

Stephen L. Vagnini
Monterey County Recorder
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7/26/2007
8:00:00

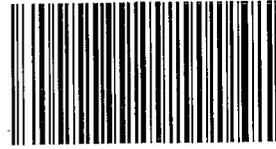
Stewart Title

WHEN RECORDED MAIL TO:

**County of Monterey
168 W. Alisal St., 3rd Floor
Salinas, CA 93901
Attn: Nick Nichols**

DOCUMENT: 2007058699

Titles: 1/ Pages: 171



Fees....
Taxes...
Other...
AMT PAID

THIS SPACE FOR RECORDER'S USE ONLY

Documentary Transfer Tax \$ EXEMPT – Transfer to Governmental Agency

_____ Computed on Full Value of Property conveyed

_____ or Computed on Full Value less liens and
encumbrances remaining at time of sale.

As declared by the Undersigned.

TITLE(S) OF DOCUMENT

**QUITCLAIM DEED FOR PARCEL E8a.1.1.2
FORMER FORT ORD, MONTEREY, CALIFORNIA
(Fort Ord Reuse Authority to the Redevelopment Agency of the
County of Monterey)**

1 WHEN RECORDED RETURN TO:
2
3
4 _____
5 _____
6 _____
7
8

RECORDER STAMP

9
10 **QUITCLAIM DEED FOR PARCEL E8a.1.1.2**
11 **FORMER FORT ORD, MONTEREY, CALIFORNIA**
12 **(Fort Ord Reuse Authority to the Redevelopment Agency of the County of Monterey)**
13

14 THIS QUITCLAIM DEED ("Deed") is made as of the 18th day of MAY 2007,
15 among the **FORT ORD REUSE AUTHORITY (the "Grantor")**, created under Title 7.85 of
16 the California Government Code, Chapters 1 through 7, inclusive, commencing with Section
17 67650, *et seq.*, and selected provisions of the California Redevelopment Law, including Division
18 24 of the California Health and Safety Code, Part 1, Chapter 4.5, Article 1, commencing with
19 Section 33492, *et seq.*, and Article 4, commencing with Section 33492.70, *et seq.*, and
20 recognized as the Local Redevelopment Authority for the former Fort Ord Army Base,
21 California, by the Office of Economic Adjustment on behalf of the Secretary of Defense, and the
22 **REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY (the "Grantee")**.
23

24 **WHEREAS**, The United States of America ("Government") was the owner of certain real
25 property, improvements and other rights appurtenant thereto together with all personal property
26 thereon, located on the former Fort Ord, Monterey County, California, which was utilized as a
27 military installation;
28

29 **WHEREAS**, The military installation at Fort Ord was closed pursuant to and in
30 accordance with the Defense Base Closure and Realignment Act of 1990, as amended (Public
31 Law 101-510; 10 U.S.C. § 2687 note);
32

33 **WHEREAS**, section 2859 of the National Defense Authorization Act for Fiscal Year
34 1996, (Public Law 104-106), authorized the Government to sell portions of the former Fort Ord
35 to the **Grantor** as surplus property;
36

37 **WHEREAS**, the **Grantor** and the Government entered into the Memorandum of
38 Agreement Between the United States of America Acting By and Through the Secretary of the
39 Army, United States Department of the Army and the Fort Ord Reuse Authority For the Sale of
40 Portions of the former Fort Ord, California, dated the 20th day of June 2000, ("MOA") and MOA
41 Amendment No. 1, dated the 23rd day of October 2001, which sets forth the specific terms and
42 conditions of the sale of portions of the former Fort Ord located in Monterey County, California;
43

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1 and "D" and an environmental baseline survey (EBS) known as the Community Environmental
2 Response Facilitation Act report, which is referenced in the FOST. The **Grantor** has no
3 knowledge regarding the accuracy or adequacy of such information. The FOST sets forth the
4 basis for the Government's determination that the Property is suitable for transfer. The Grantee
5 is hereby made aware of the notifications contained in the EBS and the FOST.

6
7 The italicized information below is copied verbatim (except as discussed below) from the
8 Government deed conveying the Property to the **Grantor**. The **Grantee** hereby acknowledges
9 and assumes all responsibilities with regard to the Property placed upon the **Grantor** under the
10 terms of the aforesaid Government deed to **Grantor** and **Grantor** grants to **Grantee** all benefits
11 with regard to the Property under the terms of the aforesaid Government deed. Sections IV.B
12 and VII.D(4) of the Government deed are not applicable to the Property and are omitted from the
13 verbatim information below. The Government Deed conveying the Property to FORA includes,
14 in addition to the Property, other parcels which are not a part of the Property but were conveyed
15 to Grantor under the Government Deed and appear in the verbatim italicized language from the
16 Government Deed. For clarification, those other parcels are shown in brackets to indicate that
17 they are not part of the Property conveyed by this Deed. Within the italicized information only,
18 the term "Grantor" shall mean the Government, and the term "Grantee" shall mean the Fort Ord
19 Reuse Authority ("FORA"); to avoid confusion, the words "the Government" have been added in
20 parenthesis after the word "Grantor", and "FORA" has been added in parenthesis after the word
21 "Grantee"

22 23 **II. EXCLUSIONS AND RESERVATIONS**

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

27
28 *A. The Property is taken by the Grantee ("FORA") subject to any and all*
29 *valid and existing recorded outstanding liens, leases, easements, and any other*
30 *encumbrances made for the purpose of roads, streets, utility systems, rights-of-*
31 *way, pipelines, and/or covenants, exceptions, interests, liens, reservations, and*
32 *agreements of record, and any unrecorded leases, easements and any other*
33 *encumbrances made for the purpose of roads, streets, utility systems, rights-of-*
34 *way, pipelines, and/or covenants, exceptions, interests, reservations and*
35 *agreements of record between Grantor ("the Government") and other*
36 *government entities.*

37
38 *B. Grantor ("the Government") reserves a perpetual unassignable right to*
39 *enter the Property for the specific purpose of treating or removing any*
40 *unexploded shells, mines, bombs, or other such devices deposited or caused by the*
41 *Grantor ("the Government").*
42

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1 C. *The reserved rights and easements set forth in this section are subject*
2 *to the following terms and conditions:*

3
4 (1) *To comply with all applicable Federal law and lawful existing*
5 *regulations;*

6
7 (2) *To allow the occupancy and use by the Grantee ("FORA"), its*
8 *successors, assigns, permittees, or lessees of any part of the easement areas not*
9 *actually occupied or required for the purpose of the full and safe utilization*
10 *thereof by the Grantor ("the Government"), so long as such occupancy and use*
11 *does not compromise the ability of the Grantor ("the Government") to use the*
12 *easements for their intended purposes, as set forth herein;*

13
14 (3) *That the easements granted shall be for the specific use*
15 *described and may not be construed to include the further right to authorize any*
16 *other use within the easements unless approved in writing by the fee holder of the*
17 *land subject to the easement;*

18
19 (4) *That any transfer of the easements by assignment, lease,*
20 *operating agreement, or otherwise must include language that the transferee*
21 *agrees to comply with and be bound by the terms and conditions of the original*
22 *grant;*

23
24 (5) *That, unless otherwise provided, no interest granted shall give*
25 *the Grantor ("the Government") any right to remove any material, earth, or stone*
26 *for consideration or other purpose except as necessary in exercising its rights*
27 *hereunder; and*

28
29 (6) *To restore any easement area so far as it is reasonably possible*
30 *to do so upon abandonment or release of any easement as provided herein, unless*
31 *this requirement is waived in writing by the then owner of the Property.*

32
33 D. *Grantor ("the Government") reserves mineral rights that Grantor*
34 *("the Government") owns with the right of surface entry in a manner that does*
35 *not unreasonably interfere with Grantee's ("FORA") development and quiet*
36 *enjoyment of the Property.*

37
38 **TO HAVE AND TO HOLD** *the Property unto the Grantee ("FORA") and*
39 *its successors and assigns forever, provided that this Deed is made and accepted*
40 *upon each of the following notices, covenants, restrictions, and conditions which*
41 *shall be binding upon and enforceable against the Grantee ("FORA"), its*
42 *successors and assigns, in perpetuity, as follows:*

