

APPENDIX B
DRAFT FOST AND LEGAL DESCRIPTION

DRAFT
FINDING OF SUITABILITY TO TRANSFER (FOST)
MIRA PARCEL
FORMER FORT ORD, CALIFORNIA

In my capacity as the Deputy Assistant Secretary of the Army for Environment, Safety, and Occupational Health, and based on an Environmental Baseline Survey (EBS) and regulatory agency comments on the EBS, I have determined that the Monterey Institute for Research In Astronomy (MIRA) Parcel (the Property), at former Fort Ord, California, is suitable for transfer to MIRA for educational and research purposes. The area to be assigned and transferred includes approximately 1.5 acres (Plate 1).

A determination of the environmental condition of the Property was made by the United States Army by conducting an EBS that included reviewing existing environmental documents and making associated visual site inspections. The documents reviewed included the final Fort Ord Comprehensive Environmental Response Facilitation Act (CERFA) Report, April 1994, U.S. EPA Region IX's concurrence to the CERFA Report (Memorandum, 19 April 1994), and various remedial investigation/feasibility studies documents. The results of the EBS indicated that the Property is environmentally suitable for transfer to MIRA contingent upon regulatory agency approval of the No Action Approval Memorandum for Site 18, which is expected in the summer of 1995. The results of the EBS are as follows:

- Four buildings (1638, 1653, 1660, 1661) are located on the Property. Building 1638 housed a moving target simulator; two of the other buildings were used for storage and one as a lavatory.
- The Property is located within Installation Restoration Program (IRP) Site 18. Site 18, which was investigated under the Fort Ord RI/FS program, was categorized as a No Action site.

- An asbestos survey conducted by the Army shows that three buildings (1638, 1660, and 1661) contain nonfriable asbestos. No asbestos was found in Building 1653.
- Buildings 1653, 1660, and 1661 should be considered to contain lead-based paint (LBP) because of their pre-1978 construction dates.
- No elevated radon levels were detected on the Property during a 1990 survey at Fort Ord.
- Radiological surveys have not been conducted within the Property because these buildings were not used to store radiological materials.
- There have been no reported releases of PCB-contaminated dielectric fluids from the electrical transformer present on the Property.
- Ordnance and explosive waste (OEW) surveys show that no potential ordnance training sites are within or immediately adjacent to the Property.
- One former UST (1638-1) removed in 1992 was located within the Property. No releases of diesel fuel from the UST are known to have occurred, and it was granted closure by the Monterey County Department of Health. No ASTs or SWMUs are present on the Property, and no studies associated with these potential activities have been conducted by the Army for this parcel.
- The final CERFA report identifies the Property as being within CERFA Disqualified Parcel 4 because of its inclusion within IRP Site 18. However, no hazardous materials associated with Site 18 are known to have been present on the Property itself. The "plug-in" No Action Record of Decision (NoAROD) for all No Action sites was signed by the regulatory agencies in the spring of 1995. Documentation that site-specific no action criteria was met is provided through the

Approval Memoranda process. This process is referred to as the "plug-in" process, because the Approval Memoranda plug into the NoAROD. The No Action Approval Memorandum for Site 18 was approved by the regulatory agencies in the summer of 1995. **[NOTE: This FOST is contingent upon agency approval of the memorandum.]**

- One groundwater monitoring well is present on the Property and will continue to be sampled as part of the basewide groundwater monitoring program.

On the basis of the above results from the EBS and subsequent investigations, certain terms, conditions, reservations, restrictions, and notifications are required. Use restrictions and disclosure of conditions are specific to the Property and are described below. These use restrictions and disclosures will be included in the transfer documents (deed).

NOTICE OF THE PRESENCE OF ASBESTOS. The Property existing on the date of this conveyance is known to contain certain amounts of asbestos in the floor tile, linoleum and associated mastic, asbestos-containing pipe and tank insulation, heating, ventilating, and air condition vibration joint cloths, exhaust flues, acoustic ceiling treatment, siding, drywall, drywall compound, or debris in some of the buildings, and incidental amounts in the window putty or gasketing, etc.

The GRANTEE covenants and agrees, on behalf of it, its successors and assigns, that in its use and occupancy of the Property, it will comply with all applicable laws relating to asbestos, and that the GRANTOR assumes no liability for damages for personal injury, illness, disability or death, to the GRANTEE, its successors or assigns, or to any other person including members of the general public, arising from or incident to the purchase, transportation, removal, handling, alterations, renovations, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property described in this Deed, regardless of whether the GRANTEE, its successors or assigns have properly warned or failed properly to warn the individual(s) injured.

