contaminated with volatile organic compounds (VOCs), primarily trichloroethene (TCE). In accordance with the provisions of Section 6 of the Environmental Protection Provisions, the Grantee, its successors and assigns, are restricted from accessing or using groundwater underlying the Property for any purpose. For the purpose of this restriction, "groundwater" shall have the same meaning as in Section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

C. Modifying Restrictions. Nothing contained herein shall preclude the Grantee, its successors or assigns, from undertaking, in accordance with applicable laws and regulations and without any cost to the Grantor, such additional action necessary to allow for other less restrictive use of the Property. Prior to such use of the Property, Grantee shall consult with and obtain the approval of the Grantor, and, as appropriate, the State or Federal regulators, or the local authorities, in accordance with these Environmental Protection Provisions and the provisions of the applicable Covenants to Restrict Use of Property (CRUPs). Upon the Grantee's obtaining the approval of the Grantor and, as appropriate, State or Federal regulators, or local authorities, the Grantor agrees to record an amendment hereto. This recordation shall be the responsibility of the Grantee and at no additional cost to the Grantor.

D. Submissions. The Grantee, its successors and assigns, shall submit any requests for modifications to the above restrictions to Grantor, the USEPA, the DTSC, and the RWQCB, in accordance with the provisions of the CRUP(s), by first class mail, postage prepaid, addressed as follows:

- 1) Grantor: Director, Fort Ord Office
Army Base Realignment and Closure
P.O. Box 5008
Presidio of Monterey, CA 93944-5008

- 2) USEPA: Chief, Federal Facility and Site Cleanup Branch
Superfund Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street, Mail Code: SFD-8-3
San Francisco, CA 94105-3901

- 3) DTSC: Supervising Hazardous Substances Engineer II
Brownfields and Environmental Restoration Program
Department of Toxic Substances Control
Sacramento Office
8800 Cal Center Drive
Sacramento, CA 95826-3200

- 4) RWQCB: Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

3. NOTICE OF THE POTENTIAL FOR THE PRESENCE OF MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)

A. The Grantee is hereby notified that, due to the former use of the Property as a military installation, all of the parcels may contain munitions and explosives of concern (MEC). The term MEC means specific categories of military munitions that may pose unique explosives safety risks and includes: (1) Unexploded Ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (2) Discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (3) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard. For the purposes of the basewide Military Munitions Response Program (MMRP) being conducted for the former Fort Ord and these Environmental Protection Provisions (EPPs), MEC does not include small arms ammunition (i.e. ammunition .50 caliber or smaller, or for shotguns, with projectiles not containing explosives, other than tracers).

B. The Property was previously used for a variety of purposes, including operational ranges for live-fire training (small arms ammunition); leadership reaction course; combat leader course; field battalion training; mechanic training; engineering training; field expedient training; and tactical training. Munitions responses were conducted on the Property. Any MEC discovered were disposed of by a variety of methods, including open detonation, either in place or as a consolidated shot, or destroyed using contained detonation. A summary of MEC discovered on the Property is provided in Exhibit "E". Site maps depicting the locations of Munitions Response Sites are provided at Exhibit "F".

C. The Grantor represents that, to the best of its knowledge, no MEC are currently present on the Property. Notwithstanding the Grantor's determination, the parties acknowledge that there is a possibility that MEC may exist on the Property. Per this acknowledgment, and to promote safety, the Grantor provides munitions recognition and safety training to anyone who requests it. If the Grantee, any subsequent owner, or any other person should find any MEC on the Property; they shall immediately stop any intrusive or ground-disturbing work in the area or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but shall immediately notify the local law enforcement agency having jurisdiction on the Property so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations and at no expense to the Grantee. The Grantee hereby acknowledges receipt of the "Ordnance and Explosives Safety Alert" pamphlet.