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1 **III. CERCLA NOTICE**

2
3 *Applicable to [Parcels E4.6.2] and E8a.1.1.2:*

4
5 *A. Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive*
6 *Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42*
7 *U.S.C. §9620(h)(3)(A)(i)(I) and (II)), available information regarding the type,*
8 *quantity, and location of hazardous substances and the time at which such*
9 *substances were stored, released, or disposed of, as defined in section 120(h), is*
10 *provided in Exhibit "E", **Hazardous Substance, Storage, Release and Disposal,***
11 *attached hereto and made a part hereof. The Finding of Suitability to Transfer*
12 *(FOST), Former Fort Ord, California, Track 0 Plug-in C, Track 1 and Track 1*
13 *Plug-In Parcels (August 2005), (FOST) attached hereto and made a part hereof*
14 *as Exhibit "D." and an environmental baseline survey (EBS) known as*
15 *Community Environmental Response Facilitation Act report, which is referenced*
16 *in the FOST, sets forth the environmental condition of the Property. The FOST*
17 *sets forth the basis for the Grantor's ("the Government") determination that the*
18 *Property is suitable for transfer. The Grantee ("FORA") is hereby made aware*
19 *of the notifications contained in the EBS and the FOST.*

20
21 *B. Pursuant to section 120(h)(3)(A)(i)(III) of CERCLA (42 U.S.C. §*
22 *9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the*
23 *Property is provided in Exhibit "F", **Environmental Condition of Property,***
24 *attached hereto and made a part hereof. The FOST sets forth information*
25 *regarding the remedial action taken. The FOST sets forth the basis for the*
26 *Grantor's ("the Government") determination that the Property is suitable for*
27 *transfer. The Grantee ("FORA") is hereby made aware of the information*
28 *contained in the FOST.*

29
30 **IV. CERCLA COVENANT**

31
32 *A. Applicable to Parcels [E4.6.2] and E8a.1.1.2:*

33
34 *(1) Pursuant to Section 120(h)(3)(A)(ii) and (B) of CERCLA (42*
35 *U.S.C. § 9620(h)(3)(A)(ii) and (B)), the United States warrants that-*

36
37 *a) All remedial action necessary to protect human health*
38 *and the environment with respect to any hazardous substance described in section*
39 *120(h)(3)(A)(i)(I) of CERCLA remaining on the property has been taken before*
40 *the date of this deed, and*
41

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1 b) Any additional remedial action found to be necessary
2 after the date of this deed shall be conducted by the United States.
3

4 (2) This warranty shall not apply in any case in which the person
5 or entity to whom the property is transferred is a potentially responsible party
6 with respect to such property. For purposes of this warranty, Grantee ("FORA")
7 shall not be considered a potentially responsible party solely due to the presence
8 of a hazardous substance remaining on the property on the date of this
9 instrument.
10

11 **V. RIGHT OF ACCESS**

12
13 A. The Grantor ("the Government"), EPA, and DTSC, and their officers,
14 agents, employees, contractors, and subcontractors will have the right, upon
15 reasonable notice to the Grantee ("FORA"), and at no cost to the Grantor ("the
16 Government"), to enter upon the Property in any case in which a response or
17 corrective action is found to be necessary, after the date of transfer of the
18 Property, or such access is necessary to carry out a response action or corrective
19 action on adjoining property, including, without limitation, the following
20 activities:
21

22 (1) To conduct investigations and surveys, including where necessary,
23 drilling, soil and water sampling, test-pitting, and other activities related to the
24 Fort Ord Installation Restoration Program ("IRP"), Military Munitions Response
25 Program ("MMRP"), or FFA;
26

27 (2) To inspect field activities of the Army and its contractors and
28 subcontractors with regards to implementing the Fort Ord IRP, MMRP, or FFA;
29

30 (3) To conduct any test or survey related to the implementation of the IRP
31 by the EPA or the DTSC relating to the implementation of the FFA or
32 environmental conditions at Fort Ord or to verify any data submitted to the EPA
33 or the DTSC by the Government relating to such conditions;
34

35 (4) To construct, operate, maintain or undertake any other investigation,
36 corrective measure, response, or remedial action as required or necessary under
37 any Fort Ord FFA, Record of Decision ("ROD"), IRP or MMRP requirement,
38 including, but not limited to monitoring wells, pumping wells, and treatment
39 facilities.
40

41 Such right of access shall be binding on the Grantee ("FORA"), its
42 successors and assigns, and shall run with the land.

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1
2 *B. In exercising this access easement, except in case of imminent endangerment*
3 *to human health or the environment, the Grantor ("the Government") shall give*
4 *the Grantee ("FORA"), or the then record owner, reasonable prior notice.*
5 *Grantee ("FORA") agrees that, notwithstanding any other provisions of this*
6 *Deed, the Grantor ("the Government") assumes no liability to the Grantee*
7 *("FORA"), its successors or assigns, or any other person, should remediation of*
8 *the Property interfere with the use of the Property. The Grantee ("FORA") shall*
9 *not, through construction or operation/maintenance activities, interfere with any*
10 *remediation or response action conducted by the Grantor ("the Government")*
11 *under this paragraph. The Grantee ("FORA"), the then record owner, and any*
12 *other person shall have no claim against the Grantor ("the Government") or any*
13 *of its officers, agents, employees or contractors solely on account of any such*
14 *interference resulting from such remediation.*

15
16 *C. Without the express written consent of the Grantor ("the Government") in*
17 *each case first obtained, neither the Grantee ("FORA"), its successors or assigns,*
18 *nor any other person or entity acting for or on behalf of the Grantee ("FORA"),*
19 *its successors or assigns, shall interfere with any response action being taken on*
20 *the Property by or on behalf of the Grantor ("the Government"), or interrupt,*
21 *relocate, or otherwise interfere with any remediation system now or in the future*
22 *located, over, through, or across any portion of the Property.*

23
24 **VI. "AS IS, WHERE IS"**

25
26 *The Property is conveyed in an "As Is, Where Is" condition without any*
27 *representation, warranty or guarantee, except as otherwise stated herein, by the*
28 *Grantor ("the Government") as to quantity, quality, title, character, condition,*
29 *size, or kind, or that the same is in condition or fit to be used for the purpose for*
30 *which intended, and no claim for allowance or deduction upon such grounds will*
31 *be considered. There is no obligation on the part of the Grantor ("the*
32 *Government") to make any alterations, repairs, or additions, and said Grantor*
33 *("the Government") shall not be liable for any latent or patent defects in the*
34 *Property. This section shall not affect the Grantor's ("the Government")*
35 *responsibility under CERCLA COVENANTS, ENVIRONMENTAL*
36 *PROTECTION PROVISIONS, or any other statutory obligations as applicable.*

37
38 **VII. ENVIRONMENTAL PROTECTION PROVISIONS**

39
40 *The Grantee ("FORA") shall neither transfer the Property, lease the*
41 *Property, nor grant any interest, privilege, or license whatsoever in connection*
42 *with the Property without the inclusion of the Environmental Protection*

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1 Provisions in this Section VII (Environmental Protection Provisions), and shall
2 require the inclusion of the Environmental Protection Provisions in all further
3 deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

4
5 **A. FEDERAL FACILITIES AGREEMENT ("FFA")**

6
7 The Grantor ("the Government") acknowledges that former Fort Ord has been
8 identified as a National Priority List ("NPL") Site under CERCLA. The Grantee
9 ("FORA") acknowledges that the Grantor ("the Government") has provided it
10 with a copy of the FFA entered into by the EPA Region IX, the State of California,
11 and the United States Department of the Army, effective on February 1990, and
12 will provide the Grantee ("FORA") with a copy of any amendments thereto. The
13 Grantee ("FORA") agrees that should any conflict arise between the terms of the
14 FFA as they presently exist or may be amended, and the provisions of this
15 Property transfer, the terms of the FFA will take precedence. The Grantee
16 ("FORA") further agrees that notwithstanding any other provisions of the
17 Property transfer, the Grantor ("the Government") assumes no liability to the
18 Grantee ("FORA"); should implementation of the FFA interfere with their use of
19 the Property. Grantor ("the Government") shall give Grantee ("FORA")
20 reasonable notice of its action required by the FFA and use all reasonable means
21 to the extent practicable to avoid and/or minimize interference with Grantee's
22 ("FORA"), its successors or assigns' use of the Property. The Grantee
23 ("FORA"), or any subsequent transferee, shall have no claim on account of any
24 such interference against the Grantor ("the Government") or any officer, agent,
25 employee or contractor thereof. Grantor ("the Government") agrees to use its
26 best efforts to the extent practicable to avoid and/or minimize interference with
27 Grantee ("FORA"), its successors or assigns' use of the Property, and to provide
28 Grantee ("FORA") with a copy of any amendments to the FFA.

29
30 **B. NO LIABILITY FOR NON-ARMY CONTAMINATION**

31
32 The Army shall not incur liability for additional response action or
33 corrective action found to be necessary after the date of transfer in any case in
34 which the person or entity to whom the Property is transferred, or other non-
35 Army entities, is identified as the party responsible for contamination of the
36 property.