NOTICE OF THE PRESENCE OF LEAD-BASED PAINT. The GRANTEE is hereby informed and does acknowledge that any Property existing on the date of this Deed which was constructed or rehabilitated prior to 1978 is presumed to contain lead-based paint.

The GRANTEE, its successors and assigns, shall not permit the use of any such structure for residential habitation unless the GRANTEE has received certification from GRANTOR or others that the premises are safe or GRANTEE has eliminated the hazards of lead-based paint by treating any defective lead-based paint surface in accordance with all applicable laws and regulations. Residential structures are defined as any house, apartment, or structure intended for human habitation, including but not limited to a non-dwelling facility commonly used by children under 6 years of age such as a child care center, elementary school, or playground.

On the basis of the above, I conclude that the MIRA Parcel should be assigned Department of Defense (DoD) Environmental Condition Category 2 and is transferable under Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). It is proposed that the Property be transferred under CERCLA §120(h)(3) because it was included within a CERFA disqualified parcel due to the proximity of IRP Site 18. The deed for this transaction will contain:

- The covenant under CERCLA §120(h)(3)(B)(i) warranting that all remedial action necessary to protect human health and the environment with respect to this hazardous substance remaining on the Property has been taken
- The covenant under CERCLA §120(h)(3)(B)(ii) any remedial action found to be necessary after the date of transfer shall be conducted by the United States

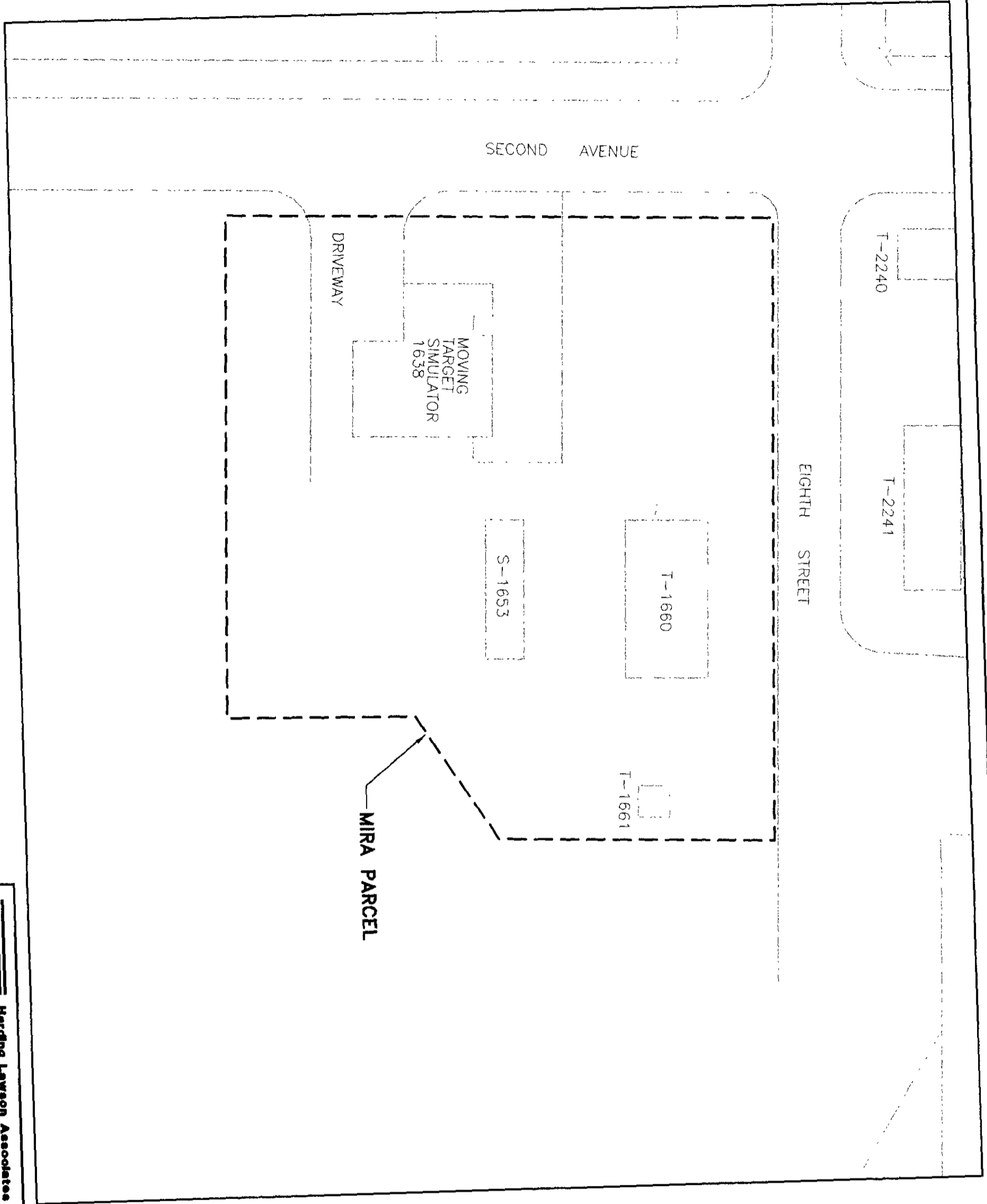
- The clause under CERCLA §120(h)(3)(C) granting the United States access to the Property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.

