

FORA ESCA REMEDIATION PROGRAM

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FINAL

Land Use Controls Implementation Plan/  
Operation and Maintenance Plan  
Interim Action Ranges Munitions Response Area

Former Fort Ord  
Monterey County, California

August 8, 2018

*Prepared for:*

FORT ORD REUSE AUTHORITY

920 2nd Avenue, Suite A  
Marina, California 93933



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**Interim Action Ranges Munitions Response Area  
Land Use Controls Implementation Plan/Operation and Maintenance Plan  
Former Fort Ord  
Monterey County, California**



Reviewed By: Stan Cook  
FORA ESCA Program Manager  
Fort Ord Reuse Authority

8/8/2018

Date



Approved By: Michael Houlemard  
Executive Officer  
Fort Ord Reuse Authority

8/8/2018


Date



Reviewed By: Jane Thompson  
ESCA Technical Manager  
Arcadis U.S., Inc.

8/8/2018

Date



Reviewed By: Linda Temple  
ESCA Remediation Project Manager  
Weston Solutions, Inc.

8/8/2018

Date



Approved By: Dwight Gemar, P.E.  
ESCA Remediation Project Engineer  
Weston Solutions, Inc.

8/8/2018

Date



Approved By: Christopher G. Spill, P.G.  
ESCA Remediation Program Manager  
Arcadis U.S., Inc.

8/8/2018

Date

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## ACRONYMS AND ABBREVIATIONS

AOC	Administrative Order on Consent
ARARs	applicable or relevant and appropriate requirements
Army	United States Department of the Army
bgs	below ground surface
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
County	County of Monterey
CRUP	Covenant to Restrict Use of Property
cy	cubic yards
DMM	discarded military munitions
DoD	Department of Defense
DTSC	Department of Toxic Substances Control
EOD	explosive ordnance disposal
EPA	United States Environmental Protection Agency
EPP	Environmental Protection Provisions
ESCA	Environmental Services Cooperative Agreement
ESD	Explanation of Significant Differences
FFA	Federal Facility Agreement
FORA	Fort Ord Reuse Authority
ft	foot
HMP	Habitat Management Plan
LTO	Long-Term Obligation
LTMM	Long-Term Management Measure
LUC	Land Use Control
LUCIP	Land Use Controls Implementation Plan
MD	munitions debris
MDAS	material documented as safe
MEC	munitions and explosives of concern
mm	millimeter
MOA	Memorandum of Agreement
MPC	Monterey Peninsula College
MR	Munitions Response
MRA	Munitions Response Area
MRS	Munitions Response Site
NCA	Non-completed Area

OMP	Operation and Maintenance Plan
RI/FS	Remedial Investigation/Feasibility Study
ROD	Record of Decision
RP	Remediation Program
RSA	Remediation Services Agreement
SCA	Special Case Area
USACE	United States Army Corps of Engineers
UXO	unexploded ordnance

## GLOSSARY

### **Anomaly**

Any item that is seen as a subsurface irregularity after geophysical investigation. This irregularity should deviate from the expected subsurface ferrous and non-ferrous material at a site (i.e., pipes, power lines, etc.).

### **Anomaly Avoidance**

Techniques employed on property known or suspected to contain unexploded ordnance (UXO), other munitions that may have experienced abnormal environments (e.g., discarded military munition [DMM]), munitions constituents in high enough concentrations to pose an explosive hazard, or chemical agent (CA), regardless of configuration, to avoid contact with potential surface or subsurface explosive or CA hazards, to allow entry to the area for the performance of required operations.

### **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980**

CERCLA authorizes federal action to respond to the release or threatened release of hazardous substances into the environment or a release or threatened release of a pollutant or contaminant into the environment that may present an imminent or substantial danger to public health or welfare.

### **Construction Activity**

Development or construction which includes ground-disturbing or intrusive activities such as excavation, digging, development and other ground disturbance that involves displacement of more than ten (10) cubic yards (cy) of soil. Construction activities within the Interim Action Ranges MRA are subject to the excavation permitting process under the Monterey County and City of Seaside digging and excavation ordinances.

### **Construction Support**

Assistance provided by the United States (US) Department of Defense (DoD) explosive ordnance disposal (EOD) or Unexploded Ordnance (UXO)-qualified personnel and/or by personnel trained and qualified for operations involving chemical agents (CA), regardless of configuration, during ground-disturbing or intrusive activities on property known or suspected to contain UXO, other munitions that may have experienced abnormal environments (e.g., discarded military munitions [DMM]), munitions constituents in high enough concentrations to pose an explosive hazard, or CA, regardless of configuration, to ensure the safety of personnel or resources from any potential explosive or CA hazards. For the Fort Ord Military Munitions Response Program (MMRP) being conducted and this document, construction support addresses Munitions and Explosives of Concern (MEC), specifically unexploded ordnance (UXO) and discarded military munitions (DMM) that potentially remains in the Interim Action Ranges Munitions Response Area (MRA).

### **Covenant Deferral Request (CDR)**

A letter along with a supporting information package known as a CDR assembled by the Federal landholding to formally request deferral of the CERCLA covenant until all remediation has been accomplished prior to transfer. The United States Environmental Protection Agency (EPA) requires that the information is: 1) of sufficient quality and quantity to support the request for deferral of the CERCLA Covenant; and 2) that it provides a basis for EPA to make its determination. This information is submitted to EPA in the form of a CDR.

**Deferral Period**

The period of time that the CERCLA covenant, warranting that all remedial action is complete before transfer, is deferred through the Early Transfer Authority.

**Depth of Detection**

The maximum depth below the ground surface at which an object can be reliably detected at a site with a specific geophysical survey instrument. Depth of detection is typically measured from the center of mass of an object.

**Discarded Military Munitions (DMM)**

Generally, military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include UXO, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental laws and regulations. (10 U.S.C. 2710[e][2])

**Early Transfers**

The transfer, by deed, of federal property by the DoD to a nonfederal entity before all remedial actions on the property have been taken. Section 120 (h)(3)(C) of the CERCLA allows federal agencies to transfer property before all necessary cleanup actions have been taken. This provision, known as Early Transfer Authority, authorizes the deferral of the CERCLA covenant when the findings required by the statute can be made and the response action assurances required by the statute are given. The Governor of the state where the property is located must concur with the deferral request for property not listed on the National Priorities List (NPL). For NPL property, the deferral must be provided by the EPA with the concurrence of the Governor. Upon approval to defer the covenant, the DoD may proceed with the early transfer.

**Environmental Protection Provisions (EPP)**

Deed restrictions or specific notifications that require constraints on certain activities to ensure protection of human health and the environment. These restrictions will be in effect until the deed provisions are terminated, removed, or modified as specified in the appropriate CERCLA decision document and protectiveness of human health and the environment can be assured by the modified restrictions or additional restrictions, if necessary (Army 2007).

**Environmental Services Cooperative Agreement Remediation Program (ESCA RP) Team**  
ARCADIS U.S, Inc. (formerly LFR Inc.), Weston Solutions, Inc., and Westcliffe Engineers, Inc.

**Explosive**

A substance or a mixture of substances that is capable by chemical reaction of producing gas at such temperature, pressure, and speed as to cause damage to the surroundings. The term “explosive” includes all substances variously known as high explosives and propellants, together with igniters, primers, initiators, and pyrotechnics (e.g., illuminant, smoke, delay, decoy, flare, and incendiary compositions).

**Feasibility Study (FS)**

A study conducted where the primary objective is “to ensure appropriate remedial alternatives are being developed and evaluated and an appropriate remedy selected” (40 CFR 300.430[e]).

**Ground-Disturbing and Intrusive Activities (or Operations)**

Soil movement of any kind, regardless of volume, in the areas addressed in this document.

**High Explosive (HE)**

An explosive substance designed to function by detonation (e.g., main charge, booster, or primary explosive).

**Intrusive Activity**

An activity that involves or results in the penetration of the ground surface at an area known or suspected to contain MEC. Intrusive activities can be of an investigative or removal action nature.

**Material Documented as Safe (MDAS)**

Material Potentially Presenting an Explosive Hazard (MPPEH) that has been assessed and documented as not presenting an explosive hazard and for which the chain of custody has been established and maintained. This material is no longer considered to be MPPEH.

**Material Potentially Presenting an Explosive Hazard (MPPEH)**

Material that, prior to determination of its explosives safety status, potentially contains explosives or munitions (e.g., munitions containers and packaging material; munitions debris remaining after munitions use, demilitarization, or disposal; and range-related debris); or potentially contains a high enough concentration of explosives such that the material presents an explosive hazard (e.g., equipment, drainage systems, holding tanks, piping, or ventilation ducts that were associated with munitions production, demilitarization or disposal operations). Excluded from MPPEH are munitions within the DoD established munitions management system and other hazardous items that may present explosion hazards (e.g., gasoline cans, compressed gas cylinders) that are not munitions and are not intended for use as munitions.

**Military Munitions**

All ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the DoD, the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives, and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed. (10 U.S.C. 101[e][4][A through C])

**Military Munitions Response Program (MMRP)**

DoD-established program that manages the environmental, health, and safety issues presented by MEC.

**Munitions and Explosives of Concern (MEC)**

This term, which distinguishes specific categories of military munitions that may pose unique explosives safety risks means: (A) UXO, as defined in 10 U.S.C. 101(e)(5)(A) through (C); (B) DMM, as defined in 10 U.S.C. 2710(e)(2); or (C) Munitions constituents (e.g., TNT, cyclotrimethylenetrinitramine [RDX]), as defined in 10 U.S.C. 2710(e)(3), present in high enough concentrations to pose an explosive hazard. For the Fort Ord Military Munitions Response Program (MMRP) being conducted and this document, MEC does not include small arms ammunition (.50 caliber and below).

**Munitions Constituents (MC)**

Any materials originating from UXO, DMM, or other military munitions, including explosive and non-explosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions. (10 U.S.C. 2710[e][3])

**Munitions Debris (MD)**

Remnants of munitions (e.g., fragments, penetrators, projectiles, shell casings, links, fins) remaining after munitions use, demilitarization, or disposal.

**Munitions Response**

Response actions, including investigation, removal actions, and remedial actions to address the explosives safety, human health, or environmental risks presented by UXO, DMM, or MC, or to support a determination that no removal or remedial action is required.

**Munitions Response Area (MRA)**

Any area on a defense site that is known or suspected to contain UXO, DMM, or MC. Examples include former ranges and munitions burial areas. A munitions response area is comprised of one or more munitions response sites.

**Munitions Response Site (MRS)**

A discrete location within an MRA that is known to require a munitions response.

**Ordnance and Explosives (OE)**

OE is an obsolete term replaced by MEC. See MEC in the glossary for further definition.

**Property Owner**

An owner of real property within the boundaries of the Interim Action Ranges Munitions Response Area (MRA). Also referred to as “landowner” in the Record of Decision Interim Action Ranges Munitions Response Area (Appendix A) and supporting documents.

**Quality Assurance (QA)**

The management system implemented by a United States Army Corps of Engineers (USACE) Safety Specialist or a Third Party Safety Specialist to ensure Quality Control (QC) is functioning and that project quality objectives are being met. QC components include planning, implementation, assessment, reporting, and quality improvement.

**Quality Control (QC)**

The system of inspections, typically performed by the munitions contractor performing the work, of operational activities, work in progress, and work completed to assess the attributes and performance of a process against defined standards that are used to fulfill requirements for quality.

**Remedial Actions**

Those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health, welfare, or the environment. The term includes but is not limited to such actions at the location of the release as storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; cleanup of released hazardous substances and associated contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive wastes; dredging or excavations; repair or replacement of leaking containers; collection of leachate and runoff; on-site treatment or incineration; provision of alternative water supplies; and any monitoring reasonably required to assure that such actions protect the public health, welfare, and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President of the United States determines that, alone or in combination with other measures, such relocation is more cost-effective and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off site of hazardous substances, or may otherwise be necessary to protect the public health or welfare. The term includes off-site transport and off-site storage, treatment, destruction, or secure disposition of hazardous substances and associated contaminated materials.

**Remedial Investigation (RI)**

An investigation intended to “adequately characterize the site for the purpose of developing and evaluating an effective remedial alternative” (40 CFR 300.430(d)). In addition, the RI provides information to assess the risks to human health, safety, and the environment that were identified during risk screening in the site investigation.

**Response Action**

Action taken instead of or in addition to a removal action to prevent or minimize the release of MEC so that it does not cause substantial danger to present or future public health or welfare or the environment.

**Small Arms Ammunition (SAA)**

Ammunition, without projectiles that contain explosives (other than tracers), that is .50 caliber or smaller, or for shotguns.

**Title 10 United States Code (10 U.S.C.)**

Title 10 of the United States Code outlines the role of armed forces in the United States Code. It provides the legal basis for the roles, missions and organization of each of the services as well as the United States Department of Defense.

**Unexploded Ordnance (UXO)**

Military munitions that (A) have been primed, fuzed, armed, or otherwise prepared for action; (B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material; and (C) remain unexploded either by malfunction, design, or any other cause. (10 U.S.C. 101[e][5][A] through [C])

**UXO Support Contractor**

A firm providing construction support services that has appropriate knowledge and expertise of UXO-related operations, and UXO-qualified personnel that have met qualification standards for personnel performing UXO-related operations.