Applicable to Parcels E11b.6.3, E11b.7.2, L20.2.2, L20.2.3.1, L20.19.1.2, L23.3.2.2, L23.3.3.1, and L23.3.3.2:

D. Because the Grantor cannot guarantee all MEC have been removed, the Grantor recommends reasonable and prudent precautions be taken when conducting intrusive operations on the Property and will, at its expense, provide construction worker explosives safety and munitions recognition training. For specific Track 1 sites and Track 1 areas that overlap the Property (MRS-5, MRS-27F, MRS-45A, MRS-46, MRS-59A, MRS-59B, East Garrison Area 2), the Grantor recommends construction personnel involved in intrusive operations at these sites attend the Grantor's explosives safety and munitions recognition training. To accomplish that objective, the Grantee will notify the Grantor of planned intrusive activities. The Grantor will, in turn, provide explosives safety and munitions recognition training to construction personnel prior

to the start of any intrusive work, as appropriate. For the Track 1 sites and Track 1 areas where explosives safety and munitions recognition training is recommended (MRS-5, MRS-27F, MRS-45A, MRS-46, MRS-59A, MRS-59B, and East Garrison Area 2), the Grantor will assess whether the education program should continue during the next five-year review (2007). If information indicates no MEC items have been found in the course of development or redevelopment of the site, it is expected the education program may, with the concurrence of the regulatory agencies, be discontinued, subject to reinstatement if MEC is encountered in the future.

E. Easement and Access Rights.

1. The Grantor reserves a perpetual and assignable right of access on, over, and through the Property, to access and enter upon the Property in any case in which a munitions response action is found to be necessary, or such access and entrance is necessary to carry out a munitions response action on adjoining property as a result of the ongoing Munitions Response Remedial Investigation/Feasibility Study. Such easement and right of access includes, without limitation, the right to perform any additional investigation, sampling, testing, test-pitting, surface and subsurface clearance operations, or any other munitions response action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this Deed. This right of access shall be binding on the Grantee, its successors and assigns, and shall run with the land.

2. In exercising this easement and right of access, the Grantor shall give the Grantee or the then record owner, reasonable notice of the intent to enter on the Property, except in emergency situations. Grantor shall use reasonable means, without significant additional cost to the Grantor, to avoid and/or minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property; however, the use and/or occupancy of the Property may be limited or restricted, as necessary, under the following scenarios: (a) to provide the required minimum separation distance employed during intrusive munitions response actions that may occur on or adjacent to the Property; and (b) if Army implemented prescribed burns are necessary for the purpose of a munitions response action (removal) in adjacent areas. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

3. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this Paragraph. In addition, the Grantee, its successors and assigns, shall not interfere with any munitions response action conducted by the Grantor on the Property.

F. The Grantee acknowledges receipt of the Track 0 Record of Decision (June 2002), the Track 1 Record of Decision (March 2005), the Track 0 Plug-In Approval Memorandum, Group D Parcels (May 2006); the Track 0 Approval Memorandum, East Garrison Area 1 (December 2003); the Track 1 Plug-In Approval Memorandum, East Garrison Areas 2 and 4 NE (March 2006); and the Track 1 Plug-In Approval Memorandum, Multiple Sites, Groups 1 - 5 (July 2006).

4. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

Applicable to Parcels L20.2.2, L23.3.2.2, and L23.3.3.1:

A. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing material (ACM) has been found on the Property, as described in the Asbestos Survey Report (April 26, 1993) and summarized in the CERFA Report (April 8, 1994). The Property may also contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain friable and non-friable asbestos or ACM. The Occupational Safety and Health Administration (OSHA) and the U.S. Environmental Protection Agency (USEPA) have determined that unprotected or unregulated exposure to airborne asbestos fibers increases the risk of asbestos-related diseases, including certain cancers that can result in disability or death.

B. The Grantee covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos. To the extent required under applicable law or regulation, the Grantee agrees to be responsible for any future remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines, if any, that would not otherwise be the responsibility of the Grantor under CERCLA or any other applicable statute.

C. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its asbestos and ACM content and condition and any hazardous or environmental conditions relating thereto. 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, will not constitute grounds for any claim or demand against the United States, or any adjustment under this deed.

5. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR RESIDENTIAL PURPOSE

Applicable to Parcels L20.2.2, L23.3.2.2, and L23.3.3.1:

A. The Grantee is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that there is a risk of exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning.

B. The Grantee covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Property, as defined under 24 Code of Federal Regulations Part 35, without complying with this section and all applicable Federal, State, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of the Property, where its use subsequent to sale is intended for residential habitation, the Grantee specifically agrees to perform, at its sole expense, the Army's abatement requirements under Title X of the Housing and Community Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of 1992).

C. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property as to its lead-based paint content and condition and any hazardous or environmental conditions relating thereto. The failure of the Grantee to inspect, or to be fully informed as to the lead-based paint condition of all or any portion of the Property, will not constitute grounds for any claim or demand against the United States, or any adjustment under this deed.