Raymond J. Fatz

Acting Deputy Assistant Secretary of the Army

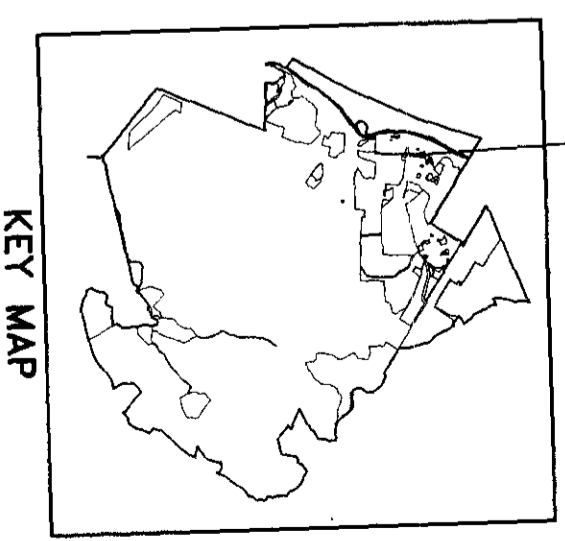
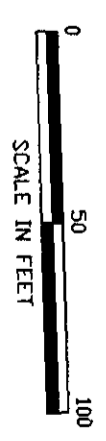
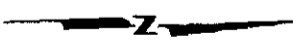
(Environment, Safety, and Occupational Health)

PROPERTY BOUNDARIES INDICATED ARE APPROXIMATE AND ARE NOT INTENDED TO REPRESENT THE LEGAL DESCRIPTION OF THE PARCEL(S).



EXPLANATION

--- PARCEL BOUNDARY



KEY MAP

MIRA PARCEL

PLATE

Harding Lawson Associates
Engineering and
Environmental Services

DRAWN RJP
JOB NUMBER 25894 0017713

Parcel Map
Monterey Institute for Research
in Astronomy (MIRA) Parcel
Finding of Suitability to Transfer
Former Fort Ord, California

APPROVED *[Signature]*
DATE 3/95
REVISED DATE 8/95



RASMUSSEN LAND SURVEYING, INC.

2150 GARDEN RD., ST. A2 MONTEREY, CALIFORNIA 93940
(408) 375-7240 FAX 375-2145

March 17, 1995

LEGAL DESCRIPTION

Certain Real Property being a portion of Fort Ord Military Reservation, Monterey County, State of California more particularly described as follows:

Beginning at a 1 1/2" iron pipe on that certain map entitled "Record of Survey, Boundary of 8 Parcels Being a Portion of Fort Ord Military Reservation" recorded October 19, 1994 in Volume 19 of Surveys at Page 15 in the Office of the County Recorder in said county and state, (bearings of courses stated herein being based on the California Coordinate System, Zone 4) said northwest corner designated as "Boundary Corner Number 6" on said Record of Survey; thence

1. N. 01°40'00" E., 260.61 feet, to a point intersecting the averaged prolongation of the back of the curb line along the southerly edge of 8th Street, Fort Ord Military Reservation, as it exists this date; thence easterly along said prolongation
2. S. 88°27'00" E., 295.14 feet; thence southerly, leaving said curb prolongation
3. S. 01°29'30" W., 84.12 feet; thence
4. S. 54°16'35" W., 74.28 feet; thence
5. S. 01°40'00" W., 131.99 feet to a 1 1/2" iron pipe with brass disk, tagged RCE15310, marking the corner designated as "Corner Number 8" on said Record of Survey; thence
6. N. 88°20'00" W., 236.38 feet to the Point Of Beginning.