**UXO-Qualified Personnel**

Personnel who have performed successfully in military EOD positions, or are qualified to perform in the following Department of Labor, Service Contract Act, Directory of Occupations, contractor positions: UXO Technician II, UXO Technician III, UXO Safety Officer, UXO Quality Control Specialist, or Senior UXO Supervisor.

**UXO Technicians**

Personnel who are qualified for and filling Department of Labor, Service Contract Act, Directory of Occupations, contractor positions of UXO Technician I, UXO Technician II, and UXO Technician III.

## 1.0 INTRODUCTION

This Land Use Controls Implementation Plan, and Operation and Maintenance Plan (LUCIP/OMP) was prepared by the Environmental Services Cooperative Agreement (ESCA) Remediation Program (RP) Team (the ESCA RP Team) on behalf of the Fort Ord Reuse Authority (FORA) for the Interim Action Ranges Munitions Response Area (MRA) within the former Fort Ord in Monterey County, California (Figure 1). Originally, the Interim Action Ranges MRA was included in Group 3, which consists of Del Rey Oaks/Monterey, Laguna Seca Parking, and Military Operations in Urban Terrain Site MRAs. The Interim Action Ranges MRA was removed from Group 3 for further evaluation as agreed upon by FORA, United States Environmental Protection Agency (EPA), Department of Toxic Substances Control (DTSC) and the United States Department of the Army (Army).

The purpose of this LUCIP/OMP is to provide remedy implementation and maintenance information for the Interim Action Ranges MRA Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Record of Decision (ROD) dated December 12, 2016, and finalized on January 18, 2017 (Appendix A).

Although munitions responses (MEC removals) have been completed at the Interim Action Ranges MRA, the selected remedy addresses risks to human health and the environment from munitions and explosives of concern (MEC) that potentially remains in the Interim Action Ranges MRA. The selected remedy for the Interim Action Ranges MRA includes Land Use Controls (LUCs) because detection technologies may not detect all MEC present. The LUCs include requirements for: (1) munitions recognition and safety training (referred to as “MEC recognition and safety training” in the Interim Action Ranges MRA ROD [Appendix A]) for those people that conduct ground-disturbing or intrusive activities on the property; (2) construction support by unexploded ordnance (UXO)-qualified personnel for ground-disturbing or intrusive activities; (3) restrictions prohibiting residential use; and (4) restrictions against inconsistent uses (applicable to the habitat reserve areas). These LUCs are intended to limit MEC risk that may remain at the Interim Action Ranges MRA.

The selected remedy will be implemented by FORA under the ESCA and in accordance with the Administrative Order on Consent (AOC) for Cleanup of Portions of the Former Fort Ord, Docket No. R9-2007-003. This LUCIP/OMP was developed to: (1) outline the processes for implementing land use restrictions; and (2) identify procedures for responding to MEC discoveries, including coordinating additional investigation and/or follow-up response actions in the Interim Action Ranges MRA, if determined to be necessary. The selected LUCs may be modified in the future. In addition, Long-Term Management Measures (LTMM) comprised of a deed restriction, annual monitoring and reporting and five-year review reporting will be implemented for the reuse areas within the Interim Action Ranges MRA.

### 1.1 Regulatory Background

The former Fort Ord was placed on the National Priorities List in 1990. To oversee the cleanup of the base, the Army, DTSC, Central Coast Regional Water Quality Control Board, and EPA entered into a Federal Facility Agreement (FFA). One of the purposes of the FFA is

to ensure that the environmental impacts associated with past and present activities at the former Fort Ord are thoroughly investigated and appropriate remedial action taken as necessary to protect the public health and the environment. In November 1998, the Army agreed to evaluate MEC at the former Fort Ord and perform a base-wide Munitions Response (MR) Remedial Investigation/Feasibility Study (RI/FS) consistent with CERCLA. The base-wide MR RI/FS program addressed MEC hazards on the former Fort Ord and evaluated past removal actions as well as recommended future remedial actions deemed necessary to protect human health and the environment under future uses. In April 2000, an agreement was signed between the Army, EPA, and DTSC to evaluate MEC at the former Fort Ord subject to the provisions of the FFA. The signatories agreed that the FFA provided the appropriate framework and process to address the Army's MEC activities.

In March 2007, the Army and FORA entered into an ESCA to provide MEC remediation services funding. In accordance with the ESCA and an AOC, FORA is responsible for completion of CERCLA response actions, except for those responsibilities retained by the Army, on approximately 3,300 acres of the former Fort Ord. The AOC was entered into by FORA, EPA, DTSC, and the United States Department of Justice Environment and Natural Resources Division in December 2006 (EPA Region 9 CERCLA Docket No. R9-2007-03). The underlying property was transferred to FORA in May 2009. The Interim Action Ranges MRA is included in the ESCA. The Army is the responsible party and lead agency for investigating, reporting, making cleanup decisions, and taking cleanup actions at the former Fort Ord. Under the ESCA, FORA is investigating, reporting, and implementing cleanup actions within the ESCA areas on behalf of the Army.

The Interim Action Ranges MRA includes sites where MEC were found and munitions response (MEC removals) actions were conducted. The Interim Action Ranges MRA is located within the munitions response site (MRS) Ranges 43-48 (Figure 2). The *Record of Decision, Interim Action for Ordnance and Explosives at Ranges 43-48, Range 30A, and Site OE-16, Former Fort Ord, California* ("Interim Action ROD") was produced by the Army in August 2002 for Interim Action Sites at the former Fort Ord, including MRS Ranges 43-48 (Army 2002). The remedial action selected for the Interim Action Sites included surface and subsurface MEC removal. Interim remedial action was conducted by the Army on MRS Ranges 43-48 (approximately 500 acres) from November 2003 to December 2005 (Parsons 2007). Interim remedial action was completed by FORA for the remaining portions of MRS Ranges 43-48 within the Interim Action Ranges MRA in March 2013 (ESCA RP Team 2015a).

The portion of MRS Ranges 43-48 within the Interim Action Ranges MRA was investigated, with all identified MEC removed. These munitions response actions also included Quality Control and Quality Assurance requirements that evaluated the adequacy of the munitions response actions.

Although MEC is not expected to be encountered within these Interim Action Ranges MRA, it is possible that some MEC may not have been detected and remains present. Because a future land user (e.g., maintenance worker, construction worker, or recreational user) may encounter MEC at the Interim Action Ranges MRA, a Focused Feasibility Study was conducted to evaluate remedial alternatives to address this potential risk to future land users

(ESCA RP Team 2015b). The Final Interim Action Ranges MRA Focused Feasibility Study, Former Fort Ord, Monterey County, California (“Focused Feasibility Study”), was developed by FORA under the ESCA and in accordance with the AOC. The Focused Feasibility Study evaluated the risks related to potentially remaining MEC within the Interim Action Ranges MRA based upon the intended future uses. On January 18, 2017, the Army and EPA, in consultation with DTSC, recorded the final decision in the ROD documenting the selected remedial alternative of LUCs for managing the risk to future land users from MEC that potentially remain in the Interim Action Ranges MRA. This LUCIP/OMP was prepared as a result of the selection of LUCs as a component of the remedy in accordance with the ROD for Interim Action Ranges MRA.

## 1.2 FORA ESCA Regulatory Framework and Responsibilities

In connection with the early transfer of a portion of the former Fort Ord, FORA is performing a portion of the Army’s cleanup obligations under an ESCA grant. Pursuant to the associated AOC, entered into in December 2006 and effective July 25, 2008, and the ESCA, dated March 27, 2007, FORA agreed to implement the selected remedy for the Interim Action Ranges MRA.

Under the ESCA, FORA or its successor entity, is responsible for all actions necessary to achieve Site Closeout, including implementation of the selected remedy and any Long-Term Obligations. FORA may not assign ESCA responsibilities from FORA, or its successor entity, to a third party without the prior approval by the Army. FORA assumes responsibility for completion of necessary response actions, except Army Obligations, which include implementing, maintaining, reporting, and enforcing the land use controls. The Army remains ultimately responsible for remedy integrity, including requirements for the implementation, enforcement, and reporting of the remedy. The Record of Decision, Interim Action Ranges Munitions Response Area, Former Fort Ord, California (“Interim Action Ranges MRAROD”) does not provide for or prevent any transfer of remedy implementation responsibilities from FORA, or its successor, to another party.

This LUCIP/OMP fulfills the AOC requirements identified under Interim Action Ranges MRA Appendix B, Statement of Work, Tasks 7 and 8. FORA requested EPA’s approval to waive Appendix B, Statement of Work, Task 6 (Remedial Design/Remedial Action) requirements of the AOC, as the selected remedy for the Interim Action Ranges MRA consists solely of institutional controls implementation. EPA approved this request in a letter to FORA dated February 23, 2017.

### 1.2.1 FORA Successor in Interest

In 2012, Assembly Bill 1614, which amended Section 67700 of, and repealed Sections 67679.5 and 67686 of, the Government Code, was passed to extend FORA’s statutory authorities to June 30, 2020. The ESCA and AOC contemplated the eventual sunset of FORA and made provisions for a successor in interest to perform FORA’s Long-Term Obligations (LTOs). For purposes of this LUCIP/OMP, the terminology of “FORA” refers to the entity responsible for obligations or requirements that are currently assigned to FORA, but will eventually be transferred to FORA’s successor in interest.

### 1.3 Area of Remedy Implementation

The area addressed by this LUCIP/OMP consists of those areas included in the Army's ROD, Interim Action Ranges Munitions Response Area, Former Fort Ord, California (Appendix A). The Interim Action Ranges MRA is described below. The Federal deed, including survey plat for the Interim Action Ranges MRA parcel, are provided in Appendix B.

The Interim Action Ranges MRA is located in the north-central portion of the former Fort Ord and is contained within the jurisdictional boundaries of the City of Seaside and Monterey County, referred to throughout this LUCIP/OMP as "the City" and "the County", respectively. The Interim Action Ranges MRA encompasses approximately 227 acres within the MRS Ranges 43-48 (Figure 2). The MRS was identified when the Army evaluated three sites for interim remedial actions in the Final Interim Action OE Remedial Investigation / Feasibility Study for Ranges 43-48, Range 30A, Site OE-16, Former Fort Ord, California (Harding 2002). The MRA boundaries encompass five United States Army Corps of Engineers (USACE) property transfer parcels: E38, E39, E40, E41, and E42 (Figure 3). The Interim Action Ranges MRA contains all or portions of five firing ranges (Ranges 43, 44, 45, 46, and 47; Figure 2) used for a variety of training purposes from the 1950s through the 1990s. Based on the results of the literature review, investigations, and removal actions, the usage of each range included: mortar training and subsequently platoon live fire course at the time of base closure (Range 43); antitank weapons range at the time of base closure (Range 44); grenade launcher range at the time of base closure (Range 45); small arms range from the late 1950s to the time of base closure (Range 46); and 40mm grenade range in the 1960s (Range 47).

The Interim Action Ranges MRA includes two proposed planned reuses: non-residential development and habitat reserve.

### 1.4 Description of Selected Remedy

The selected remedy addresses risks to human health and the environment from MEC that potentially remains in the Interim Action Ranges MRA. Munitions responses (MEC removals) have been completed at the Interim Action Ranges MRA, significantly reducing the risks to human health and the environment. The selected remedy for the Interim Action Ranges MRA includes LUCs because detection technologies may not detect all MEC present. The LUCs include requirements for:

- (1) Munitions recognition and safety training (referred to as "MEC recognition and safety training" in the Interim Action Ranges MRA ROD [Appendix A]) for those people that conduct ground-disturbing or intrusive activities on the property;
- (2) Construction support by UXO-qualified personnel for ground-disturbing or intrusive activities;
- (3) Restrictions prohibiting residential use; and
- (4) Restrictions against inconsistent uses (applicable to the habitat reserve areas).

For the purpose of this remedy, residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12 (Army 2007). Residential use is prohibited. Per the FORA Fort Ord Reuse Plan (Base Reuse Plan; FORA 1997), no residential reuse is planned for the Interim Action Ranges MRA.

To maintain the integrity of the habitat management and conservation systems that are in place in the habitat reserve areas of the Interim Action Ranges MRA, uses inconsistent with the Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord, California (HMP; USACE 1997) are prohibited. Uses that are inconsistent with the HMP include, but are not limited to, residential, school, and commercial/industrial development.

The selected remedy will be implemented by FORA in its capacity as Grantee under the ESCA and as a party to the AOC and not in its capacity as real property owner of the real estate or as a government entity.

As part of the LUC implementation strategy, LTMM comprised of a deed notice and restrictions, annual monitoring and reporting, and five-year review reporting will be included for the land use areas within the Interim Action Ranges MRA. The Army will evaluate these areas as part of the installation-wide CERCLA five-year reviews. The selected LUCs may be modified or discontinued by the Army, with the approval of the EPA and DTSC, in the future based on the five-year review process (Section 4.8.3).