6. NOTICE OF THE PRESENCE OF CONTAMINATED GROUNDWATER

Applicable to Parcels L20.2.2, L20.2.3.1, and L23.3.3.1:

A. The Property is within the "Consultation Zone" of the "Special Groundwater Protection Zone." The Consultation Zone includes areas surrounding the "Prohibition Zone" where groundwater extraction may impact or be impacted by the four identified groundwater contamination plumes at the former Fort Ord. The Consultation Zone is also identified on the "Former Fort Ord Special Groundwater Protection Zone Map," which is on file with the County of Monterey (the County). County Ordinance No. 04011 requires consultation with the Grantor, the USEPA, the DTSC, the RWQCB, and the County for proposed water well construction within the Consultation Zone.

B. The Grantee covenants for itself, its successors, and assigns not to access or use groundwater underlying the Property for any purpose without the prior written approval of the Grantor, the USEPA, the DTSC, the RWQCB, and the County. For the purpose of this restriction, "groundwater" shall have the same meaning as in section 101(12) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

C. The Grantee covenants for itself, its successors and assigns that 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 Grantor, or interrupt, relocate, or otherwise interfere or tamper with any remediation system or monitoring wells now or in the future located on, over, through, or across any portion of the Property without the express written consent of the Grantor in each case first obtained.

D. The Grantee covenants for itself, its successors, or assigns, that it will not undertake nor allow any activity on or use of the Property that would violate the restrictions contained

herein. These restrictions and covenants are binding on the Grantee, its successors and assigns; shall run with the land; and are forever enforceable.

7. NOTICE OF RARE, THREATENED AND ENDANGERED SPECIES MANAGEMENT

Applicable to Parcel L20.19.1.2:

The Grantee acknowledges and agrees to implement the following provisions, as applicable, relative to listed 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 March 30, 1999, Biological and Conference Opinion on the Closure and Reuse of Fort Ord, Monterey County, California (1-8-99-F/C-39R); the October 22, 2002, Biological Opinion on the Closure and Reuse of Fort Ord, Monterey County, California, as it affects Monterey Spineflower Critical Habitat, (1-8-01-F-70R); and the March 14, 2005, Biological Opinion for the Cleanup and Reuse of Former Fort Ord, Monterey County, California, as it affects California Tiger Salamander and Critical Habitat for Contra Costa Goldfields Critical Habitat (1-8-04-F-25R) identify 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 from complying with environmental regulations enforced by 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 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, and is a prelisting agreement between the USFWS and the local jurisdiction for candidate species that may need to be listed because of circumstances occurring outside the area covered by the HMP.

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 non-Federal 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 these entities that are in conformation 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 covered by the permit, and a conservation plan (50 CFR 17.22[b]).

Applicable to Parcels E11b.6.3, E11b.7.1.2, E11b.7.2, L20.2.2, L20.2.3.1, L23.3.2.2, L23.3.3.1, and L23.3.3.2:

A. The Property contains habitat occupied and/or potentially occupied by several sensitive wildlife and plant species, some of which are listed or proposed for listing as threatened or endangered under the Endangered Species Act (ESA). Applicable laws and regulations restrict activities that involve the potential loss of populations and habitats of listed species. To fulfill Grantor's commitment in the Fort Ord Disposal and Reuse Environmental Impact Statement Record of Decision, made in accordance with the National Environmental Policy Act of 1969, 42 U.S.C §§ 4321 et seq., this deed requires the conservation in perpetuity of these sensitive wildlife and plant species and their habitats consistent with the U.S. Fish and Wildlife Service Biological Opinions for disposal of the former Fort Ord lands issued pursuant to Section 7 of the ESA on March 30, 1999, October 22, 2002, and March 14, 2005, respectively. By requiring Grantee, its successors and assigns to comply with the Installation-Wide Multispecies Habitat Management Plan (HMP), Grantor intends to fulfill its responsibilities under Section 7 of the ESA and to minimize future conflicts between species protection and economic development of portions of the Property.

B. Grantee acknowledges that it has received a copy of the HMP dated April 1997. The HMP, which is incorporated herein by reference, provides a basewide framework for disposal of lands within former Fort Ord wherein development and potential loss of species and/or habitat is anticipated to occur in certain areas of the former Fort Ord (the HMP Development Areas) while permanent species and habitat conservation is guaranteed within other areas of the former Fort Ord (i.e., the HMP Reserve and Corridor parcels). Disposal of former Fort Ord lands in accordance with and subject to the restrictions of the HMP is intended to satisfy the Army's responsibilities under Section 7 of the ESA.