37
38 **C. LAND USE RESTRICTIONS**

39
40 1) The United States Department of the Army (Army) has undertaken
41 careful environmental study of the Property and concluded that the land use
42 restrictions set forth below are required to ensure protection of human health and

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1 the environment. The Grantee ("FORA"), its successors or assigns, shall not
2 undertake nor allow any activity on or use of the property that would violate the
3 land use restrictions contained herein.

4
5 a) **Residential Use Restriction.** Applicable to Parcels [E4.6.2] and
6 E8a.1.1.2: In accordance with the provisions of Section G of the Environmental
7 Protection Provisions, the Grantee ("FORA"), its successors and assigns, shall
8 use Parcels E4.6.2 and [E8a.1.1.2] solely for commercial or industrial activities
9 and not for residential purposes to the extent any abatement is required under
10 Title X of the Housing and Community Development Act of 1992 (Residential
11 Lead-Based Paint Hazard Reduction Act of 1992. For purposes of this provision,
12 residential use includes, but is not limited to, single family or multi-family
13 residences; childcare facilities; and nursing home or assisted living facilities; and
14 any type of educational purpose for children/young adults in grades kindergarten
15 through 12.

16
17 b) **Groundwater Restriction.** Applicable to Parcels [E4.6.2] and
18 E8a.1.1.2: As described in the NOTICE OF THE PRESENCE OF
19 CONTAMINATED GROUNDWATER, the Grantee ("FORA") is hereby informed
20 and acknowledges that the groundwater under portions of the Property and
21 associated with the Sites 2 and 12 (Sites 2/12) groundwater plume and the
22 Operable Unit 2 (OU2) groundwater plume is contaminated with volatile organic
23 compounds (VOCs), primarily trichloroethene (TCE). In accordance with the
24 provisions of Section D of the Environmental Protection Provisions, the Grantee
25 ("FORA"), its successors and assigns shall not access or use groundwater
26 underlying the Property for any purpose. For the purpose of this restriction,
27 "groundwater" shall have the same meaning as in section 101(12) of the
28 Comprehensive Environmental Response, Compensation and Liability Act
29 (CERCLA).

30
31 **2) Modifying Restrictions.** Nothing contained herein shall preclude the
32 Grantee ("FORA"), its successors or assigns, from undertaking, in accordance
33 with applicable laws and regulations and without any cost to the Grantor ("the
34 Government"), such additional action necessary to allow for other less restrictive
35 use of the Property. Prior to such use of the Property, Grantee ("FORA") shall
36 consult with and obtain the approval of the Grantor ("the Government"), and, as
37 appropriate, the State or federal regulators, or the local authorities in
38 accordance with these Environmental Protection Provisions and the provisions of
39 the CRUP(s). Upon the Grantee's ("FORA") obtaining the approval of the
40 Grantor ("the Government") and, as appropriate, state or federal regulators, or
41 local authorities, the Grantor ("the Government") agrees to record an

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1 a) Parcel S4.1.1 overlies the Sites 2/12 groundwater plume where the
 2 concentration of TCE in groundwater equals or exceeds 5.0 micrograms per liter
 3 ($\mu\text{g/L}$). For the Sites 2/12 groundwater plume area the maximum TCE
 4 concentration in the groundwater beneath the Property [(Parcel S4.1.1)] is
 5 between 5.0 $\mu\text{g/L}$ and 10 $\mu\text{g/L}$ and depth to groundwater is 68 to 75 feet below
 6 ground surface.
 7

8 b) Parcels [E4.6.2] and E8a.1.1.2 overlie the OU2 groundwater plume
 9 where the concentration of TCE in groundwater exceeds 5.0 $\mu\text{g/L}$. For the OU2
 10 groundwater plume area the maximum TCE concentration in the groundwater
 11 beneath the Property [(Parcel E4.3.1.2)] is 26 $\mu\text{g/L}$ as measured in groundwater
 12 extraction well EW-OU2-12A and depth to groundwater is 125 to 175 feet below
 13 ground surface.
 14

15 (2) The maximum concentrations of the chemicals of concern (associated
 16 with the OU2 and Sites 2/12 groundwater plumes) detected in the groundwater
 17 monitoring or extraction wells on the Property (September 2004) are listed below.
 18 The quantity released of these compounds is unknown. The OU2 and Sites 2/12
 19 groundwater aquifer cleanup levels (ACLs), presented in the OU2 Fort Ord
 20 Landfills Record of Decision (ROD) (July 1994) and Basewide Remedial
 21 Investigation Sites ROD (January 1997), are provided for comparison.
 22
 23
 24

Chemicals of Concern in Groundwater and Aquifer Cleanup Levels (OU2 and Sites 2/12 Plumes)

Chemical Name	Regulatory Synonym	CASRN*	RCRA Waste Number	Parcel	Well (EW-OU2)	Maximum Concentrations ($\mu\text{g/L}$)	ACL ($\mu\text{g/L}$)
Benzene	Benzol	71432	U019	E4.3.1.2	-10-A	0.3	1.0
Carbon Tetrachloride	Methane, tetrachloro-	56235	U211			ND	0.5
Chloroform	Methane, trichloro-	67663	U044	E4.3.1.2	-12-A	2.3	2.0
1,1-Dichloroethane	Ethane, 1,1-dichloro-	75343	U076	E4.3.1.2	-10-A	6.9	5.0
1,2-Dichloroethane	Ethane, 1,2-dichloro-	107062	U077	E4.3.1.2	-10-A	1.5	0.5
1,1-Dichloroethene	Ethene, 1,1-dichloro-	75354	U078			ND	6.0
Cis-1,2-Dichloroethene	Ethene, 1,2-dichloro(E)	156605	U079	E4.3.1.2	-10-A	8.9	6.0
1,2-Dichloropropane	Propane, 1,2-dichloro-	78875	U083	E4.3.1.2	-12-A	1.3	1.0
Total 1,3-Dichloropropene	Propene, 1,3-dichloro-	542756	--			ND	0.5
Methylene Chloride	Methane, dichloro-	75092	U080			ND	5.0
Tetrachloroethene	Ethene, tetrachloro-	127184	U210	E4.3.1.2	-10-A	5.4	3.0
Trichloroethene	Ethene, trichloro-	79016	U228	E4.3.1.2	-12-A	26	5.0
Vinyl chloride	Ethene, chloro-	75014	U043	E4.3.1.2	-10-A	0.7	0.1

*Chemical Abstract Services Registry Number

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1 (3) Restrictions and Conditions
2

3 a) *The Property is within the "Prohibition Zone" of the "Special*
4 *Groundwater Protection Zone." A Covenant to Restrict the Use of Property*
5 *(CRUP) for the Property will be established between the United States Army and*
6 *the State of California (DTSC and the California Regional Water Quality Control*
7 *Board, Central Coast Region). The Prohibition Zone encompasses the area*
8 *overlying or adjacent to the four identified groundwater contamination plumes at*
9 *the former Fort Ord. The Prohibition Zone is identified on the "Former Fort Ord*
10 *Special Groundwater Protection Zone Map" (the Map), which is on file with the*
11 *County of Monterey (the County). County Ordinance No. 04011 prohibits the*
12 *construction of water wells within the Prohibition Zone.*

13
14 b) *The Grantee ("FORA") covenants for itself, its successors, and assigns*
15 *not to access or use groundwater underlying the Property for any purpose. For*
16 *the purpose of this restriction, "groundwater" shall have the same meaning as in*
17 *section 101(12) of CERCLA.*

18
19 c) *The Grantee ("FORA") covenants for itself, its successors, and assigns*
20 *that neither the Grantee ("FORA"), its successors or assigns, nor any other*
21 *person or entity acting for or on behalf of the Grantee ("FORA"), its successors*
22 *or assigns, shall interfere with any response action being taken on the Property*
23 *by or on behalf of the Grantor ("the Government"), or interrupt, relocate, or*
24 *otherwise interfere or tamper with any remediation system or monitoring wells*
25 *now or in the future located on, over, through, or across any portion of the*
26 *Property without the express written consent of the Grantor ("the Government")*
27 *in each case first obtained.*

28
29 d) *The Grantee ("FORA") covenants for itself, its successors, or assigns,*
30 *that it will not undertake nor allow any activity on or use of the Property that*
31 *would violate the restrictions contained herein. These restrictions and covenants*
32 *are binding on the Grantee ("FORA"), its successors and assigns; shall run with*
33 *the land; and are forever enforceable.*