As part of the early transfer of the subject property, the Army has entered into a State Covenant to Restrict Use of Property (CRUP) with DTSC that documents land use restrictions and that has already been recorded against the deed. The existing deed to FORA for the Interim Action Ranges MRA parcels includes the following land use restrictions: 1) prohibition on residential use; and 2) prohibition on excavation (unless construction support and munitions recognition and safety training, referred to as “MEC recognition and safety training” in the State CRUP, are provided). The existing Federal deed for the Interim Action Ranges MRA property is provided in Appendix B. The Army will modify the existing land use restrictions in the Federal deed, as necessary, to reflect the selected remedy. FORA will prepare and submit annual letter reports to EPA and DTSC summarizing the reporting year's land use controls implementation efforts, problems encountered, corrective actions taken, any MEC found and changes in site conditions that could increase the possibility of encountering MEC. Copies of this annual LUC status report will also be provided to the Army for inclusion in the five-year reviews.

While the Army does not consider California laws and regulations concerning State CRUPs to be applicable or relevant and appropriate requirements (ARARs), the Army entered into State CRUPs with DTSC at the time the property was transferred to FORA. DTSC will modify the existing State CRUP, if appropriate, to reflect the land use restrictions included in the selected remedy. Although DTSC and EPA Region 9 disagree with the Army's determination that California laws and regulations concerning State CRUPs are not potential ARARs, they will agree-to-disagree on this issue since the Army executed the State CRUPs

and the DTSC agreed to modify the State CRUPs, as appropriate, to be consistent with the identified remedy.

#### 1.4.1 Munitions Recognition and Safety Training

For the Interim Action Ranges MRA, ground-disturbing or intrusive activities are expected to occur. Those people involved in ground-disturbing or intrusive operations at these areas will be required to attend munitions recognition and safety training, referred to as “MEC recognition and safety training” in the Interim Action Ranges MRA ROD, to increase awareness of and ability to identify suspect munitions items. Prior to conducting ground-disturbing or intrusive activities, property owners will be required to contact FORA for munitions recognition and safety training for those people performing ground-disturbing or intrusive activities.

Munitions recognition and safety training will be evaluated by the Army as part of the five-year review process to determine if the training program should continue. If further evaluation indicates that this LUC is no longer necessary, the program may be discontinued with Army, EPA, and DTSC approval (Section 4.8.3).

#### 1.4.2 Construction Support

Construction support by UXO-qualified personnel is required during any ground-disturbing or intrusive activities at the Interim Action Ranges MRA in order to address potential MEC risks to construction and maintenance personnel. Construction support will be arranged during the construction and maintenance planning stages of the project prior to the start of any ground-disturbing or intrusive activities. The level of construction support is determined by the probability of encountering MEC.

If evidence of MEC (i.e., suspect munitions item) is found during construction support activities, the ground-disturbing or intrusive activities in the vicinity of the suspect munitions item will immediately cease (i.e., stop work). The construction support plan will identify the size of the stop-work area. For projects that do not require a construction support plan, ground-disturbing or intrusive activities will stop as indicated on the munitions recognition and safety training materials. No attempt will be made by workers to disturb, remove, or destroy the suspect munitions item. Depending on the level of construction support required, either 1) the local law enforcement agency having jurisdiction on the property will be immediately notified so that appropriate military explosive ordnance disposal (EOD) personnel, or local bomb squad with equivalent training, can be dispatched to address the suspect munitions item, as required under applicable laws and regulations; or 2) the suspect munitions item will be addressed by UXO-qualified personnel (Section 4.3.4).

Construction support will be evaluated by the Army as part of the five-year review process to determine if the LUC should continue. If the MEC-related data collected during the development of the disturbed areas indicate that this LUC is no longer necessary, construction support may be discontinued after Army, EPA, and DTSC approval.

### 1.4.3 Restrictions Prohibiting Residential Use

Residential use restrictions placed on the Interim Action Ranges MRA property at the time the property was transferred to FORA will be maintained. For the purposes of this document, residential reuse includes, but is not limited to: single family or multi-family residences; childcare facilities; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12 (Army 2007). The restriction may be discontinued with Army, EPA, and DTSC approval (Section 4.8.3).

### 1.4.4 Restrictions Prohibiting Inconsistent Uses

Restrictions prohibiting uses inconsistent with the HMP placed on the habitat reserve reuse portions of the Interim Action Ranges MRA property at the time the property was transferred to FORA will be maintained. The habitat reserve reuse areas include, Parcels E38, E39, E41, and E42. Uses that are inconsistent with the HMP include, but are not limited to, residential, school, and commercial/industrial development. The restriction may be discontinued with Army, EPA, and DTSC approval, as described in more detail in Section 4.8.3.

### 1.4.5 Long-Term Management Measures

In addition to the LUCs described above, the LUCIP/OMP also describes the following LTMM for the Interim Action Ranges MRA:

- **Existing land use restrictions:** The Federal deed to FORA for the Interim Action Ranges MRA parcels restricts residential use and uses inconsistent with the HMP (applicable to habitat reserve areas; Appendix B). Residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12. It should be noted that the State CRUP for the Interim Action Ranges MRA parcels restricts residential use. The DTSC may require additional verification equivalent to the DTSC residential protocol before termination of the residential use restrictions in the State CRUP. Uses that are inconsistent with the HMP include, but are not limited to, residential, school, and commercial/industrial development.
- **Annual monitoring and reporting:** FORA will perform annual monitoring and reporting. FORA will notify the Army, EPA, and DTSC, as soon as practicable, of any MEC-related data identified during use of the property, and report the results of monitoring activities annually.
- **Five-year review reporting:** Five-year reviews will be conducted by the Army in accordance with CERCLA Section 121(c) and the Fort Ord FFA. The five-year review will evaluate the protectiveness of the selected remedy. Based on the evaluation, the selected LUCs may be modified or discontinued, with Army, EPA, and DTSC approval (Section 4.8.3).



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## 2.0 SITE DESCRIPTION

The Interim Action Ranges MRA is located in the north-central portion of the former Fort Ord, within the boundary of the historical impact area and is bordered by the Parker Flats MRA to the north, the Seaside MRA to the northwest, and the Impact Area MRA to the southeast, south, and southwest. The Interim Action Ranges MRA encompasses approximately 227 acres within the MRS Ranges 43-48.

This section provides background information on the Interim Action Ranges MRA, including a summary of results of the site-specific remedial investigation and site evaluations presented in the Focused Feasibility Study. Additional background information is provided in the Interim Action Ranges MRA ROD (Appendix A).

### 2.1 Site History

Since 1917, portions of the former Fort Ord were used by cavalry, field artillery, and infantry units for maneuvers, target ranges, and other purposes. From 1947 to 1974, Fort Ord was a basic training center. After 1975, the 7th Infantry Division occupied Fort Ord. Fort Ord was selected for closure in 1991. The majority of the soldiers were reassigned to other Army posts in 1993 and the base was not officially closed until September 1994. The Army has retained a portion of former Fort Ord property as the Ord Military Community and U.S. Army Reserve Center. The remainder of Fort Ord was identified for transfer to federal, state, and local government agencies and other organizations for reuse.

Munitions-related activities (e.g., live-fire training, demilitarization) involving different types of conventional military munitions (e.g., artillery and mortar projectiles, rockets and guided missiles, rifle and hand grenades, practice land mines, pyrotechnics, bombs, and demolition materials) were conducted at Fort Ord. Because of these activities, MEC, specifically UXO and discarded military munitions, have been encountered and are known or suspected to remain present at sites throughout the former Fort Ord.

### 2.2 Regulatory History

The AOC was entered into voluntarily by FORA, EPA, DTSC, and the United States Department of Justice Environment and Natural Resources Division in December 2006 (EPA Region 9 CERCLA Docket No. R9-2007-03). In March 2007, the Army and FORA entered into an ESCA to provide Army funding for MEC remediation services. In accordance with the ESCA, the AOC, and the FFA Amendment No. 1, FORA is responsible for completion of the Army's CERCLA response actions, except for those responsibilities specifically retained by the Army, on approximately 3,300 acres of the former Fort Ord. The underlying property was transferred to FORA in May 2009. The Army is the responsible party and lead agency for investigating, reporting, making cleanup decisions, and taking cleanup actions at the former Fort Ord under CERCLA. Under the ESCA, FORA is investigating, reporting, and implementing cleanup actions within the ESCA areas on behalf of the Army.

As part of the agreements for early transfer of the subject property, the Army has entered into State CRUPs with DTSC that document land use restrictions. The applicability of and requirements for State CRUPs are described in California Code of Regulations Section 67391.1 and California Civil Code Section 1471.

As described in Final Summary of Existing Data Report, Former Fort Ord, Monterey, California (ESCA RP Team 2008), the ESCA areas were combined into nine MRAs, and they were further consolidated into four groups according to similar pathway-to-closure characteristics. Group 1 consists of the Parker Flats and Seaside MRAs. Group 2 consists of the California State University Monterey Bay Off-Campus and County North MRAs. Group 3 consists of Del Rey Oaks/Monterey, Laguna Seca Parking, and Military Operations in Urban Terrain Site MRAs. Originally, Group 3 included the Interim Action Ranges MRA. The Interim Action Ranges MRA was removed from Group 3 for further evaluation as agreed upon by FORA, EPA, DTSC and the Army. Group 4 consists of the Future East Garrison MRA.

### 2.3 Interim Action Ranges MRA Summary

The Focused Feasibility Study summarized the available data and evaluated MEC-related risks for the Interim Action Ranges MRA (ESCA RP Team 2015b). This section summarizes the MEC investigations and removal actions conducted for the portion of MRS Ranges 43-48 within the Interim Action Ranges MRA as identified in the Focused Feasibility Study. MEC encountered during these actions were destroyed by detonation and recovered MD was disposed of or recycled after being inspected and determined not to pose an explosive hazard.

The Interim Action Ranges MRA is located in the north-central portion of the former Fort Ord. The Interim Action Ranges MRA encompasses approximately 227 acres within the MRS Ranges 43-48 (Figure 2).

Historical records and recovered MEC and MD indicate that the Interim Action Ranges MRA was used for military training since the initial 1917 government purchase and designation of the land as an artillery range. Cavalry and artillery troops conducted training activities within the historical impact area. The Interim Action Ranges MRA contains all or portions of five firing ranges used for a variety of training purposes from the 1950s through the 1990s. The usage of each range included: mortar training and subsequently platoon live fire course at the time of base closure (Range 43); antitank weapons range at the time of base closure (Range 44); grenade launcher range at the time of base closure (Range 45); small arms range from the late 1950s to the time of base closure (Range 46); and 40mm grenade range in the 1960s (Range 47) (Figure 2).

Munitions responses (MEC removals) have been completed at the Interim Action Ranges MRA. Several munitions response actions were completed prior to interim remedial action at the Interim Action Ranges MRA. These munitions response actions included grid sampling, visual surface MEC removal in accessible areas, and subsurface MEC removal on roads and fuel breaks. As the remedial action selected in the Interim Action ROD, surface removal and subsurface removal operations were conducted by the Army on MRS Ranges 43–48. The interim remedial action in MRS Ranges 43-48 was started in 2002 and completed in 2005 and

encompassed the Interim Action Ranges MRA. Approximately 235 acres within MRS Ranges 43-48 where subsurface MEC removal was not completed were designated as Special Case Areas (SCAs) or Non-completed Areas (NCAs). Approximately 35.9 acres of the SCAs and approximately 9.2 acres of NCAs within MRS Ranges 43-48 are located within the boundaries of the Interim Action Ranges MRA. An additional surface MEC removal was conducted in a portion of the Range 44 SCA in 2007.

Under the ESCA, FORA completed interim remedial action in the SCAs and NCAs located within the Interim Action Ranges MRA. To determine areas where interim remedial action was warranted, a design study was conducted in the Range 44 SCA, Range 47 SCA, and Central Area NCAs (Figure 3). Based on the results of the design study, a remedial action was conducted by FORA in the Range 47 SCA.

Two additional SCAs (Range 45 Trench SCA [approximately 1.2 acres; subsurface removal to a 2-foot (ft) depth across the top of the SCA conducted by the Army] and a small portion of the Fenceline SCA [one partial 100-ft by 100-ft grid]) are also located within the Interim Action Ranges MRA; however, these areas were not included in the interim remedial action completed by FORA.

The MEC and MD encountered within the Interim Action Ranges MRA were consistent with the documented historical uses. The types of MEC and MD removed from the MRA included: blasting caps, bulk explosives, bombs, hand grenades and hand grenade fuzes, rifle grenades, mines and mine fuzes, flares and signals, smoke generating items, firing devices, missiles, rockets and rocket motors, mortars, various projectiles and projectile fuzes, and simulators.

## 2.4 Potential Future Land and Resource Uses

The future land uses for the Interim Action Ranges MRA, summarized below, are based upon the Fort Ord Base Reuse Plan (FORA 1997). Future land use information is also included in the HMP (USACE 1997) and modifications to the HMP provided in Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California (Zander 2002), and Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land-Use Modification (Army 2004).

The Interim Action Ranges MRA is designated for non-residential development with borderland interface and habitat reserve. The reasonably foreseeable reuses being considered for the Interim Action Ranges MRA include:

- Non-Residential Development, Parcel E40 — Approximately 25 acres in the north-central portion of the MRA are designated for development by Monterey Peninsula College (MPC; Figure 3). A 100-foot buffer from the borderland interface along the Natural Resources Management Area (NRMA), designated as habitat reserve, was identified in the ESCA (USACE/FORA 2007); however, the buffer width is subject to change based on future fire-wise planning by FORA. The borderland development area along the NRMA interface, designated as habitat reserve, was established in the HMP (USACE 1997). Construction and maintenance of buildings and roads,

installation of utilities, as well as the activities associated with MPC are expected within this reuse area.