C. The following parcels of land within the Property hereby conveyed or otherwise transferred to Grantee are subject to the specific use restrictions and/or conservation, management, monitoring, and reporting requirements identified for the parcel in the HMP:

- 1) Habitat Reserve Parcels: E11b.6.3, E11b.7.1.2, and E11b.7.2;

2) Habitat Corridor with Allowance for Future Development Parcels: L20.2.2 and L20.2.3.1; and

3) Borderland Development Areas along Natural Resource Management Area (NRMA) Interface Parcels: L20.2.2, L20.2.3.1, L23.3.3.1, L23.3.2.2, and L23.3.3.2.

D. Any boundary modifications to the Borderland Development Areas along NRMA Interface must be approved in writing by the U. S. Fish and Wildlife Service (USFWS) and must maintain the viability of the HMP for permanent species and habitat conservation.

E. The HMP describes existing habitat and the likely presence of sensitive wildlife and plant species that are treated as target species in the HMP. Some of the target species are currently listed or proposed for listing as threatened or endangered under the ESA. The HMP establishes general conservation and management requirements applicable to the Property to conserve the HMP species. These requirements are intended to meet mitigation obligations applicable to the Property resulting from the Army disposal and development reuse actions. Under the HMP, all target species are treated as if listed under the ESA and are subject to avoidance, protection, conservations and restoration requirements. Grantee shall be responsible for implementing and funding each of the following requirements set forth in the HMP as applicable to the Property:

1) Grantee shall implement all avoidance, protection, conservation, and restoration requirements identified in the HMP as applicable to the Property and shall cooperate with adjacent property owners in implementing mitigation requirements identified in the HMP for adjacent sensitive habitat areas.

2) Grantee shall protect and conserve the HMP target species and their habitats within the Property, and, other than those actions required to fulfill a habitat restoration requirement applicable to the Property, shall not remove any vegetation, cut any trees, disturb any soil, or undertake any other actions that would impair the conservation of the species or their habitats. Grantee shall accomplish the Resource Conservation Requirements and Management Requirements identified in Chapter 4 of the HMP as applicable to any portion of the Property.

3) Grantee shall manage, through an agency or entity approved by USFWS, each HMP parcel, or portion thereof, within the Property that is required in the HMP to be managed for the conservation of the HMP species and their habitats, in accordance with the provisions of the HMP.

4) Grantee shall either directly, or indirectly through its USFWS approved habitat manager, implement the management guidelines applicable to the parcel through the development of a site-specific management plan. The site-specific habitat management plan must be developed and submitted to USFWS (and, for non-Federal recipients, California Department of Fish and Game (CDFG) as well) for approval within six months from the date the recipient obtains title to the parcel. Upon approval by USFWS (and, as appropriate, CDFG) the recipient shall implement the plan. Such plans may thereafter be modified through the

Coordinated Resource Management and Planning (CRMP) process or with the concurrence of USFWS (and, as appropriate, CDFG) as new information or changed conditions indicate the need for adaptive management changes. The six-month deadline for development and submission of a site-specific management plan may be extended by mutual agreement of USFWS, CDFG (if appropriate), and the recipient.

5) Grantee shall restrict access to the Property in accordance with the HMP, but shall allow access to the Property, upon reasonable notice of not less than 48 hours, by USFWS, and its designated agents, for the purpose of monitoring Grantee's compliance with, and for such other purposes as are identified in the HMP.

6) Grantee shall comply with all monitoring and reporting requirements set forth in the HMP that are applicable to the Property, and shall provide an annual monitoring report, as provided for in the HMP, to the Bureau of Land Management (BLM) on or before November 1 of each year, or such other date as may be hereafter agreed to by USFWS and BLM.

7) Grantee shall not transfer, assign, or otherwise convey any portion of, or interest in, the Property subject to the habitat conservation, management or other requirements of the HMP, without the prior written consent of Grantor, acting by and through the USFWS (or designated successor agency), which consent shall not be unreasonably withheld. Grantee covenants for itself, its successors and assigns, that it shall include and otherwise make legally binding the provisions of the HMP in any deed, lease, right of entry, or other legal instrument by which Grantee divests itself of any interest in all or a portion of the Property. The covenants, conditions, restrictions and requirements of this deed and the provisions of the HMP shall run with the land. The covenants, conditions, restrictions and requirements of this deed and the HMP benefit the lands retained by the Grantor that formerly comprised Fort Ord, as well as the public generally. Management responsibility for the Property may only be transferred as a condition of the transfer of the Property, with the consent of the USFWS. USFWS may require the establishment of a perpetual trust fund to pay for the management of the Property as a condition of transfer of management responsibility from Grantee.