34
35 **E. NOTICE OF THE POTENTIAL FOR THE PRESENCE OF**
36 **MUNITIONS AND EXPLOSIVES OF CONCERN (MEC)**
37

38 (1) *The Grantee ("FORA") is hereby notified that due to the former*
39 *use of the Property as a military installation, the Property may contain munitions*
40 *and explosives of concern (MEC). The term MEC means specific categories of*
41 *military munitions that may pose unique explosives safety risks and includes:*
42 *(1) Unexploded Ordnance (UXO), as defined in 10 U.S.C. § 101(e)(5);*

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1 (2) Discarded military munitions (DMM), as defined in 10 U.S.C. § 2710(e)(2); or
2 (3) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. § 2710(e)(3),
3 present in high enough concentrations to pose an explosive hazard. For the
4 purposes of the basewide Military Munitions Response Program (MMRP) being
5 conducted for the former Fort Ord and these Environmental Protection
6 Provisions, MEC does not include small arms ammunition .50 caliber and below.
7

8 (2) Portions of the Property were previously used for military training
9 involving military munitions, or for disposal of munitions items. A review of
10 existing records and available information indicates there are munitions response
11 sites (MRS's) associated with the Property. Military training on the Property
12 involved only the use of practice and pyrotechnic items that are not designed to
13 cause injury, or military munitions items that do not pose an explosive hazard.
14 Military munitions items were found within materials excavated from a landfill
15 disposal area formerly on the Property; however, this is attributed to disposal
16 activities at the landfill and not training. All landfill disposal areas within the
17 Property have been fully excavated, the landfilled material removed, and the
18 excavated areas backfilled or regraded. The ten MRS's were evaluated and
19 documented in the Final Track 1 Ordnance and Explosives Remedial
20 Investigation/Feasibility Study, former Fort Ord, California (Track 1 OE RI/FS).
21 (June 2004) the Track 1 Plug-In Approval Memorandum, MRS-6 Expansion Area
22 (May 6, 2005) and, in accordance with the Record of Decision, No Further Action
23 Related to Munitions and Explosives of Concern – Track 1 Sites; No Further
24 Remedial Action with Monitoring for Ecological Risks from Chemical
25 Contamination at Site 3 (MRS-22) (Track 1 ROD) (March 2005), no further
26 action related to MEC is required at these MRS's.
27

28 (3) The Grantor ("the Government") represents that, to the best of its
29 knowledge, no MEC is currently present on the Property. Notwithstanding the
30 Grantor's ("the Government") determination, the parties acknowledge that there
31 is a possibility that MEC may exist on the Property. If the Grantee ("FORA"),
32 any subsequent owner, or any other person should find any MEC on the Property,
33 they shall immediately stop any intrusive or ground-disturbing work in the area
34 or in any adjacent areas and shall not attempt to disturb, remove or destroy it, but
35 shall immediately notify the local law enforcement agency having jurisdiction on
36 the Property so that appropriate U.S. Military explosive ordnance disposal
37 personnel can be dispatched to address such MEC as required under applicable
38 law and regulations and at no expense to the Grantee ("FORA"). The Grantee
39 ("FORA") hereby acknowledges receipt of the "Ordnance and Explosives Safety
40 Alert" pamphlet.
41

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 (4) Because the Grantor ("the Government") cannot guarantee that
2 all MEC has been removed, the Grantor ("the Government") recommends
3 reasonable and prudent precautions be taken when conducting intrusive
4 operations on the Property and will, at its expense, provide construction worker
5 ordnance recognition and safety training. The FOST lists certain MRS's
6 associated with the property covered under the FOST (MRS-1, MRS-6, (and MRS-
7 6 Expansion Area), MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS-59A, MRS-62,
8 and MRS-66). For those MRS's that overlap the Property the Army recommends
9 construction personnel involved in intrusive operations at these sites attend the
10 Grantor's ("the Government") ordnance recognition and safety training. To
11 accomplish that objective, the Grantor ("the Government") requests notice from
12 the Grantee ("FORA") of planned intrusive activities, and in turn will provide
13 ordnance recognition and safety training to construction personnel prior to the
14 start of intrusive work. The Grantor ("the Government") will provide ordnance
15 recognition and safety refresher training as appropriate. For the Track 1 sites
16 where ordnance recognition and safety training is recommended (MRS-1, MRS-6
17 (and MRS-6 Expansion Area), MRS-13A, MRS-22, MRS-27Y, MRS-49, MRS- 59A,
18 MRS-62, and MRS-66), at the time of the next five-year review (2007), the
19 Grantor ("the Government") will assess whether the education program should
20 continue. If information indicates that no MEC items have been found in the
21 course of development or redevelopment of the site, it is expected that the
22 education program may, with the concurrence of the regulatory agencies, be
23 discontinued, subject to reinstatement if a MEC item is encountered in the future.

24 (5) Easement and Access Rights.

25
26 a) The Grantor ("the Government") reserves a perpetual and
27 assignable right of access on, over, and through the Property, to access and enter
28 upon the Property in any case in which a munitions response action is found to be
29 necessary, or such access and entrance is necessary to carry out a munitions
30 response action on adjoining property as a result of the ongoing Munitions
31 Response Remedial Investigation/Feasibility Study. Such easement and right of
32 access includes, without limitation, the right to perform any additional
33 investigation, sampling, testing, test-pitting, surface and subsurface clearance
34 operations, or any other munitions response action necessary for the United
35 States to meet its responsibilities under applicable laws and as provided for in
36 this Deed. This right of access shall be binding on the Grantee ("FORA"), its
37 successors and assigns, and shall run with the land.

38
39 b) In exercising this easement and right of access, the Grantor
40 ("the Government") shall give the Grantee ("FORA") or the then record owner,
41 reasonable notice of the intent to enter on the Property, except in emergency

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 situations. Grantor ("the Government") shall use reasonable means, without
2 significant additional cost to the Grantor ("the Government"), to avoid and/or
3 minimize interference with the Grantee's ("FORA") and the Grantee's ("FORA")
4 successors' and assigns' quiet enjoyment of the Property; however, the use and/or
5 occupancy of the Property may be limited or restricted, as necessary, under the
6 following scenarios: (a) to provide the required minimum separation distance
7 employed during intrusive munitions response actions that may occur on or
8 adjacent to the Property; and (b) if Army implemented prescribed burns are
9 necessary for the purpose of a munitions response action (removal) in adjacent
10 areas. Such easement and right of access includes the right to obtain and use
11 utility services, including water, gas, electricity, sewer, and communications
12 services available on the property at a reasonable charge to the United States.
13 Excluding the reasonable charges for such utility services, no fee, charge, or
14 compensation will be due the Grantee ("FORA") nor its successors and assigns,
15 for the exercise of the easement and right of access hereby retained and reserved
16 by the United States.

17
18 c) In exercising this easement and right of access, neither the
19 Grantee ("FORA") nor its successors and assigns, as the case maybe, shall have
20 any claim at law or equity against the United States or any officer, employee,
21 agent, contractor of any tier, or servant of the United States based on actions
22 taken by the United States or its officers, employees, agents, contractors of any
23 tier, or servants pursuant to and in accordance with this Paragraph. In addition,
24 the Grantee ("FORA"), its successors and assigns, shall not interfere with any
25 munitions response action conducted by the Grantor ("the Government") on the
26 Property.

27
28 (6) The Grantee ("FORA") acknowledges receipt of the Final Track I
29 Ordnance and Explosives Remedial Investigation/Feasibility Study (Track I OE
30 RI/FS) (June 2004) and the Record of Decision, No Further Action Related to
31 Munitions and Explosives of Concern – Track I Sites; No Further Remedial
32 Action with Monitoring for Ecological Risks from Chemical Contamination at
33 Site 3 (MRS-22) (Track I ROD) (March 2005).