- Habitat Reserve, Parcels E38, E39, E41, and E42 — Approximately 202 acres of the MRA are designated for habitat reserve (Figure 3). The habitat reserve parcels will be transferred from FORA to MPC. Disturbance to the habitat reserve area during reuse will be subject to restrictions, as specified in the deed for the property. Habitat conservation-related restrictions include, but are not limited to: 1) applicable avoidance, protection, conservation and restoration requirements identified in the HMP, and 2) removal of any vegetation, cutting of trees, disturbance to soil, or any other actions that would impair the conservation of the species or their habitats (USACE 1997). The Monterey gilia (endangered; formerly referred to as sand gilia) and Monterey spineflower (threatened) plant species have been identified as having occurrence in the Interim Action Ranges MRA (ESCA RP Team 2015a). A portion of the MRA has been designated as critical habitat for the Monterey spineflower by the United States Fish and Wildlife Service. It is possible the California tiger salamander may be found in the Interim Action Ranges MRA as the MRA is within the 2-kilometer distance from an aquatic feature that may provide breeding habitat for the California tiger salamander.

### 3.0 LAND USE CONTROL IMPLEMENTATION STRATEGIES

In this section, performance objectives for the LUC remedy to be implemented at Interim Action Ranges MRA are presented along with the implementation strategy for achieving each objective. Responsibilities and specific actions to be taken to implement each objective, including monitoring and reporting requirements, are presented in Section 4.0. Responsibilities and specific actions to be taken for operation and maintenance of the LUC remedy to facilitate long-term compliance with the LUC remedy objectives are presented in Section 5.0.

LUCs will be maintained until Army, EPA, and DTSC concur that the land use may be conducted in a manner protective of human health and the environment without the LUCs or a component thereof for all or portions of the MRA. This concurrence may be based on: 1) new information (e.g., limited geophysical mapping, site development); or 2) where the depth of soil disturbance related to ground-disturbing or intrusive activities is sufficient to address the uncertainty of MEC remaining in the subsurface and any MEC encountered during such activities is removed. Details regarding remedy modification, including discontinuing portions of the LUC remedy components, are presented in Section 4.8 for LUC implementation.

#### 3.1 Munitions Recognition and Safety Training

**Performance Objectives:** Ensure that land users involved in ground-disturbing or intrusive activities are educated about the possibility of encountering MEC, and ensure that land users involved in ground-disturbing or intrusive activities stop the activity when a suspect munitions item is encountered and report the encounter to the appropriate authority.

**Implementation Strategy:** People conducting ground-disturbing or intrusive activities within the Interim Action Ranges MRA are required to obtain munitions recognition and safety training. This requirement is being implemented through two channels:

- Annual notification to property owners, which includes a reminder of the munitions recognition and safety training requirement, information on how to obtain the training, and a copy of the Military Munitions 3Rs Explosives Safety Guide (referred to herein as “MEC Safety Guide” [see Appendix C]) (Section 4.2.2); and
- As a condition for excavation permits under the Monterey County (County) and City of Seaside (City) digging and excavation ordinances (Monterey County Code Chapter 16.10 and City of Seaside Municipal Code Chapter 15.34; for reference, copies of the current digging and excavation ordinances are provided in Appendix D) (Section 4.2.3).

The MEC Safety Guide provides property owners the required education about the possibility of encountering MEC and the correct response in the unlikely event that a suspect munitions item is encountered during ground-disturbing or intrusive activities involving less than ten (10) cubic yards (cy) of soil disturbance. The annual notification to property owners of the requirements of munitions recognition and safety training and the requirement to provide the

MEC Safety Guide are requirements under this LUCIP/OMP. The annual notification to property owners of the requirements of munitions recognition and safety training and providing the Army Safety Alert pamphlet are requirements under the County and City digging and excavation ordinances (Monterey County Code Chapter 16.10.120 and City of Seaside Municipal Code Chapter 15.34). MPC has agreed to comply with the County and City digging and excavation ordinance requirements for munitions recognition and safety training under the memorandum of agreement (MOA) in place with FORA, MPC, the County, the City, and DTSC (Appendix E). MPC concurred with the excavation permitting requirements described in this LUCIP/OMP in a Confirmation of Agreement between MPC and FORA (Appendix D). Additional information on the MEC Safety Guide is provided in Section 4.2.1.1.

To facilitate long-term implementation of training, an option for delivery of training via a web-based training platform is being provided by FORA. The web-based training program includes tools for registration of trainees, access to the training materials, and documenting and monitoring training activities. Training activities are monitored throughout the year by MPC and reported to FORA in the annual LUC monitoring report. FORA will compile annual LUC monitoring reports received from MPC and submit them to the Army, EPA, and DTSC in annual LUC status reports. Responsibilities and specific actions to be taken to implement the munitions recognition and safety training requirement, including monitoring and reporting requirements, are presented in Section 4.2.

The State CRUP recommends reasonable and prudent precautions be taken when conducting ground-disturbing or intrusive activities, including providing the Army's munitions recognition and safety training, or equivalent, to any persons conducting such activities. The State CRUP for the Interim Action Ranges MRA property is provided in Appendix F. The current Federal deed and State CRUP also prohibit activities in violation of the local excavation ordinances (Appendices B and F, respectively). Training is required under the deed restrictions and State CRUP providing for redundancy in this LUC requirement.

## 3.2 Construction Support

**Performance Objectives:** Ensure ground-disturbing or intrusive activities are coordinated with UXO-qualified personnel so encounters with suspect munitions items are handled appropriately. Mechanisms for implementing the requirement for construction support are provided in local digging and excavation ordinances and this LUCIP/OMP, which are required to be followed.

**Implementation Strategy:** Construction support is required for ground-disturbing or intrusive activities within the Interim Action Ranges MRA. For projects involving disturbance of ten (10) cy of soil or more, construction support is being implemented through a digging and excavation permitting process under the Monterey County ("the County") and the City of Seaside ("the City") digging and excavation ordinances (Monterey County Code Chapter 16.10, City of Seaside Municipal Code Chapter 15.34). Projects involving less than ten (10) cy soil disturbance do not require a digging and excavation permit; however, FORA is available to assist the property owner with the determination of construction support levels

to ensure compliance with MEC safety requirements (i.e., construction support, including anomaly avoidance, munitions recognition and safety training; Section 4.3).

During the digging and excavation permitting process, the level of construction support required is determined on a case-by-case basis. Construction support requirements are determined using the explosives safety criteria and considerations provided in Department of Defense (DoD) and Army explosives safety standards and guidelines, and site-specific conditions, including the probability of encountering MEC. When the probability of encountering MEC is determined to be low (for example, the likelihood of encountering MEC is considered possible, but not probable) for projects involving disturbance of ten (10) cy of soil or more, “on-call” construction support is required, on an as-needed basis (Section 4.3.2). When the probability of encountering MEC is moderate to high, “on-site” construction support or anomaly avoidance is required regardless of the level of soil disturbance or excavation permitting requirements. For anomaly avoidance, UXO-qualified personnel must employ techniques to avoid contact with potential subsurface explosive hazards during any ground-disturbing or intrusive activities (Section 4.3.3).

The probability of encountering MEC is currently considered to be moderate to high in the Range 44 SCA, Central Area NCAs, and Trench SCA portions of Interim Action Ranges MRA that did not receive full clearance to depth. The probability of encountering MEC in the remaining areas of the MRA is considered to be low. The probability of encountering MEC is presented as general guidance; each project must be assessed for the probability of encountering MEC based on site- and project-specific information.

The on-site construction support requirement is applicable when the probability of encountering MEC is moderate to high, regardless of the level of soil disturbance or excavation permitting requirements. Ground-disturbing or intrusive activities involving less than ten (10) cy of soil disturbance do not require a digging and excavation permit. However, ground-disturbing or intrusive activities involving less than ten (10) cy of soil disturbance in areas with a moderate to high probability of encountering MEC are required to follow procedures consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines for on-site construction support or anomaly avoidance. Ground-disturbing or intrusive activities involving less than ten (10) cy of soil disturbance in areas with a low probability of encountering MEC require distribution of the MEC Safety Guide to construction personnel prior to start of ground-disturbing or intrusive activity work (Section 4.3). Web-based munitions recognition and safety training is not required for activities involving disturbance of less than ten (10) cy of soil in areas with a low probability of encountering MEC; however, the training is recommended.

To facilitate implementation of construction support, several construction support implementation resources are provided in this LUCIP/OMP, including a decision tree for determining appropriate levels of construction support, decision tree for the on-site construction support process, procedures for response to suspect munitions finds during on-call construction support, template for On-call Construction Support Plans and forms for notification of MEC finds and after action reporting. The procedures include specific actions to be taken if a suspect munitions item is encountered during ground disturbing activities, regardless of the volume of soil displacement, including requirements for property owners or



workers to stop work in the vicinity of the suspect munitions item, requirements for response to suspect munitions finds, and notification to FORA, Army, EPA, and DTSC. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. Major elements of implementing construction support include construction support planning, response to suspect munitions items during construction support activities, assessment of MEC finds during construction support, construction support documentation and reporting, and determination of when construction support is no longer necessary. Details regarding remedy modification are provided in Section 4.8.

Construction support for projects disturbing ten (10) cy or more of soil is a requirement of the City and County digging and excavation ordinances. Under the MOA with DTSC, MPC has agreed to comply with the City and County digging and excavation ordinance requirements for construction support. MPC concurred with the excavation permitting requirements described in this LUCIP/OMP in a Confirmation of Agreement between MPC and FORA (Appendix D). The current Federal deed and State CRUP prohibit activities in violation of the local excavation ordinances providing for redundancy in this LUC requirement (Appendices B and F, respectively).

### 3.3 Restrictions Prohibiting Residential Use

**Performance Objectives:** Prohibit residential development unless modifications to residential restrictions are approved by EPA and Army in coordination with DTSC.

**Implementation Strategy:** Residential use is currently prohibited within the Interim Action Ranges MRA by deed restrictions and the State CRUP. To ensure the residential use restriction is maintained, annual inspections of the Interim Action Ranges MRA will be conducted, including review of property transfers and deed amendments, development activities, and changes in land use. A MOA is in place with FORA, MPC, the County, the City and DTSC outlining their obligation to maintain the LUCs, including the residential use restriction (Appendix E). The residential use restriction is a provision of the Federal deed and State CRUP providing for redundancy in this LUC requirement (Appendices B and F, respectively). Section 4.4 provides details on the implementation of this LUC.

### 3.4 Restrictions Prohibiting Inconsistent Uses

**Performance Objectives:** Maintain the integrity of the habitat management and conservation systems that are in place until the Army, EPA, and DTSC determine that they are no longer necessary.

**Implementation Strategy:** Uses inconsistent with the HMP are prohibited within the habitat reserve reuse parcels in the Interim Action Ranges MRA, as specified in the deed for the property. To ensure the use restriction prohibiting inconsistent uses is maintained, annual inspections of the Interim Action Ranges MRA will be conducted, including review of property transfers and deed amendments, development activities, and changes in land use. A MOA is in place with FORA, MPC, the County, the City, and DTSC outlining their obligation to maintain the LUCs, including the restriction prohibiting inconsistent uses (Appendix E). The restriction prohibiting inconsistent uses is a provision of the Federal deed

providing for redundancy in this LUC requirement (Appendix B). Section 4.5 provides details on the implementation of this LUC.

### 3.5 Long-term Management Measures

As part of the LUCIP/OMP, the following LTMM will also be implemented in the Interim Action Ranges MRA:

**Maintain existing land use restrictions:** The Federal deed to FORA for the Interim Action Ranges MRA parcels prohibits residential use and uses inconsistent with the HMP (applicable to habitat reserve areas; Appendix B). Residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12. In addition, the State CRUP for the Interim Action Ranges MRA parcels prohibits residential use (Appendix F). The DTSC may require additional verification equivalent to the DTSC residential protocol before termination of the residential use restrictions in the State CRUP. Uses that are inconsistent with the HMP include, but are not limited to, residential, school, and commercial/industrial development. Section 4.6.1 provides details on the implementation of this LTMM.

**Conduct annual monitoring and reporting:** Annual monitoring (including inspections and required reviews) and reporting will be conducted for the Interim Action Ranges MRA. Notification will be provided to the Army, EPA, and DTSC of any MEC-related data identified during use of the property, and FORA will report the results of monitoring activities annually. Section 4.6.2 provides details on the implementation of this LTMM.

**Conduct five-year review reporting:** Five-year reviews will be conducted in accordance with CERCLA Section 121(c) and the Fort Ord FFA. The five-year review will evaluate the protectiveness of the selected remedy. Based on the evaluation, the selected land use controls for the Interim Action Ranges MRA may be modified or discontinued, with Army, EPA, and DTSC approval. Section 4.6.3 provides details on the implementation of this LTMM.

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## 4.0 LAND USE CONTROLS IMPLEMENTATION

This section presents the implementation actions to facilitate LUC remedy objectives. Implementation actions include:

- LUC instruments and agreements (Section 4.1);
- munitions recognition and safety training (Section 4.2);
- construction support for ground-disturbing or intrusive activities (Section 4.3);
- restriction prohibiting the residential use (Section 4.4);
- restrictions prohibiting uses inconsistent with the HMP (Section 4.5);
- long-term management measures (Section 4.6);
- notification should action(s) interfere with LUCIP/OMP effectiveness (Section 4.7); and
- additional response or remedy modification (Section 4.8).