8) This conveyance is made subject to the following ENFORCEMENT PROVISIONS

a) Grantor hereby reserves a reversionary interest in all of the Property. If Grantor (or its assigns), acting through the USFWS or a designated successor agency, determines that those parcels identified in Paragraph C. above or any other portion of the Property subject to a restriction or other requirement of the HMP is not being conserved and/or managed in accordance with the provisions of the HMP, then Grantor may, in its discretion, exercise a right to reenter the Property, or any portion thereof, in which case, the Property, or those portions thereof as to which the right of reentry is exercised, shall revert to Grantor. In the event that Grantor exercises its right of reentry as to all or portions of the Property, Grantee shall execute any and all documents that Grantor deems necessary to perfect or provide recordable notice of the reversion and for the complete transfer and reversion of all right, title and interest in the Property or portions thereof. Subject to applicable Federal law, Grantee shall be liable for all

costs and fees incurred by Grantor in perfecting the reversion and transfer of title. Any and all improvements on the Property or those portions thereof reverting to Grantor shall become the property of Grantor, and Grantee shall not be entitled to any payment therefore.

b) In addition to the right of reentry reserved in paragraph a. above, if Grantor (or its assigns), acting through the USFWS or a successor designated agency, determines that Grantee is violating or threatens to violate the provisions of paragraph 7 of this Deed Exhibit or the provisions of the HMP, Grantor shall provide written notice to Grantee of such violation and demand corrective action sufficient to cure the violation, and where the violation involves injury to the Property resulting from any use or activity inconsistent with the provisions of Paragraph 7 of this Deed Exhibit or the provisions of the HMP, to restore the portion of the Property so injured. If Grantee fails to cure a violation within sixty (60) days after receipt of notice thereof from Grantor, or under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, or fails to continue to diligently cure such violation until finally cured, Grantor may bring an action at law or in equity in a court of competent jurisdiction to enforce the covenants, conditions, reservations and restrictions of this deed and the provisions of the HMP, to enjoin the violation, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the covenants, conditions, reservations and restrictions of this deed or the provisions of the HMP, or injury to any conservation value protected by this deed or the HMP, and to require the restoration of the Property to the condition that existed prior to such injury. If Grantor, in its good faith and reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the species and habitat conservation values of the Property, Grantor may pursue its remedies under this paragraph without prior notice to Grantee or without waiting for the period provided for the cure to expire. Grantor's rights under this paragraph apply equally in the event of either actual or threatened violations of covenants, conditions, reservations and restrictions of this deed or the provisions of the HMP, and Grantee acknowledges that Grantor's remedies at law for any of said violations are inadequate and Grantor shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantor may be entitled, including specific performance of the covenants, conditions, reservations and restrictions of this deed and the provisions of the HMP.

c) Enforcement of the covenants, conditions, reservations and restrictions in this deed and the provisions of the HMP shall be at the discretion of Grantor, and any forbearance by Grantor to exercise its rights under this deed and the HMP in the event of any such breach or violation of any provision of this deed or the HMP by Grantee shall not be deemed or construed to be a waiver by Grantor of such provision or of any subsequent breach or violation of the same or any other provision of this deed or the HMP or of any of Grantor's rights under this deed or the HMP. No delay or omission by Grantor in the exercise of any right or remedy upon any breach or violation by Grantee shall impair such right or remedy or be construed as a waiver.

d) In addition to satisfying Army's responsibilities under Section 7 of the ESA, Grantee's compliance with the covenants, conditions, reservations and restrictions contained in this deed and with the provisions of the HMP are intended to satisfy mitigation

obligations included in any future incidental take permit issued by USFWS pursuant to Section 10(a)(1)(B) of the Endangered Species Act which authorizes the incidental take of a target HMP species on the Property. Grantee acknowledges that neither this deed nor the HMP authorizes the incidental take of any species listed under the ESA. Authorization to incidentally take any target HMP wildlife species must be obtained by Grantee separately, or through participation in a broader habitat conservation plan and Section 10(a)(1)(B) permit based on the HMP and approved by USFWS.