34 **F. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT**

35
36
37 Applicable to Parcel E8a.1.1.2:

38
39 (1) The Grantee ("FORA") is hereby informed and does acknowledge that friable
40 and non-friable asbestos or asbestos-containing material (ACM) has been found
41 on the Property, as described in the Asbestos Survey Report (April 26, 1993) and
42 summarized in the CERFA Report (April 8, 1994). The Property may also contain

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 *improvements, such as buildings, facilities, equipment, and pipelines, above and*
2 *below the ground, that contain friable and non-friable asbestos or ACM. The*
3 *Occupational Safety and Health Administration (OSHA) and the U.S.*
4 *Environmental Protection Agency (US EPA) have determined that unprotected or*
5 *unregulated exposure to airborne asbestos fibers increases the risk of asbestos-*
6 *related diseases, including certain cancers that can result in disability or death.*

7
8 *(2) Several buildings on the Property have been determined to contain friable*
9 *asbestos. Detailed information is contained in the referenced survey report. The*
10 *remaining buildings contain non-friable ACM rated in good condition. To the*
11 *extent required under applicable law or regulation and at no expense to Grantor*
12 *(the "Government"), the Grantee ("FORA") agrees to undertake any and all*
13 *asbestos abatement or remediation in the aforementioned buildings and*
14 *abatement or remediation of asbestos in or on buried pipelines, if any, that would*
15 *not otherwise be the responsibility of the Grantor (the "Government") under*
16 *CERCLA or any other applicable statute. The Grantor (the "Government") has*
17 *agreed to transfer said buildings to the Grantee ("FORA"), prior to remediation*
18 *or abatement of asbestos hazards, in reliance upon the Grantee's ("FORA")*
19 *express representation and covenant to perform the required asbestos abatement*
20 *or remediation of these buildings.*

21
22 *(3) The Grantee ("FORA") covenants and agrees that its use and occupancy of*
23 *the Property will be in compliance with all applicable laws relating to asbestos.*

24
25 *(4) The Grantee ("FORA") acknowledges that it has inspected or has had the*
26 *opportunity to inspect the Property as to its asbestos and ACM content and*
27 *condition and any hazardous or environmental conditions relating thereto. The*
28 *failure of the Grantee ("FORA") to inspect, or to be fully informed as to the*
29 *asbestos condition of all or any portion of the Property, will not constitute*
30 *grounds for any claim or demand against the United States, or any adjustment*
31 *under this deed.*

32
33 **G. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT**
34 **(LBP) AND COVENANT AGAINST THE USE OF THE PROPERTY FOR**
35 **RESIDENTIAL PURPOSE**

36
37 *Applicable to Parcels [E4.6.2] and E8a.1.1.2:*

38
39 *(1) The Grantee ("FORA") is hereby informed and does acknowledge*
40 *that all buildings on Parcels, which were constructed or rehabilitated prior to 1978,*
41 *are presumed to contain lead-based paint. Lead from paint, paint chips, and dust*
42 *can pose health hazards if not managed properly. Every purchaser of any interest*

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 *in Residential Real Property on which a residential dwelling was built prior to 1978*
2 *is notified that such property may present exposure to lead from lead-based paint*
3 *that may place young children at risk of developing lead poisoning.*

4
5 (2) *The Grantee ("FORA") covenants and agrees that it shall not*
6 *permit the occupancy or use of any buildings or structures on Parcels [E4.6.2] and*
7 *E8a.1.1.2 as Residential Property, as defined under 24 Code of Federal Regulations*
8 *Part 35, without complying with this section and all applicable federal, state, and*
9 *local laws and regulations pertaining to lead-based paint and/or lead-based paint*
10 *hazards. Prior to permitting the occupancy of Parcels [E4.6.2] and E8a.1.1.2,*
11 *where their use subsequent to this conveyance is intended for residential habitation,*
12 *the Grantee ("FORA") specifically agrees to perform, at its sole expense, the*
13 *Army's abatement requirements under Title X of the Housing and Community*
14 *Development Act of 1992 (Residential Lead-Based Paint Hazard Reduction Act of*
15 *1992).*

16
17 (3) *The Grantee ("FORA") acknowledges that it has inspected or has had the*
18 *opportunity to inspect the Property as to its lead-based paint content and*
19 *condition and any hazardous or environmental conditions relating thereto. The*
20 *failure of the Grantee ("FORA") to inspect, or to be fully informed as to the lead-*
21 *based paint condition of all or any portion of the Property, will not constitute*
22 *grounds for any claim or demand against the United States, or any adjustment*
23 *under this deed.*

24
25 **H. NOTICE OF THE PRESENCE OF THE FORT ORD**
26 **LANDFILLS**

27
28 *Applicable to Parcels [E4.6.2] and E8a.1.1.2:*

29 *Parcels [E4.6.2] and E8a.1.1.2 are located within 1,000 feet of the Fort*
30 *Ord OU2 Landfills. In order to evaluate methane levels in soil adjacent to the*
31 *OU2 Landfills, monitoring probes were installed within the landfill and around*
32 *the landfill perimeter. The probes were placed at a spacing of 1,000 feet or less.*
33 *The probes are sampled quarterly for methane and annually for volatile organic*
34 *compounds. The probes will continue to be monitored for a period of thirty (30)*
35 *years from the time the monitoring program was implemented (June 2000) or*
36 *until written authorization to discontinue monitoring is provided by the*
37 *appropriate enforcement agency with concurrence by the California Integrated*
38 *Waste Management Board (CIWMB). Methane concentrations do not exceed the*
39 *CIWMB standard of 5% by volume in probes located at the property boundary,*
40 *with the exception of areas on the eastern side bordering property that is not*
41 *included in this FOST. Results of perimeter probe monitoring may be found in*

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 the perimeter probe monitoring reports, which the Army publishes annually. The
2 Army has implemented a gas collection and treatment system along the eastern
3 side of the landfill adjacent to the existing housing area. To decrease the
4 potential for landfill gas migration to surrounding property, a buffer was added
5 extending 100 feet beyond the perimeter fencing. Future landowners should refer
6 to California Code of Regulations Title 27, Section 21190, which identifies
7 protective measures for structures built on or within 1,000 feet of a landfill.

8 9 I. NOTICE OF RARE, THREATENED AND ENDANGERED 10 SPECIES MANAGEMENT

11
12 Applicable to Parcels [E11a, E11b.6.2, E4.6.2], E8a.1.1.2 [L20.14.1.1,
13 L20.14.2, and L20.6].

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

32
33 (2) Grantee ("FORA") acknowledges that it has received a copy of the
34 HMP dated April 1997. The HMP, which is incorporated herein by reference,
35 provides a basewide framework for disposal of lands within former Fort Ord
36 wherein development and potential loss of species and/or habitat is anticipated to
37 occur in certain areas of the former Fort Ord (the HMP Development Areas)
38 while permanent species and habitat conservation is guaranteed within other
39 areas of the former Fort Ord (i.e., the HMP Reserve and Corridor parcels).
40 Disposal of former Fort Ord lands in accordance with and subject to the
41 restrictions of the HMP is intended to satisfy the Army's responsibilities under
42 Section 7 of the ESA.

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1
2 (3) The following parcels of land within the Property hereby conveyed
3 or otherwise transferred to Grantee ("FORA") are subject to the specific use
4 restrictions and/or conservation, management, monitoring, and reporting
5 requirements identified for the parcel in the HMP:
6

7 a) Habitat Reserve Parcels numbered: [E11a and E11b.6.2]

8
9 b) Habitat reserves within the Development with Reserve Areas or
10 Development with Restrictions Parcels numbered: E8a.1.1.2

11
12 (4) Any boundary modifications to the Development with Reserve Areas
13 or Development with Restrictions parcels or the Borderland Development Areas
14 along NRMA Interface must be approved in writing by the U. S. Fish and Wildlife
15 Service (USFWS) and must maintain the viability of the HMP for permanent
16 species and habitat conservation.

17
18 (5) The HMP describes existing habitat and the likely presence of
19 sensitive wildlife and plant species that are treated as target species in the HMP.
20 Some of the target species are currently listed or proposed for listing as
21 threatened or endangered under the ESA. The HMP establishes general
22 conservation and management requirement applicable to the property to conserve
23 the HMP species. These requirements are intended to meet mitigation obligations
24 applicable to the property resulting from the Army disposal and development
25 reuse actions. Under the HMP, all target species are treated as if listed under the
26 ESA and are subject to avoidance, protection, conservations, and restoration
27 requirements. Grantee ("FORA") shall be responsible for implementing and
28 funding each of the following requirements set forth in the HMP as applicable to
29 the property:

30
31 a) Grantee ("FORA") shall implement all avoidance, protection,
32 conservation and restoration requirements identified in the HMP as applicable to
33 the Property and shall cooperate with adjacent property owners in implementing
34 mitigation requirements identified in the HMP for adjacent sensitive habitat
35 areas.

36
37 b) Grantee ("FORA") shall protect and conserve the HMP target
38 species and their habitats within the Property, and, other than those actions
39 required to fulfill a habitat restoration requirement applicable to the Property,
40 shall not remove any vegetation, cut any trees, disturb any soil, or undertake any
41 other actions that would impair the conservation of the species or their habitats.