The roles and responsibilities of the federal, state, and local government agencies and other interested parties during implementation of the LUC remedy and reuse of the transferred properties are described in the bullets below. Table 1 presents a summary of enforcement roles and the associated authority for the agencies and interested parties.

- **Army** – Ensure protectiveness of the LUC remedy
- **EPA** – Lead regulatory agency
- **DTSC** – Regulatory concurrence with EPA and enforcement of State CRUP
- **FORA** – Implementation of the LUC remedy, including ensuring jurisdictions and property owners follow requirements, and compilation of annual LUC monitoring reports and submittal to Army, EPA, and DTSC in annual LUC status reports
- **County and City** – Enforcement of digging and excavation ordinances, and maintenance and enforcement of deed restrictions
- **MPC** – Compliance with the County and City digging and excavation ordinances, maintenance and enforcement of deed restrictions, and annual LUC monitoring and reporting to FORA
- **Property owner** – Compliance with LUCs, deed restrictions, and State CRUP

A description of the tasks to be performed during implementation of the LUC remedy is presented in this section. Long-term operation and maintenance of the LUC remedy, including specific responsibilities of each organization, are presented in Section 5.0.

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## 4.1 Land Use Control Instruments and Agreements

The Army, DTSC, FORA, MPC, the County, and the City have executed legal instruments and agreements, which contain obligations to conduct specific actions to implement and maintain the LUCs selected for the Interim Action Ranges MRA. Instruments and agreements include adoption of local digging and excavation ordinances; execution of an MOA with DTSC; Army entering into the State CRUP with DTSC; and placement of notices and use restrictions in the Federal deed. A summary of these instruments and agreements is provided below.

### 4.1.1 Local Digging and Excavation Ordinances

Applicable local building codes and permits apply to the Interim Action Ranges MRA property. In addition, the County and City have each adopted digging and excavation ordinances that specify requirements for ground-disturbing and intrusive activities on the former Fort Ord (“digging and excavation ordinances”; Monterey County Code Chapter 16.10 and City of Seaside Municipal Code Chapter 15.34). The intent of these ordinances is to ensure that site purchasers, developers or workers are aware of the potential that MEC may exist on the property, and are aware of the requirements for MEC precautions to be implemented prior to any ground disturbance. Section 4.3.1.2 provides the details on requirements related to the digging and excavation ordinances.

The digging and excavation ordinances apply to Interim Action Ranges MRA property and include excavation permitting requirements applicable to excavation, digging, development and ground disturbance that involve displacement of more than ten (10) cy. For purposes of the LUCIP/OMP, these ground-disturbing or intrusive actions will be referred to as “construction activities.” Elements of the digging and excavation ordinances include directives for: documentation of previous MEC excavation or removal; detailed project description and mapping; procurement of excavation permits; acknowledgments and permit fees; and procedures and requirements for munitions recognition and safety training, construction support, and after action reporting. As stated in the ordinances, DTSC shall be continually involved in the establishment of controls for the property which shall be coordinated by the County and the City. Section 4.3.1.2 provides the details on requirements related to the digging and excavation ordinances.

### 4.1.2 Memorandum of Agreement with DTSC

FORA, the County, the City, and MPC have entered into an MOA with DTSC to implement compliance monitoring and reporting on environmental restrictions for portions of the former Fort Ord, including the Interim Action Ranges MRA. For reference, the MOA with DTSC is provided in Appendix E.

The MOA with DTSC requires the MPC to monitor compliance with all LUCs on the Interim Action Ranges MRA and to report to FORA, or the County when FORA ceases to exist, concerning compliance with all recorded LUCs within their jurisdiction on an annual basis. The MOA with DTSC requires FORA to compile data provided in the annual LUC monitoring reports received from MPC and transmit a compiled report, referred to in this

LUCIP/OMP as the “annual LUC status report”, to DTSC until FORA ceases to exist. When FORA ceases to exist, per the MOA with DTSC, the County will become responsible for compiling the data provided in the annual LUC monitoring reports received from MPC and transmittal of the compiled annual LUC status report to the Army, EPA, and DTSC. LUC implementation details on compliance monitoring and reporting are provided in Sections 4.6.1 and 4.6.2.

#### 4.1.3 Covenants to Restrict Use of Property

The Army and DTSC entered into a State CRUP on the Interim Action Ranges MRA prior to transfer of the property to FORA. For reference, the State CRUP is provided in Appendix F.

The purpose of the State CRUP is to ensure the property is suitable for the intended uses, place use restrictions to ensure the protection of human health and the environment, and ensure that transfer of the property will not disrupt remedial activities. Specifically, the State CRUP: 1) prohibits use of the property for any purpose other than activities associated with the investigation and remediation of MEC, installation of utilities and roadways, and other approved uses prior to completion of remedial actions; 2) prohibits residential use; 3) prohibits activities in violation of the digging and excavation ordinance; 4) require written notification of presence of MEC; and 5) provides DTSC right-of-entry and access to inspect and monitor the restrictions. The provisions set forth in the State CRUP run with the land and are binding upon all future property owners and occupants of the property.

The State CRUP also requires the property owners to submit an annual report detailing compliance with the State CRUP, including an annual inspection and check of County, City, and/or MPC records. The submission of an annual report containing this information, as outlined in the MOA with DTSC (Section 4.1.2), will satisfy this reporting requirement.

#### 4.1.4 Deed Restrictions

The existing Federal deed to FORA for the Interim Action Ranges MRA parcels includes the following land use restrictions: 1) prohibit residential use; 2) prohibits uses inconsistent with the HMP (applicable to habitat reserve areas); and 3) prohibit excavation (unless construction support and munitions recognition and safety training are provided). For reference, the deed is provided in Appendix B. The Federal deed also includes requirements for providing notice of the potential for the presence of MEC to future property owners and requirements to immediately stop any ground-disturbing or intrusive activities in the area or in any adjacent areas in the event a MEC item is encountered, and not to attempt to disturb, remove or destroy the MEC, but to notify the local law enforcement agency having jurisdiction on the property so that appropriate military EOD personnel can be dispatched to address such MEC.

The land use restrictions and notices set forth in the Federal deed run with the land and are binding upon all future property owners and occupants of the property.

## 4.2 Munitions Recognition and Safety Training

People involved in ground-disturbing or intrusive activities within the Interim Action Ranges MRA are required to have a munitions recognition and safety training to increase their awareness of and ability to recognize suspect munitions items. The objective of munitions recognition and safety training is to ensure that people involved in ground-disturbing or intrusive activities are educated about the possibility of encountering MEC, and ensure that the ground-disturbing or intrusive activity stops in the vicinity of the suspect munitions item when a suspect munitions item is encountered and report the encounter to the appropriate authority. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. For projects that do not require a construction support plan, ground-disturbing or intrusive activities will stop as indicated on the munitions recognition and safety training materials.

FORA currently offers munitions recognition and safety training to anyone conducting ground-disturbing or intrusive activities on the Interim Action Ranges MRA. Munitions recognition and safety training is being provided through a publicly accessible web-based eLearning platform at [www.FortOrdSafety.com](http://www.FortOrdSafety.com). (Availability of the web-based training program is pending.)

The munitions recognition and safety training requirement is being implemented in the Interim Action Ranges MRA through: 1) annual distribution of the MEC Safety Guide to property owners and other land users (related to utilities serving the property) of the availability of munitions recognition and safety training; 2) excavation permitting and construction support requirements for training; and 3) annual training compliance monitoring and reporting. The current deed and State CRUP prohibit activities in violation of the County and City digging and excavation ordinances.

The digging and excavation ordinances require the County and the City to annually notify property owners of the requirements of the digging and excavation ordinance, including distribution of the Army Safety Alert pamphlet, the requirements for munitions recognition and safety training, and excavation permits. Excavation permitting requirements include requirements that all personnel conducting ground-disturbing or intrusive activities obtain munitions recognition and safety training as part of construction support. The MOA with DTSC requires MPC to monitor compliance with all land use controls, including munitions recognition and safety training, and to report compliance annually to FORA, or the County when FORA ceases to exist.

Details on the implementation of munitions recognition and safety training, including descriptions of the training materials, annual notification of training requirements, excavation permit training requirements, and compliance monitoring and reporting are discussed in Section 4.2.1. The long-term operation and maintenance requirements of munitions recognition and safety training are discussed further in Section 5.0.

MPC will coordinate proposals to remove the requirements for munitions recognition and safety training, in consultation with Army, EPA, and DTSC. Additional details regarding the



process for review and approval of a property owner or developer request to remove a requirement for munitions recognition and safety training are provided in Section 4.2.5.

Munitions recognition and safety training will be evaluated by the Army as part of the five-year review (Section 4.6) process to determine if the training program should continue. If further evaluation indicates that this LUC is no longer necessary for the Interim Action Ranges MRA, the program may be discontinued upon Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.

## 4.2.1 Munitions Recognition and Safety Training Materials

Training materials are available for use in fulfilling the requirements of munitions recognition and safety training for people involved in ground-disturbing or intrusive activities in the Interim Action Ranges MRA. The munitions recognition and safety training materials include a MEC safety guide and web-based training resources as described in Sections 4.2.1.1 and 4.2.1.2, respectively.

### 4.2.1.1 MEC Safety Guide

The MEC Safety Guide provides education about the possibility of encountering MEC, images of MEC that could be encountered, and safety and notification procedures to follow if a suspect munitions item is found. The MEC Safety Guide emphasizes the 3Rs – Recognize, Retreat and Report. In addition, the MEC Safety Guide includes information on obtaining web-based munitions recognition and safety training and locating the digging and excavation ordinance. The MEC Safety Guide is provided in Appendix C.

In addition, the County and City digging and excavation ordinances include a requirement that workers receive the “Safety Alert” pamphlet (Appendix G), as prepared by the Army and explain to each such person the information set forth in that pamphlet. The Army widely distributes a “Safety Alert” pamphlet to the community. The Army Safety Alert warns of the dangers of unexploded ordnance, and includes images of the ordnance and explosives that may be present, and the safety and notification procedures to follow if objects resembling ordnance and explosives are discovered.

The MEC Safety Guide will be distributed to Interim Action Ranges MRA property owners by the County and the City during the annual notification to property owners as required by the digging and excavation ordinances. The annual notification to property owners will also specify that property owners and/or land users are required to deliver a copy of the MEC Safety Guide, along with the digging and excavation ordinance required Army Safety Alert pamphlet, to all personnel conducting ground-disturbing or intrusive activities.

Ground-disturbing or intrusive activities involving disturbance of less than ten (10) cy of soil do not require an excavation permit. However, for projects involving less than ten (10) cy of soil disturbance in areas with a low probability of encountering MEC, the property owner is required to provide the MEC Safety Guide and Army Safety Alert pamphlet to construction personnel prior to start of ground-disturbing or intrusive activities. Projects involving less than ten (10) cy of soil disturbance in areas with a moderate to high probability of encountering MEC require construction support and must be consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and

guidelines for on-site construction support, including anomaly avoidance. Section 4.3 provides details on determining construction support levels and probability of encountering MEC, implementation of construction support, and annual monitoring and reporting.

#### ***4.2.1.2 Web-based Munitions Recognition and Safety Training Resources***

Munitions recognition and safety training is being provided through a publicly accessible web-based eLearning platform. FORA is responsible for implementing and maintaining the eLearning platform. The eLearning platform provides open public access and full availability to the training materials. Munitions recognition and safety training using the eLearning platform is required for workers involved in ground-disturbing or intrusive activities requiring an excavation permit.

Availability of the training and access to the eLearning site will be promoted through annual notifications of MEC training requirements, messaging in the MEC Safety Guide, and a link to the web-site [www.FortOrdSafety.com](http://www.FortOrdSafety.com). (Availability of the web-based training program is pending.)

The munitions recognition and safety training eLearning promotes the Army's 3Rs of explosives safety when working in areas with past military use: Recognize, Retreat and Report. The training emphasizes recognition of potential MEC hazards and avoidance. MEC have many shapes and sizes and may resemble pieces of pipe, old soda cans, car mufflers, or even baseballs. All suspect munitions items, whether complete or in pieces, should be considered dangerous and should not be touched, moved, or disturbed in any way by site workers. Training objectives include awareness of the potential hazards of MEC, ability to recognize potential MEC hazards if encountered, and knowledge to avoid interacting with suspect munitions items and to report the discovery to an appropriate authority.

The eLearning training program is an interactive multi-media course. The eLearning platform includes tools for registration of trainees, access to the training materials, and documenting and monitoring of training activities. The eLearning course includes student interaction and self-assessment tools. Trainees who successfully complete the training program are issued an eLearning certificate documenting completion of the course. The eLearning platform also allows trainees to register and electronically maintain records of their training. Through the duration of the construction support project, training records must be maintained on-site, or readily accessible, and made available for inspection upon request to confirm compliance with training requirements. Training records are also reported by the permittee in the Construction Support After Action Report (Section 4.3.2.5 and 4.3.3.5).