Containing 1.56 Acres, more or less.

RESERVING THEREFROM an easement for future roadway widening along the easterly sideline of Second Avenue, Fort Ord Military Reservation, over all that portion of said property lying westerly of the following described line:

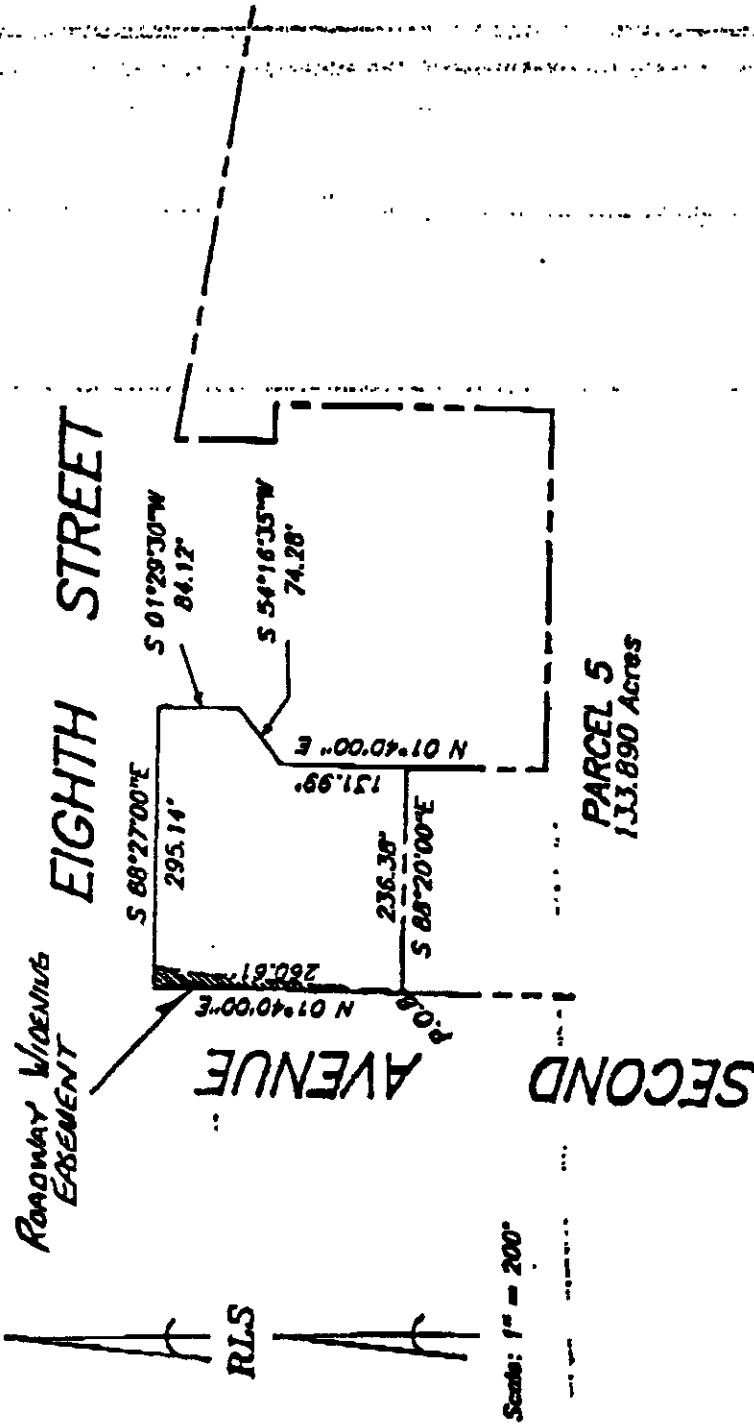
Beginning at said 1 1/2" iron pipe with brass disk, tagged RCE15310, marking said "Boundary Corner Number 6" of the 133.89 Acre parcel of land designated as "Parcel Number 5" herein; thence northerly along a tangent circular curve to the right (the center of which bears N. 88°20'00" W., 4,000 feet) through a central angle of 3°44'10", an arc distance of 260.81 feet to a point on the southerly sideline of Eighth Street, Fort Ord

Military Reservation, distant 8.50 feet from the northwest corner
of said 1.56 Acre Parcel described herein.

End of Description



Roger Peterson, PLS 5958
Rasmussen Land Surveying, Inc.



E X H I B I T