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1 Grantee ("FORA") shall accomplish the Resource Conservation Requirements
2 and Management Requirements identified in Chapter 4 of the HMP as applicable
3 to any portion of the Property.
4

5 c) Grantee ("FORA") shall manage, through an agency or entity
6 approved by USFWS, each HMP parcel, or portion thereof, within the Property
7 that is required in the HMP to be managed for the conservation of the HMP
8 species and their habitats, in accordance with the provisions of the HMP.
9

10 d) Grantee ("FORA") shall either directly, or indirectly through its
11 USFWS approved habitat manager, implement the management guidelines
12 applicable to the parcel through the development of a site-specific management
13 plan. The site-specific habitat management plan must be developed and
14 submitted to USFWS (and, for non-Federal recipients, California Department of
15 Fish and Game (CDFG) as well) for approval. Upon approval by USFWS (and,
16 as appropriate, CDFG) the recipient shall implement the plan. Such plans may
17 thereafter be modified through the Coordinated Resource Management and
18 Planning (CRMP) process or with the concurrence of USFWS (and, as
19 appropriate, CDFG) as new information or changed conditions indicate the need
20 for adaptive management changes.
21

22 e) Grantee ("FORA") shall restrict access to the Property in
23 accordance with the HMP, but shall allow access to the Property, upon
24 reasonable notice of not less than 48 hours, by USFWS, and its designated agents,
25 for the purpose of monitoring Grantee's ("FORA") compliance with, and for such
26 other purposes as are identified in the HMP.
27

28 f) Grantee ("FORA") shall comply with all monitoring and reporting
29 requirements set forth in the HMP that are applicable to the Property, and shall
30 provide an annual monitoring report, as provided for in the HMP, to the Bureau
31 of Land Management (BLM) on or before November 1 of each year, or such other
32 date as may be hereafter agreed to by USFWS and BLM.
33

34 g) Grantee ("FORA") covenants for itself, its successors and assigns,
35 that it shall include and otherwise make legally binding the provisions of the
36 HMP in any deed, lease, right of entry, or other legal instrument by which
37 Grantee ("FORA") divests itself of any interest in all or a portion of the Property.
38 The covenants, conditions, restrictions and requirements of this deed and the
39 provisions of the HMP shall run with the land. The covenants, conditions,
40 restrictions, and requirements of this deed and the HMP benefit the lands
41 retained by the Grantor ("the Government") that formerly comprised Fort Ord,
42 as well as the public generally. Management responsibility for the Property may

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 only be transferred as a condition of the transfer of the Property, with the consent
2 of the USFWS. USFWS may require the establishment of a perpetual trust fund to
3 pay for the management of the Property as a condition of transfer of management
4 responsibility from Grantee ("FORA").
5

6 h) This conveyance is made subject to the following ENFORCEMENT
7 PROVISIONS:
8

9 i) If Grantor ("the Government") (or its assigns), acting through the USFWS or a
10 successor designated agency, determines that Grantee ("FORA") is violating or
11 threatens to violate the provisions of subparagraph h of this deed or the
12 provisions of the HMP, Grantor ("the Government") shall provide written notice
13 to Grantee ("FORA") of such violation and demand corrective action sufficient to
14 cure the violation, and where the violation involves injury to the Property
15 resulting from any use or activity inconsistent with the provisions of
16 subparagraph h of this deed or the provisions of the HMP, to restore the portion
17 of the Property so injured. If Grantee ("FORA") fails to cure a violation within
18 sixty (60) days after receipt of notice thereof from Grantor ("the Government"),
19 or under circumstances where the violation cannot reasonable be cured within a
20 sixty (60) day period, or fails to continue to diligently cure such violation until
21 finally cured, Grantor ("the Government") may bring an action at law or in
22 equity in a court of competent jurisdiction to enforce the covenants, conditions,
23 and restrictions of this deed and the provisions of the HMP, to enjoin the
24 violation, by temporary or permanent injunction, to recover any damages to
25 which it may be entitled for violation of the covenants, conditions, and restrictions
26 of this deed or the provisions of the HMP, or injury to any conservation value
27 protected by this deed or the HMP, and to require the restoration of the Property
28 to the condition that existed prior to such injury. If Grantor ("the Government"),
29 in its good faith and reasonable discretion, determines that circumstances require
30 immediate action to prevent or mitigate significant damage to the species and
31 habitat conservation values of the Property, Grantor ("the Government") may
32 pursue its remedies under this paragraph without prior notice to Grantee
33 ("FORA") or without waiting for the period provided for the cure to expire.
34 Grantor's ("the Government") rights under this paragraph apply equally in the
35 event of either actual or threatened violations of covenants, conditions,
36 reservations and restrictions of this deed or the provisions of the HMP, and
37 Grantee ("FORA") acknowledges that Grantor's ("the Government") remedies
38 at law for any of said violations are inadequate and Grantor ("the Government")
39 shall be entitled to the injunctive relief described in this paragraph, both
40 prohibitive and mandatory, in addition to such other relief to which Grantor ("the
41 Government") may be entitled, including specific performance of the covenants,

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 *conditions, reservations and restrictions of this deed and the provisions of the*
2 *HMP.*

3
4 *ii) Enforcement of the covenants, conditions, and restrictions in this deed and the*
5 *provisions of the HMP shall be at the discretion of Grantor ("the Government"),*
6 *and any forbearance by Grantor ("the Government") to exercise its rights under*
7 *this deed and the HMP in the event of any such breach or violation of any*
8 *provision of this deed or the HMP by Grantee ("FORA") shall not be deemed or*
9 *construed to be a waiver by Grantor ("the Government") of such provision or of*
10 *any subsequent breach or violation of the same or any other provision of this deed*
11 *or the HMP or of any of Grantor's ("the Government") rights under this deed or*
12 *the HMP. No delay or omission by Grantor ("the Government") in the exercise*
13 *of any right or remedy upon any breach or violation by Grantee ("FORA") shall*
14 *impair such right or remedy or be construed as a waiver.*

15
16 *iii) In addition to satisfying Army's responsibilities under Section 7 of the ESA,*
17 *Grantee's ("FORA") compliance with the covenants, conditions, and restrictions*
18 *contained in this deed and with the provisions of the HMP are intended to satisfy*
19 *mitigation obligations included in any future incidental take permit issued by*
20 *USFWS pursuant to Section 10(a)(1)(B) of the Endangered Species Act which*
21 *authorizes the incidental take of a target HMP species on the Property. Grantee*
22 *("FORA") acknowledges that neither this deed nor the HMP authorizes the*
23 *incidental take of any species listed under the ESA. Authorization to incidentally*
24 *take any target HMP wildlife species must be obtained by Grantee ("FORA")*
25 *separately, or through participation in a broader habitat conservation plan and*
26 *Section 10(a)(1)(B) permit based on the HMP and approved by USFWS.*

27
28 **VIII. AIR NAVIGATION RESERVATION AND RESTRICTIONS**

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

39
40
41 **IX. ENFORCEMENT AND NOTICE REQUIREMENT**

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1
2 A. *The provisions of this Deed benefit the governments of the United*
3 *States of America, the State of California, acting on behalf of the public in*
4 *general, and the lands retained by the Grantor ("the Government") and,*
5 *therefore, are enforceable, by the United States, the State of California, and by*
6 *the Grantee ("FORA"), and its successors and assigns. Enforcement of this Deed*
7 *shall be at the discretion of the parties entitled to enforcement hereof, and any*
8 *forbearance, delay or omission to exercise their rights under this Deed in the*
9 *event of a breach of any term of this Deed, shall not be deemed to be a waiver by*
10 *any such party of such term or of any subsequent breach of the same or any other*
11 *terms, or of any of the rights of said parties under this Deed. All remedies*
12 *available hereunder shall be in addition to any and all other remedies at law or in*
13 *equity, including CERCLA. The enforcement rights set forth in this Deed against*
14 *the Grantee ("FORA"), or its successors and assigns, shall only apply with*
15 *respect to the Property conveyed herein and held by such Grantee ("FORA"), its*
16 *successors or assigns, and only with respect to matters occurring during the*
17 *period of time such Grantee ("FORA"), its successors or assigns, owned or*
18 *occupied such Property or any portion thereof.*

19
20 B. *The obligations imposed in this section upon the successors or assigns*
21 *of Grantee ("FORA") shall only extend to the Property conveyed to any such*
22 *successor or assign.*

23 24 **X. OTHER CONDITIONS**

25
26 *Should the Property be considered for the proposed acquisition and*
27 *construction of school properties utilizing State funding, at any time in the future,*
28 *a separate environmental review process in compliance with the California*
29 *Education Code Section 17210 et seq., will need to be conducted and approved by*
30 *DTSC.*