#### **4.2.2 Annual Notification of MEC Training Requirements**

The digging and excavation ordinances require the County and the City to annually notify property owners of the requirements of the digging and excavation ordinance, including the requirement for distribution of the Army Safety Alert pamphlet, the requirements for munitions recognition and safety training, and requirements for excavation permits. The MEC Safety Guide will be distributed by the County and the City to property owners and other land users (related to utilities serving the property) during the annual notification. Property owners and/or land users are required to deliver a copy of the MEC Safety Guide to all personnel conducting ground-disturbing or intrusive activities. The MEC Safety Guide includes

information on how property owners and workers can obtain munitions recognition and safety training.

Property owners, including MPC, are responsible for knowing and following the requirements of the digging and excavation ordinances, including the requirement to ensure personnel conducting ground-disturbing or intrusive activities are trained prior to conducting ground-disturbing or intrusive activities.

LUC requirements compliance will be monitored by MPC through annual LUC inspections and monitoring (Section 4.6).

#### 4.2.3 Construction Support Site-Specific Worker Training

People conducting ground-disturbing or intrusive activities, under a construction support plan, are required to receive job site-specific MEC training. The job site-specific MEC training will be administered by project safety personnel upon project start and upon arrival of any new personnel potentially working in the project area prior to working on the site. The job site-specific MEC training includes: review of procedures for site-specific implementation of the 3Rs and emphasizes the site-specific actions to be followed to ensure the employees have a safe working environment.

Project personnel are required to maintain documentation of compliance with munitions recognition and safety training requirements through the duration of the construction support project. Documentation including eLearning certificates and site-specific training logs must be maintained on-site, or be readily accessible, and made available for inspection upon request to confirm compliance with training requirements. Training records are also reported by the permittee in the Construction Support After Action Report.

#### 4.2.4 Monitoring and Reporting of Munitions Recognition and Safety Training

Munitions recognition and safety training activities within the Interim Action Ranges MRA will be monitored by MPC and reported in annual LUC monitoring reports (Section 4.6.1).

The monitoring and reporting of LUCs, including munitions recognition and safety training requirements, are implemented through the MOA between the DTSC, MPC, the County, and the City. The MOA with DTSC requires MPC to monitor compliance with all land use controls, report annually to FORA, or the County when FORA ceases to exist, concerning compliance with all recorded LUCs within their jurisdiction, and FORA to compile data in the MPC reports and transmit those data in an annual status report to the DTSC. While the MOA is with DTSC, the LUC data and annual monitoring reports will be submitted by FORA to the Army, EPA, and DTSC.

MPC will submit munitions recognition and safety training statistics and compliance monitoring results annually to FORA in the annual LUC monitoring report utilizing the Former Fort Ord LUC Report Outline (Sections 4.6.1 and 4.6.2). Annual LUC monitoring and reporting requirements include verification of annual property owner notification from the City and County and transmittal of the MEC Safety Guide and Army Safety Alert pamphlet, verification of the continued availability of web-based training resources by

FORA, and compilation of munitions recognition and safety training data in accordance with the MOA with DTSC.

On-site construction support projects involving less than ten (10) cy of soil disturbance do not require an excavation permit but must be coordinated with FORA (Section 4.3.1). MPC will compile results of on-site construction support monitoring for projects involving less than ten (10) cy of soil disturbance, including munitions recognition and safety training statistics, utilizing the appropriate sections of the LUC Report Outline and report in the annual LUC monitoring reports.

FORA will compile annual LUC monitoring reports received from MPC and submit them to the Army, EPA, and DTSC in annual LUC status reports, to ensure compliance with LUC monitoring and reporting requirements (Sections 4.6.1 and 4.6.2).

#### **4.2.5 Process for Review of Proposals to Remove Requirement for Munitions Recognition and Safety Training**

The MOA, State CRUP, ROD, and deed ensure any future proposals to remove requirement for munitions recognition and safety training within the Interim Action Ranges MRA require review and approval by Army, EPA, and DTSC. The requirement for munitions recognition and safety training is a component of the CERCLA remedy for the Interim Action Ranges MRA; therefore, the restriction cannot be removed from the deed and State CRUP until the Army and EPA in consultation with DTSC agree that the land use may be conducted in a manner protective of human health and the environment without the LUC. Only when the requirement under the CERCLA remedy is removed, the property owner can initiate the administrative processes to remove the restriction from the deed and State CRUP.

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### 4.3 Construction Support for Ground-disturbing or Intrusive Activities

Construction support is required for any ground-disturbing or intrusive activities in order to address potential MEC risks to personnel. The construction support requirement is being implemented through the County and City digging and excavation ordinances. The County and City digging and excavation ordinances include requirements for: 1) annual notifications to property owners and other land users, such as utility services; 2) excavation and digging restrictions; and 3) excavation permitting including construction support by UXO-qualified personnel.

To ensure awareness, the ordinances require annual notification to property owners and other land users, such as utility services and habitat managers, of the requirements of the County and City digging and excavation ordinances and requirements for distribution of the Army Safety Alert pamphlet and MEC Safety Guide (Section 4.2.1.1). Further, the ordinances require property owners to notify any subsequent property owners, lessees or users of the ordinance requirements. Per the digging and excavation ordinances, the safety materials must be delivered and explained, at least annually, to everyone whose work at the site includes disturbing soil.

This section provides details on the implementation of construction support requirements including:

- Determining construction support levels and requirements (Section 4.3.1)
- On-call construction support process and requirements (Section 4.3.2)
- On-site construction support process and requirements (Section 4.3.3)
- Response to suspect munitions items during ground-disturbing activities (Section 4.3.4)
- FORA MEC find assessments (Section 4.3.5)
- Construction support annual monitoring and reporting (Section 4.3.6)

The long-term operation and maintenance of construction support requirements are discussed in Section 5.0.

FORA will ensure the deed transferring Interim Action Ranges MRA property to MPC includes land use restrictions in the Environmental Protection Provisions (EPPs), including excavation restrictions, placed on the property by the Army remain in place. In addition, the County and City review the deed, property transfer documents, deed amendments and other property filings associated with the Interim Action Ranges MRA properties to ensure land use restrictions in the EPPs, including excavation restrictions, placed on the property by the Army remain in place.

MPC will coordinate proposals to remove the requirements for construction support during ground-disturbing or intrusive activities, in consultation with Army, EPA, and DTSC. Additional details regarding the process for review and approval of a property owner or

developer request to remove a requirement for construction support during ground-disturbing or intrusive activities are provided in Section 4.3.7.

Construction support requirements apply in the short term during initial development of the reuse area, and/or in the long-term during reuse and redevelopment activities. Construction support effectiveness will be evaluated by the Army as part of the five-year review process to determine if the LUC should continue. If the MEC-related data collected during the development of the reuse areas indicate that this LUC is no longer necessary, construction support requirements may be discontinued with Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.

### 4.3.1 Determining Construction Support Levels and Requirements

This section outlines the procedure for determining which construction support levels are required and the associated administrative requirements. Details regarding implementation of the required construction support levels are provided in Sections 4.3.2 and 4.3.3.

Administrative requirements for implementation of construction support, including consultation requirements and excavation permitting requirements, are based on the level of soil disturbance.

- **Larger projects**, involving disturbance of ten (10) cy or more of soil, require an excavation permit and are implemented through excavation permit requirements consistent with the local digging and excavation ordinances. FORA will assist property owners in coordinating with the County or City on excavation permit application procedures. FORA will coordinate with property owners, Army, EPA, and DTSC to determine appropriate construction support requirements, including the use of anomaly avoidance techniques.
- **Minimal soil-disturbing activities**, involving disturbance of less than ten (10) cy of soil, do not require an excavation permit; FORA is available to assist the property owner with the determination of construction support levels and requirements.

The required level of construction support is determined based on safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines and the probability of encountering MEC at the project site. Details regarding determining the probability of encountering MEC are provided in Section 4.3.1.1.

- **Low probability of encountering MEC** – For larger projects, involving disturbance of ten (10) cy or more of soil, in areas where the probability of encountering MEC is low, on-call construction support, to include a construction support plan, is required (Section 4.3.2). Minimal soil disturbance activities, involving disturbance of less than ten (10) cy of soil, in areas with a low probability of encountering MEC do not require construction support or a construction support plan, but the property owner is required to provide the Army Safety Alert pamphlet (Appendix G) and MEC Safety Guide (Appendix C) to construction personnel prior to start of ground-disturbing or intrusive activities. Web-based munitions recognition and safety training is not

required for activities involving disturbance of less than ten (10) cy of soil in areas with a low probability of encountering MEC; however, the training is recommended.

- **Moderate to high probability of encountering MEC** – When the probability of encountering MEC is moderate to high, “on-site” construction support or use of anomaly avoidance techniques is required (Section 4.3.3). This requirement is applicable regardless of the level of soil disturbance or excavation permitting requirements.

The required levels of construction support are illustrated in the below inset box.

		Probability of Encountering MEC	
		Low	Moderate to High
Amount of soil disturbance	Less than 10 cubic yards (minimal soil disturbance)	<ul style="list-style-type: none"> <li>• Web-based Munitions Recognition and Safety Training (recommended)</li> <li>• MEC Safety Guide and Army Safety Alert Review</li> <li>*No Excavation Permit or Construction Support Plan required.</li> </ul>	<p><b><u>On-site Construction Support</u></b></p> <ul style="list-style-type: none"> <li>• Web-based Munitions Recognition and Safety Training</li> <li>• MEC Safety Guide and Army Safety Alert Review</li> <li>• Anomaly Avoidance or On-site Construction Support Plan (no template)</li> <li>*No Excavation Permit required.</li> </ul>
	10 cubic yards or more	<p><b><u>On-call Construction Support</u></b></p> <ul style="list-style-type: none"> <li>• Web-based Munitions Recognition and Safety Training</li> <li>• MEC Safety Guide and Army Safety Alert Review</li> <li>• On-Call Construction Support Plan (template)</li> <li>• Excavation Permit</li> <li>• Site-Specific MEC Training per construction support plan</li> </ul>	<p><b><u>On-site Construction Support</u></b></p> <ul style="list-style-type: none"> <li>• Web-based Munitions Recognition and Safety Training</li> <li>• MEC Safety Guide and Army Safety Alert Review</li> <li>• Anomaly Avoidance or On-site Construction Support Plan (no template)</li> <li>• Excavation Permit</li> <li>• Site-Specific MEC Training per construction support plan</li> </ul>

Details regarding determining appropriate construction support levels and administrative requirements are provided below.

**4.3.1.1 Determining Probability of Encountering MEC**

The probability of encountering MEC in the Range 44 SCA, Central Area NCAs, and Trench SCA portions of Interim Action Ranges MRA that did not receive full clearance to depth is considered moderate to high (Table 2; Figure 4). The probability of encountering MEC in the remaining areas of the MRA is considered to be low (Table 2; Figure 4). The probability of



encountering MEC is presented as general guidance; each project must be assessed for the probability of encountering MEC based on site- and project-specific information.

As reuse projects are successfully implemented over the years, cumulative information from soil disturbance projects, including Construction Support After Action Reports, should be reviewed by the property owner to determine the probability of encountering MEC at the time of the planning stages of the future project. The assessment of the level of risk, if any, and the need for support, on-site or on-call, is ultimately the responsibility of the property owner after giving careful consideration to explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines, and site-specific conditions, including (1) the nature and scope of the ground-disturbing activity; (2) the historical uses of the property; (3) information available concerning discovery of MEC after the completion of FORA's environmental work; and (4) the professional judgement of the property owner's contractors and engineers.

#### ***4.3.1.2 Determining Construction Support Permit and Administrative Requirements***

This section provides guidance on administrative requirements for implementation of construction support requirements for the Interim Action Ranges MRA property. Contact the County or City for specific excavation permit requirements and permitting process.

Construction support administrative requirements are based on the level of soil disturbance during the project or activity. Larger projects, involving disturbance of ten (10) cy or more of soil, require an excavation permit issued by the County or City, regardless of the probability of encountering MEC at the site. Excavation permitting requirements include a final construction support plan (Sections 4.3.2.1 and 4.3.3.1). Minimal soil-disturbing activities do not require an excavation permit, but in areas with a moderate to high probability of encountering MEC, regardless of the level of soil disturbance, require use of anomaly avoidance techniques or on-site construction support. Anomaly avoidance and on-site construction support activities require a final construction support plan (Section 4.3.3.1).

#### **FORA Coordination**

FORA will coordinate with and/or assist property owners, as necessary, to ensure compliance with construction support requirements. As needed, FORA will assist property owners in determining appropriate construction support levels and administrative requirements, including site and project specific construction support requirements, excavation permit requirements under the digging and excavation ordinances, and requirements for Army, EPA, and DTSC notification, coordination, and review of construction support plans (Sections 4.3.2.1 and 4.3.3.1).

For larger projects, involving disturbance of ten (10) cy or more of soil, FORA will assist property owners in coordinating with the County or City on excavation permit application procedures. FORA will coordinate and participate in reviews and finalization of construction support plans.

Minimal soil-disturbing activities, involving less than ten (10) cy of soil, in areas with low probability of encountering MEC (Figure 4) do not require construction support, FORA coordination, excavation permits, or construction support plans; however, FORA is available to assist the property owner with the determination of construction support levels and requirements. Minimal soil-disturbing activities in areas with moderate to high probability of encountering MEC require use of anomaly avoidance techniques or on-site construction support. An excavation permit is not required and FORA will coordinate with property owners, Army, EPA and DTSC to determine appropriate construction support requirements, including the use of anomaly avoidance techniques.

FORA assistance in coordination of construction support may be obtained by contacting FORA. Information regarding FORA contacts is available on the FORA web page, [www.fora.org](http://www.fora.org). FORA will make their best efforts to expedite administrative requirements and to coordinate the required regulatory review process with the Army, EPA, and DTSC. Upon request, FORA will provide guidance or reasonable assistance in obtaining guidance relevant to implementation of construction support requirements.

### **Minimal Soil-Disturbing Activities**

Projects involving less than ten (10) cy of soil disturbing activities in areas with low probability of encountering MEC do not require construction support, FORA coordination, excavation permits, or construction support plans; however, FORA is available to assist the property owner with the determination of construction support levels and requirements.

Minimal soil-disturbing activities in areas with moderate to high probability of encountering MEC do not require excavation permits, though do require coordination with FORA, construction support plans, and use of anomaly avoidance techniques or on-site construction support. The probability of encountering MEC in the Range 44 SCA, Central Area NCAs, and Trench SCA portions of Interim Action Ranges MRA that did not receive full clearance to depth is considered moderate to high (Figure 4; Section 4.3.1.1). The probability of encountering MEC in the remaining areas of the MRA is currently considered to be low (Figure 4; Section 4.3.1.1). The probability of encountering MEC is presented as general guidance; each project must be assessed for the probability of encountering MEC based on site- and project-specific information. Minimal soil-disturbing activities in the remaining portions of the Interim Action Ranges MRA do not require construction support, FORA coordination, excavation permits, or construction support plans.

Continued like uses at the Interim Action Ranges MRA do not trigger construction support requirements. Construction activities, site modification and other changes in use must be evaluated to determine appropriate constructions support requirements, including use of anomaly avoidance techniques. Areas with moderate to high probability of encountering MEC require on-site construction support or use of anomaly avoidance techniques. FORA will coordinate with property owners, Army, EPA and DTSC to determine appropriate construction support requirements (Section 4.3.1.3), including the use of anomaly avoidance techniques.

### **MPC Parcel Coordination and Compliance**

MPC is not bound by local building regulations when they act in their higher education capacity/role and is not subject to project review or permitting by the County or City. However, MPC has agreed to comply with the local digging and excavation ordinances, specifically the requirements for munitions recognition and safety training, construction support, notifications, and monitoring and reporting, under the MOA in place with FORA, MPC, the County, the City, and DTSC (Appendix E). MPC concurred with the excavation permitting requirements described in this LUCIP/OMP in a Confirmation of Agreement between MPC and FORA (Appendix D). In addition, MPC, as property owner, is prohibited from activities in violation of the digging and excavation ordinance under the State CRUP and Federal deed; therefore, excavation permits are required. The requirement for excavation permits, as described in this LUCIP/OMP, were coordinated with FORA, MPC, the City, and the County.

MPC will coordinate with FORA, as necessary, to ensure compliance with construction support requirements and for assistance in determining appropriate construction support levels and administrative requirements, including site and project specific construction support requirements and requirements for Army, EPA and DTSC notification, coordination, and review of construction support plans (See Construction Support Plan Consultation and Review Process). As a permittee, MPC is responsible for construction support after action reporting (Section 4.3.2.5 and Section 4.3.3.5) and construction support annual monitoring and reporting (Section 4.3.6) for projects on MPC property.

### **Local Digging and Excavation Ordinance Permitting**

Larger projects, involving disturbance of ten (10) cy or more of soil, require an excavation permit and are implemented through excavation permit requirements consistent with the local digging and excavation ordinances. The property owner or project proponent must apply to the local Building Official (permitting agency) for a permit using the application format and permitting process of that agency.

Excavation permit procedures require a final construction support plan before movement or disturbance of soil on the property. The construction support plan shall be attached to and become part of any permit issued (See Construction Support Plan Consultation and Review Process).

For projects involving disturbance of ten (10) cy or more of soil, FORA will coordinate with property owners, Army, EPA and DTSC to determine appropriate construction support requirements, including the use of anomaly avoidance techniques. For projects involving disturbance of less than ten (10) cy of soil, a permit is not required and coordination with FORA is not required; however, FORA is available to assist the property owner with the determination of construction support levels and requirement (See FORA Coordination and Minimal Soil Disturbing Activities). The local Building Official reviews permit applications and issues excavation permits. All excavation and grading shall be performed solely in accordance with the permit issued by the County or City.

### **Construction Support Plan Consultation and Review Process**

A construction support plan is required to implement on-call construction support, on-site construction support and anomaly avoidance activities. FORA will coordinate with property owners, as necessary, to ensure compliance with construction support requirements. As needed, FORA will assist property owners in determining appropriate construction support levels and administrative requirements (See FORA Coordination).

Final construction support plans are required for excavation permits, and minimal soil-disturbing projects involving less than ten (10) cy of soil disturbance in areas with moderate to high probability of encountering MEC (Section 4.3.1). FORA will coordinate and participate in the review of construction support plans (See FORA Coordination).

A construction support plan will be prepared by a UXO support contractor for each ground-disturbing or intrusive project involving the disturbance of ten (10) cy or more of soil and/or the probability of encountering MEC in the area is determined to be moderate to high (Sections 4.3.2.1 and 4.3.3.1).

For on-call construction support plans, the plan is provided to Army, EPA and DTSC for review and comment. Upon resolution of comments, the final construction support plan will be provided to Army, EPA and DTSC for concurrence that comments have been resolved. The on-call construction support plan will be final upon resolution of Army, EPA, and DTSC comments.

For on-site construction support plans, the plan is provided to the Army for a consistency review regarding explosives safety criteria and considerations. Upon completion of Army review, the plan, along with any Army comments regarding explosives safety criteria and considerations, is provided concurrently to EPA and DTSC for review.

EPA and DTSC will review the on-site construction support plans and any Army comments regarding explosives safety criteria and considerations. Upon resolution of EPA and DTSC comments, the final construction support plan will be provided to Army, EPA and DTSC for concurrence that comments have been resolved. The on-site construction support plan will be final upon resolution of EPA and DTSC comments.

For anomaly avoidance construction support plans, the plan is provided to Army, EPA and DTSC for review and comment. Upon resolution of comments, the final anomaly avoidance construction support plan will be provided to Army, EPA and DTSC for concurrence that comments have been resolved. The anomaly avoidance construction support plan will be final upon resolution of EPA and DTSC comments.

#### ***4.3.1.3 Determining Construction Support Level Requirements***

This section provides guidance on determining the required level of construction support during ground-disturbing or intrusive activities in the Interim Action Ranges MRA. General construction support level requirements for each ground-disturbing or intrusive project can be

determined by applying the Construction Support Implementation Requirements decision tree provided in Appendix H, which is supported by Table 2.

Guidance on general requirements for on-call and on-site construction support, including anomaly avoidance, are summarized in Tables 3 and 4. Details on the implementation for on-call and on-site construction support projects are provided in Sections 4.3.2 and 4.3.3, respectively. Project specific requirements for construction support and procedures for implementing construction support are determined on a case-by-case and project specific basis during the excavation permitting process and documented in the construction support plan.

### **Minimal Soil Disturbance Activities**

For projects involving less than ten [10] cy soil disturbance, an excavation permit is not required; FORA is available to assist the property owner with the determination of appropriate construction support levels and requirements.

In areas with a low probability of encountering MEC, no FORA, Army, EPA, or DTSC consultation, excavation permit, or construction support plan is required for minimal soil disturbance activities. Activities that are likely to result in minimal soil disturbance include, but are not limited to, landscape maintenance, tree and shrub planting, road maintenance, fence and sign post installation, and soil sampling.

For these projects, site workers are provided the MEC Safety Guide which provides guidance on munitions recognition and procedures for the appropriate response in the unlikely event a suspect munitions item is encountered. The MEC Safety Guide provides workers with information on how to obtain munitions recognition and safety training. Web-based munitions recognition and safety training is not required for activities involving disturbance of less than ten (10) cy of soil in areas with a low probability of encountering MEC; however, the training is recommended.

In the unlikely event a suspect munitions item is encountered, local law enforcement is contacted through 911, responds to secure the site and requests military EOD personnel, or local bomb squad with equivalent training, response to address the suspect munitions item. The suspect munitions find is documented by the property owner using the Army's Fort Ord MEC Incident Recording Form. Discoveries of MEC on such sites require notification to FORA of the discovery and reassessment of the level of construction support required. The process for reassessment of a site with low probability of encountering MEC is described in Section 4.3.5.

In areas with a moderate to high probability of encountering MEC regardless of the level of soil disturbance, on-site construction support or anomaly avoidance is required (Section 4.3.3).

### **On-call Construction Support**

For larger projects which involve disturbance of ten (10) cy or more of soil, in areas where the probability of encountering MEC is low, on-call construction support is required. On-call construction support requirements are summarized in Table 3 and detailed in Section 4.3.2.

FORA will coordinate with property owners, as necessary, to ensure compliance with construction support requirements. As needed, FORA will assist property owners in determining appropriate construction support levels and administrative requirements. Final construction support plans are required prior to soil-disturbing activities (See Section 4.3.1.2 FORA Coordination and Construction Support Plan Coordination and Review Process).

The UXO support contractor will prepare an On-call Construction Support Plan using the template in Appendix I. The UXO support contractor will review available information regarding the area of the proposed construction activities, determine the most likely types of MEC that may be encountered, physically inspect the construction area and identify any site-specific MEC safety considerations. UXO-qualified personnel are then placed on standby to assist if suspected munitions are encountered. The UXO-qualified personnel can respond from offsite when called or be on location and available to provide immediate support. If a suspect munitions item is encountered, UXO-qualified personnel inspect and attempt to identify the item. If the item cannot be verified as safe (i.e., MEC or suspect MEC items), local law enforcement responds to secure the site and requests military EOD personnel, or local bomb squad with equivalent training, response to address the item. Discoveries of MEC on low probability sites require reassessment of the level of construction support.

For permitted on-call construction support projects, a Construction Support After Action Report must be completed and submitted by the permittee to the permitting agency and FORA, Army, EPA and DTSC within 30 days following completion of the soil-disturbing activities documenting that no MEC was encountered or any MEC detected and the extent and depth of soil disturbance at the site.

### **On-site Construction Support**

In areas with a moderate to high probability of encountering MEC regardless of the level of soil disturbance, on-site construction support or anomaly avoidance is required. On-site construction support requirements are summarized in Table 4 and detailed in Section 4.3.3.

FORA will coordinate with property owners, as necessary, to ensure compliance with construction support requirements. As needed, FORA will assist property owners in determining appropriate construction support levels and administrative requirements. A final construction support plan is required prior to soil-disturbing activities.

During on-site construction support, UXO-qualified personnel must attempt to identify and address explosive hazards within the construction footprint either prior to or during any ground-disturbing or intrusive activities, such that the probability of encountering MEC can be reassessed to be low, or use anomaly avoidance techniques to avoid any subsurface anomalies during ground-disturbing or intrusive activities. During on-site construction support, once explosive hazards, if present, have been removed, and the Army determines in consultation with EPA and DTSC, that the probability of encountering MEC has been reduced to low, on-call construction support is provided, as appropriate, during construction activities.

For on-site construction support, the UXO support contractor will prepare an On-site Construction Support Plan (Section 4.3.3.1). The UXO support contractor will review historical military munitions use and remediation information regarding the area of the

proposed construction activities, determine the types of munitions that may be encountered, identify any site-specific safety considerations and develop a plan for surveying the area to identify and remove potential explosive hazards, if present. UXO-qualified personnel will conduct the planned munitions survey action to identify and, if encountered, remove explosive hazards in the construction footprint prior to ground-disturbing or intrusive activities. The UXO support contractor will address MEC items, if encountered during on-site construction support, with the procedures in the On-site Construction Support Plan (Section 4.3.3.1).

Anomaly avoidance may also be used to fulfill the requirements for on-site construction support, if included in a final construction support plan. Depending on location and activity-specific circumstances, a ground-disturbing activity (such as installation of fence posts), in areas otherwise assessed as having moderate to high probability of encountering MEC, may be supported safely with anomaly avoidance. The purpose of anomaly avoidance during ground-disturbing or intrusive activities is to relocate ground-disturbing or intrusive activities to avoid contact with subsurface anomalies.

### 4.3.2 On-Call Construction Support

This section presents the detailed approach and requirements for implementing on-call construction support at the Interim Action Ranges MRA. This section is applicable to construction activities which involve disturbance of ten (10) cy or more of soil and the probability of encountering MEC is determined to be low.

The UXO support contractor prepares an On-call Construction Support Plan (Section 4.3.2.1). At the start of the construction activities, UXO-qualified personnel are placed on standby to assist if suspected munitions are encountered. The UXO-qualified personnel can respond from offsite when called or be on location and available to provide immediate support to evaluate the suspect munitions item encountered (Section 4.3.2.3). If the item cannot be verified as safe (i.e., MEC or suspect MEC items), local law enforcement responds to secure the site and requests military EOD personnel, or local bomb squad with equivalent training, response to address the item (Section 4.2.3.4). Discoveries of MEC require a reassessment of the level of construction support (Section 4.3.5). For permitted on-call construction support projects, a Construction Support After Action Report must be completed and submitted by the permittee to the permitting agency and FORA, Army, EPA and DTSC within 30 days following completion of the ground-disturbing or intrusive activities documenting that no MEC was encountered or any MEC detected, and the extent and depth of soil disturbance (Section 4.2.3.5).