31 32 **XI. NOTICE OF NON-DISCRIMINATION**

33
34 *With respect to activities related to the Property, the Grantee ("FORA")*
35 *covenants for itself, its successors and assigns, that the Grantee ("FORA"), and*
36 *such successors and assigns, shall not discriminate upon the basis of race, color,*
37 *religion, sex, age, handicap, or national origin in the use, occupancy, sale or*
38 *lease of the Property, or in their employment practices conducted thereon in*
39 *violation of the provisions of Title VI of the Civil Rights Act of 1964, as amended*
40 *(42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); and*
41 *the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794). The Grantor ("the*
42 *Government") shall be deemed a beneficiary of this covenant without regard to*

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 *whether it remains the owner of any land or interest therein in the vicinity of the*
2 *Property hereby conveyed, and shall have the sole right to enforce this covenant*
3 *in any court of competent jurisdiction.*
4

5 The responsibilities and obligations placed upon, and the benefits provided to, the
6 **Grantor** by the Government shall run with the land and be binding on and inure to the benefit of
7 all subsequent owners of the Property unless or until such responsibilities, obligations, or
8 benefits are released pursuant to the provisions set forth in the MOA and the Government deed.
9 **Grantee** and its successors and assigns, respectively, shall not be liable for any breach of such
10 responsibilities and obligations with regard to the Property arising from any matters or events
11 occurring after transfer of ownership of the Property by **Grantee** or its successors and assigns,
12 respectively; provided, however, that each such party shall, notwithstanding such transfer, remain
13 liable for any breach of such responsibilities and obligations to the extent caused by the fault or
14 negligence of such party.

15 16 **General Provisions:**

17
18 A. Liberal Construction. Any general rule of construction to the contrary
19 notwithstanding, this Deed shall be liberally construed to effectuate the purpose of this Deed and
20 the policy and purpose of CERCLA. If any provision of this Deed is found to be ambiguous, an
21 interpretation consistent with the purpose of this Deed that would render the provision valid shall
22 be favored over any interpretation that would render it invalid.

23
24 B. Severability. If any provision of this Deed, or the application of it to any person
25 or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the
26 application of such provisions to persons or circumstances other than those to which it is found
27 to be invalid, shall not be affected thereby.

28
29 C. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of
30 title in any respect.

31
32 D. Captions. The captions in this Deed have been inserted solely for convenience of
33 reference and are not a part of this Deed and shall have no effect upon construction or
34 interpretation.

35
36 E. Right to Perform. Any right which is exercisable by the **Grantee**, and its
37 successors and assigns, to perform under this Deed may also be performed, in the event of non-
38 performance by the **Grantee**, or its successors and assigns, by a lender of the **Grantee** and its
39 successors and assigns.

40
41 The conditions, restrictions, and covenants set forth in this Deed are a binding servitude
42 on the herein conveyed Property and will be deemed to run with the land in perpetuity.

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

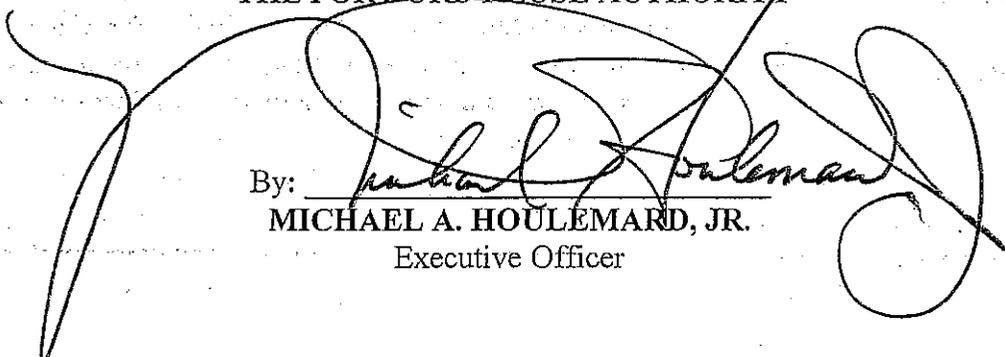
1 Restrictions, stipulations and covenants contained herein will be inserted by the **Grantee**
2 verbatim or by express reference in any deed or other legal instrument by which it divests itself
3 of either the fee simple title or any other lesser estate in the Property or any portion thereof. All
4 rights and powers reserved to the **Grantor**, and all references in this Deed to **Grantor** shall
5 include its successors in interest. The **Grantor** may agree to waive, eliminate, or reduce the
6 obligations contained in the covenants, PROVIDED, HOWEVER, that the failure of the **Grantor**
7 or its successors to insist in any one or more instances upon complete performance of any of the
8 said conditions shall not be construed as a waiver or a relinquishment of the future performance
9 of any such conditions, but the obligations of the **Grantee**, its successors and assigns, with
10 respect to such future performance shall be continued in full force and effect.

11
12 **[Signature Pages Follows]**

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1 IN WITNESS WHEREOF, the Grantor, the FORT ORD REUSE AUTHORITY, has
2 caused these presents to be executed this 18th day of MAY, 2007.

3
4
5 THE FORT ORD REUSE AUTHORITY

6
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14


By: Michael A. Houlemard, Jr.
MICHAEL A. HOULEMARD, JR.
Executive Officer

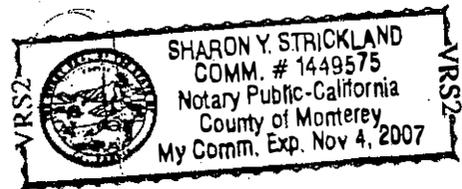
15 STATE OF CALIFORNIA)
16) ss
17 COUNTY OF MONTEREY)

18
19
20
21 On 5-18-07 before me, Sharon Y. Strickland personally
22 appeared

23 Michael A. Houlemard, Jr.

24 personally known to me (or proved to me on the basis
25 of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within
26 instrument and acknowledged to me that he/she/they executed the same in his/her/their
27 authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or
28 the entity upon behalf of which the person(s) acted, executed the Instrument.

29
30
31 WITNESS my hand and official seal.



32
33
34
35
36 Signature Sharon Y. Strickland (Seal)
37

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

ACCEPTANCE:

IN WITNESS WHEREOF, the Grantee, the REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY, hereby accepts and approves this Deed for itself, its successors and assigns, and agrees to all the conditions, reservations, restrictions, and terms contained therein and has caused these presents to be executed on this 19th day of June, 2007.

THE REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY

By Dave Potter
CHAIR OF THE BOARD
OF DIRECTORS, RDA

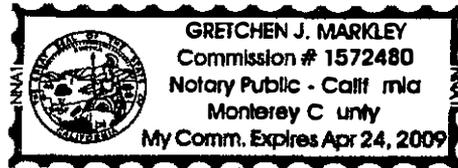
STATE OF CALIFORNIA)
)ss
COUNTY OF MONTEREY)

On June 19, 2007 before me, Gretchen J. Markley, personally appeared

DAVE POTTER

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

WITNESS my hand and official seal.



Signature Gretchen Markley

(Seal)

QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1
2

EXHIBIT A: Description of Property

EDC Parcel E8a.1.1.2
FOST 8
Fort Ord Military Reservation
Monterey County, California

Legal Description

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 Tract No. 1, the City of Marina, County of Monterey, State of California; being a portion of Parcel 1 "Monterey County V" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 94 more particularly described as follows:

BEGINNING at the most southwesterly angle point in the boundary of Parcel 1 "Monterey County V" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 94 said point also being a corner common to Parcel 7 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence from said Point of Beginning along the boundary of said Parcel 1

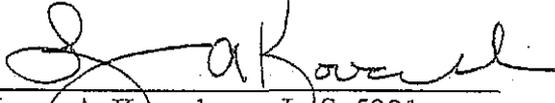
1. North 02° 15' 00" East for a distance of 298.94 feet to a point on said boundary line; thence leaving said boundary line
2. North 29° 59' 46" East for a distance of 569.15 feet to a point on a line; thence
3. North 41° 30' 22" East for a distance of 950.00 feet to a point on a line; thence
4. South 63° 14' 51" East for a distance of 1259.83 feet to a point on a line; thence
5. South 19° 07' 36" West for a distance of 222.73 feet to a point on a line; thence
6. South 63° 09' 22" East for a distance of 586.18 feet to a point on a line; thence
7. South 72° 20' 58" East for a distance of 447.16 feet to a point on a line; thence
8. North 84° 32' 46" East for a distance of 272.34 feet to a point on a line; thence
9. North 62° 32' 25" East for a distance of 181.87 feet to a point on a line; thence
10. North 02° 47' 28" East for a distance of 181.67 feet to a point on a line; thence
11. South 89° 54' 39" East for a distance of 168.60 feet to a point on a line; thence
12. South 82° 26' 59" East for a distance of 1085.23 feet, more or less, to a point on the easterly boundary line of said Parcel 1 "Monterey County V"; thence along said boundary line

EDC Parcel E8a.1.1.2
FOST 8
Fort Ord Military Reservation
Monterey County, California

13. South 03° 30' 00" West for a distance of 489.81 feet to an angle point in said boundary line being a corner common to said Parcel 7; thence along the common boundary line of said Parcel 7 and said Parcel 1
14. South 88° 35' 00" West for a distance of 2513.41 feet to the beginning of a tangent curve; thence along said common boundary line of said Parcel 7 and said Parcel 1
15. Along a curve to the right through an angle of 03° 40' 00", having a radius of 1906.00 feet, for an arc length of 121.98 feet and whose long chord bears North 89° 35' 00" West for a distance of 121.95 feet to a point of intersection with a tangent line; thence along said common boundary line of said Parcel 7 and said Parcel 1
16. North 87° 45' 00" West a distance of 1949.74 feet to the POINT OF BEGINNING.

Containing an area of 85.212 acres, more or less.

This legal description was prepared by


Lynn A. Kovach L/S. 5321
My license expires December 31, 2005

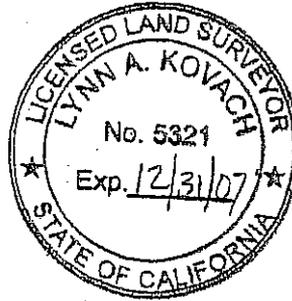
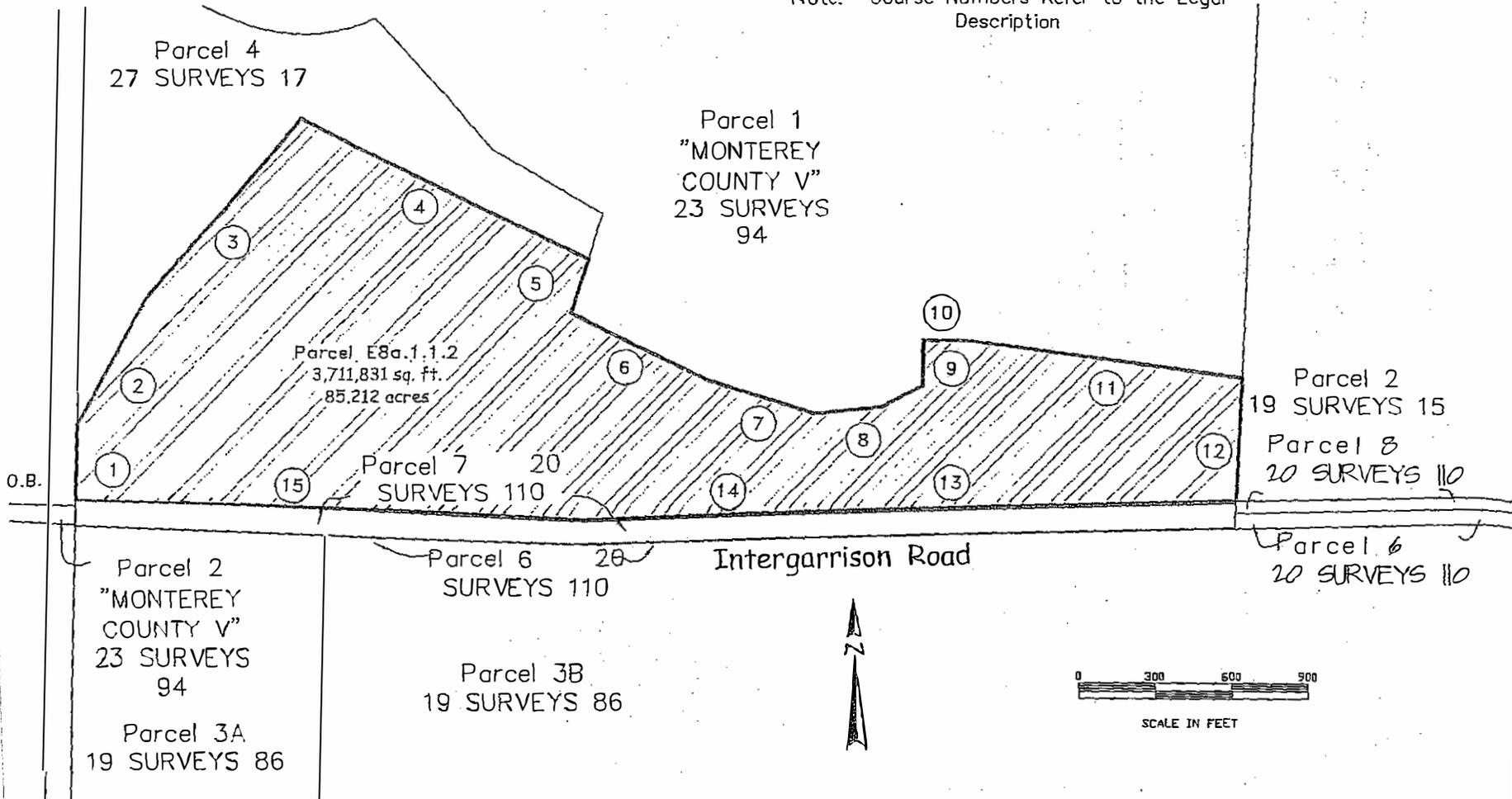


EXHIBIT
of
PARCEL E8a.1.1.2
Monterey County Jurisdiction
Fort Ord
FOST 8 EDC
Lying within the Fort Ord Military Reservation
as shown on Vol. 19 of Surveys at Page 1
Being also within Monterey City Lands Tract No. 1
Monterey County, California

Note: Course Numbers Refer to the Legal Description



QUITCLAIM DEED TO MONTEREY FOR PARCELS E8a.1.1.2

1
2
3

EXHIBIT B: Description of Building

List of Buildings

Parcel Number (Acreage)	Facility Number(s)
E4.6.2 (17)	5871
	5871A
E8a.1.1.2	4A39

**Board of Directors of the
Redevelopment Agency of the County of Monterey
County of Monterey, State of California**

Resolution No.: 07-173

Accepting a Quitclaim Deed transferring)
ownership of land on the former Fort Ord)
designated as Parcel E8a.1.1.2 (Landfill)
"Shoe") from the Fort Ord Reuse Authority)
to the Redevelopment Agency of the County)
of Monterey, and authorizing the Chair of the)
Board of Directors of the Redevelopment)
Agency to sign the acceptance.)

WHEREAS, the U.S. Army is the owner of the former military installation in Monterey County known as Fort Ord; and

WHEREAS, the U.S. Army closed this installation in 1990 and is selling portions of the land as surplus property; and

WHEREAS, in 2000, the Army entered into a Memorandum of Agreement with the Fort Ord Reuse Authority (FORA) to facilitate the sale of this land to local agencies for economic development; and

WHEREAS, in 2001, FORA and the County entered into an Implementation Agreement setting forth the terms and conditions upon which FORA would transfer title of land in the unincorporated area of the former Fort Ord to the County; and

WHEREAS, in 2002, the County approved the Redevelopment Plan for the Fort Ord Redevelopment Project Area, which Plan authorizes the Redevelopment Agency of the County of Monterey to acquire property for the development of projects in furtherance of the Agency's goals and policies; and

WHEREAS, on June 20, 2006, the U.S. Army recorded Deed No. DACA05-9-05-575 transferring to FORA ownership of certain properties collectively known as the "FOST 9 Parcels"; and

WHEREAS, on August 15, 2006, the County authorized FORA to convey certain lands within the Fort Ord Redevelopment Area directly to the Redevelopment Agency; and

WHEREAS, FORA has executed a Quitclaim Deed transferring Parcels E8a.1.1.2 to the Redevelopment Agency of the County of Monterey.

Resolution No. 07-173
June 12, 2007

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors of the Redevelopment Agency of the County of Monterey hereby:

- a. Accepts a Quitclaim Deed transferring ownership of land on the former Fort Ord designated as Parcel E8a.1.1.2 (Landfill "Shoe") from the Fort Ord Reuse Authority to the Redevelopment Agency of the County of Monterey; and
- b. Authorizes the Chair of the Board to sign the acceptance.

PASSED AND ADOPTED on this 12th day of June 2007, upon motion of Director Calcagno, seconded by Director Salinas, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Smith, and Potter

NOES: None

ABSENT: None

I, Lew C. Bauman, 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 of Minute Book 73 for the meeting on June 12, 2007

Dated: June 13, 2007

Lew C. Bauman, Clerk of the Board of Supervisors,
County of Monterey, State of California

By



Darlene Drain, Deputy