#### 4.3.2.1 On-Call Construction Support Plan

A construction support plan will be prepared by a UXO support contractor for each ground-disturbing or intrusive project involving the disturbance of ten (10) cy or more of soil and the probability of encountering MEC is determined to be low. The UXO support contractor will review available information regarding the area of the proposed construction activities, determine the most likely types of MEC that may be encountered, physically inspect the construction area and identify any site-specific MEC safety considerations. The On-call

Construction Support Plan template included in Appendix I may be used to develop the construction support plan.

The following information is required in an On-call Construction Support Plan:

- Background – provide general project identification information along with confirmation the current probability of encountering MEC on the site is low and on-call construction support is appropriate (include a map showing the project footprint and past MEC find locations by MEC type).
- Project Site Description – provide a brief description of the location of the property and a project site map.
- Construction Project Description – provide a brief overview of the construction project that the construction support effort is supporting including identification of the construction footprint, major ground-disturbing or intrusive activities, general construction sequence, construction schedule and any other project specific information pertinent to providing construction support. The plan must include a description of the property where soil is proposed to be excavated, moved or graded, including drawings with dimensions to a scale which sets forth the size and details of the proposed excavation activities, including any cut and fill, trenching, well drilling, mineral excavation, post hole drilling or other activities of any sort.
- Soil Management Plan – required as a component of the construction support plan for projects including grading or soil movement. The Soil Management Plan would be identified as a requirement during the construction support planning process and submitted for review with the construction support plan. Soil management requirements are site-specific, but generally indicate that excavated soils are to remain within the munitions response area and tracking of soil movements within the site.
- Organizational Roles and Responsibilities – identify the organizations involved with construction support activities and their roles and responsibilities. It is critical that roles and responsibilities be clearly identified including coordination within the construction project, implementation of actions to identify and address explosives hazards, and after action reporting.
- Military Munitions Background – provide a summary of relevant military munitions background information considered by the construction support contractor in preparing the support plan. Background information should include a brief summary of the types of military training that historically occurred on the project site, the types of munitions used at the site and munitions most likely to be encountered; a summary of previous munitions response actions conducted at the site which may include the date of the action, objective of the action, MEC detection instruments used and identification of any areas where previous MEC removal actions were not completed (i.e., under roadways, building or other obstacles) or may have limited the effectiveness of the response actions (i.e., tree roots, steep slopes or other potential technical challenges); include a map describing provided information.



- MEC Construction Support Procedures – identify specific activities to be conducted during construction support. MEC construction support activities must, at a minimum, include construction support planning, munitions recognition and safety training, on-call construction support (MEC safety support) resources, response to suspect munitions items, and construction support notification and reporting requirements. MEC construction support procedures must be consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines.
- Response to Suspect Munitions Items – provide concise descriptions of the actions, roles and responsibilities for response to suspect munitions items. The intent of the section is to provide a single point of reference and clearly communicate the actions to be taken in response to suspect munitions items, and MEC and suspect munitions finds. Several of the procedures discussed here are also presented in MEC construction support procedures and are intentionally repeated here for ease of reference during a MEC incident and to clearly communicate the MEC response protocol for the project (use forms in Appendix I).
- Reporting and Notification Requirements – identify all reporting and notification requirements to be completed by the permittee, including status reporting, MEC safety training reporting, MEC incident reporting, and after action reporting (use forms in Appendix I).

As part of developing the construction support plan, UXO-qualified personnel will physically preview the actual construction footprint with the on-site manager of the construction contractor and discuss visual observations and any potential areas of concern prior to the start of the project.

The On-call Construction Support Plan must be reviewed and finalized prior to soil-disturbing activities (See Section 4.3.1.2 FORA Coordination and Construction Support Plan Coordination and Review Process). A final construction support plan must be submitted by the construction activity proponent (i.e., permittee) to the local Building Official (i.e., County or the City) with jurisdiction over the property as part of the digging and excavation ordinance permitting process.

#### ***4.3.2.2 Munitions Recognition and Safety Training***

Prior to commencing construction activities, all personnel conducting ground-disturbing or intrusive activities must be provided munitions recognition and safety training and a copy of the MEC Safety Guide. The objective of munitions recognition and safety training is to ensure that site workers involved with ground-disturbing or intrusive activities are educated about the possibility of encountering MEC, ensure that they stop ground-disturbing or intrusive activities in the vicinity of the suspect munitions item when a suspect munitions item is encountered, and report the encounter to the appropriate law enforcement authority. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. Details regarding implementation and administration of the munitions recognition and safety training program are provided in Section 4.2.

### 4.3.2.3 UXO Support for Construction Activities

This section presents requirements and processes for implementing on-call construction support on sites where the probability of encountering MEC is low. The level of effort for construction support is site- and task-specific and determined on a case-by-case basis by the UXO support contractor during development of the On-call Construction Support Plan. The level of construction support, and tasks and procedures for conducting construction support will be documented in a construction support plan.

On-call support must be provided by UXO-qualified personnel following procedures consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines. On-call support is generally provided by one or more UXO-qualified personnel (UXO Technician II or UXO Technician III). The number of UXO-qualified personnel required for a construction support project will vary depending upon the total level of effort for the project.

UXO-qualified personnel must be on standby and available to assist if a suspect munitions item is encountered. Support can be from offsite when called or be on location and available to provide immediate support if a suspect munitions item is encountered.

On-site construction supervisor will confirm that construction personnel have completed the munitions recognition and safety training. In addition, procedures for reporting suspect munitions items will be reviewed by all personnel working on-site. All personnel will be advised to follow the 3Rs – Recognize, Retreat and Report. If a suspect munitions item is encountered, it is imperative that the item not be disturbed and be reported immediately to the construction supervisor and UXO-qualified personnel.

If workers unearth or otherwise encounter a suspect munitions item, all excavation activities in the vicinity of the suspect munitions item will cease. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. Workers will mark or otherwise note the location of the suspect munitions item (Recognize), stop work and leave the work area (Retreat) and report the suspect munitions item to their supervisor (Report). The supervisor will immediately report the find to the on-site construction supervisor who will verify all work has ceased, the area is cleared of all workers, the area is secured from unauthorized entry and then immediately request support by UXO-qualified personnel.

No attempt will be made by workers to disturb, remove, or destroy the suspect munitions item. UXO-qualified personnel will respond to the area, inspect and assess the suspect munitions item. UXO-qualified personnel may visually assess the suspect munitions item during inspection.

If the suspect munitions item cannot be verified as safe (i.e., MEC or suspect MEC items), all ground-disturbing or intrusive activities on the project site will remain stopped and law enforcement will be notified by the UXO support contractor. The procedures for response to an item that UXO-qualified personnel cannot verify as safe during on-call construction support are detailed in Section 4.3.2.4.

If the suspect munitions item is determined to be MD by UXO-qualified personnel, the item will be removed from the site by a UXO support contractor and securely stored for appropriate off-site disposal in accordance with the final construction support plan. A suspect munitions item determined to be a non-munitions related item will be removed from the site and managed as appropriate. Following removal of non-MEC items (i.e., material documented as safe [MDAS]) from the site, ground-disturbing or intrusive activity may resume at the site.

#### *4.3.2.4 Suspect Munitions Item Response During On-call Construction Support*

When UXO-qualified personnel cannot verify a suspect munitions item as safe, they follow the site-specific MEC item response procedures as identified in the construction support plan. The standard procedures for response to suspect munitions items during on-call construction support is determined by applying the Response to Suspect Munitions during On-Call Construction Support decision tree provided in Appendix I, and described below.

The general sequence of work stoppage in response to suspect munitions is: 1) when a suspect munitions item is encountered, work in the vicinity of the suspect munitions item is stopped and the item assessed by UXO-qualified personnel; 2) if the item is confirmed non-MEC (i.e., MDAS), work may resume; 3) if the suspect munitions item cannot be verified as safe (i.e., MEC or suspect MEC items), work on the entire site or project area is stopped so that law enforcement and military EOD personnel or local bomb squad with equivalent training may respond. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. If the suspect munitions item is determined to be MEC, a MEC find assessment is conducted by FORA in consultation with the Army, EPA and DTSC to determine if the current level of construction support is appropriate or additional actions are necessary before work may resume.

When a suspect munitions item cannot be verified as safe (i.e., MEC or suspect MEC items) by UXO-qualified personnel, all work stops on the entire site and local law enforcement is notified by the UXO support contractor. After local law enforcement has been notified, FORA, Army, EPA, and DTSC are immediately notified of the suspect munitions find. Local law enforcement responds to secure the site and requests military EOD personnel, or local bomb squad with equivalent training, respond to address the suspect munitions item.

After the suspect munitions item has been addressed by military EOD personnel, or local bomb squad with equivalent training, the UXO support contractor completes an Army's Fort Ord MEC Incident Recording Form (Appendix I) and FORA MEC Find Notification Form (Appendix I). The Army's Fort Ord MEC Incident Recording Form must be submitted to FORA within 24 hours of military EOD or bomb squad response. FORA will distribute the completed Fort Ord MEC Incident Recording Form to the Army, EPA, and DTSC within 48 hours, of the incident. The FORA MEC Find Notification Form must be submitted to FORA as soon as practicable to support FORA's assessment of the MEC find (Section 4.3.5). Completed Fort Ord MEC Incident Recording Forms and FORA MEC Find Notification forms are included in the Construction Support After Action Report and annual LUC monitoring report.

If the suspect munitions item is determined to be MEC, the probability of encountering MEC will be reevaluated by FORA and may result in additional actions or construction support requirements. FORA conducts a MEC find assessment to develop a recommendation for the probability of encountering MEC (Section 4.3.5). Site work may not restart until the assessment is completed, the Army, EPA, and DTSC have concurred, and any required additional action has been conducted.

#### ***4.3.2.5 On-call Construction Support After Action Reporting***

Following completion of a permitted on-call construction support project, the permittee must submit a Construction Support After Action Report. A standardized form for Construction Support After Action Reports is presented in Appendix I. The permittee must complete the Construction Support After Action Report form and submit the requested project information and required attachments to the permitting agency and FORA, Army, EPA and DTSC within 30 days of project completion. Required attachments include a map of the final excavation footprint with plotted MEC finds, table summarizing any MEC, munitions debris or military training related items recovered from the project site, applicable MEC safety training logs and applicable construction support daily reports. MPC will use the information included in Construction Support After Action Reports to compile information required for annual LUC monitoring and reporting (Section 4.6).

### **4.3.3 On-site Construction Support**

This section presents the detailed approach and requirements for implementing on-site construction support at the Interim Action Ranges MRA. In areas with a moderate to high probability of encountering MEC, regardless of the level of soil disturbance, on-site construction support or anomaly avoidance is required (Section 4.3.1.1).

UXO-qualified personnel must either attempt to identify and address explosive hazards within the construction footprint prior to or during any ground-disturbing or intrusive activities, such that the probability of encountering MEC can be reassessed to be low, or use anomaly avoidance techniques to avoid any subsurface anomalies during ground-disturbing or intrusive activities. During on-site construction support, once explosive hazards, if present, have been removed and the Army determines in consultation with EPA and DTSC that the probability of encountering MEC has been reduced to low, on-call construction support is provided, as appropriate, during construction activities.

The UXO support contractor will prepare an On-site Construction Support Plan (Sections 4.3.3.1) consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines. The UXO support contractor will review available information regarding the area of the proposed construction activities, determine the types of MEC that may be encountered, identify any site-specific safety considerations and develop procedures for identifying and removing MEC hazards that may be present. UXO-qualified personnel will search the area to identify and address explosive hazards within the construction footprint prior to or during ground-disturbing or intrusive activities such that the probability of encountering MEC can be reassessed to be low (Section 4.3.3.3). The UXO support contractor will address MEC items encountered during on-site construction support following procedures in the On-site Construction Support Plan (Section 4.3.3.1).

A Construction Support After Action Report must be completed and submitted by the permittee to the permitting agency and FORA, Army, EPA and DTSC within 30 days following completion of on-site construction support activities documenting the MEC removal activities and location on a site map, any MEC removed and the extent and depth of soil disturbance at the site (Section 4.3.3.5).

#### *4.3.3.1 On-site Construction Support Plan*

A construction support plan will be prepared by a UXO support contractor for each on-site ground-disturbing or intrusive project located in an area with a moderate to high probability of encountering MEC. Construction support plans for projects requiring on-site construction support shall include all procedures for identifying and removing MEC hazards that may be present, consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines.

The following information is required in an On-site Construction Support Plan:

- Background – provide general project identification information along with confirmation the current probability of encountering MEC on the site is high and on-site construction support is appropriate (include a map showing the project footprint and past MEC find locations by MEC type).
- Project Site Description – provide a brief description of the location of the property and a project site map.
- Construction Project Description – provide a brief overview of the construction project that the construction support effort is supporting including identification of the construction footprint, major ground-disturbing or intrusive activities, general construction sequence, construction schedule and any other project specific information pertinent to providing construction support. The plan must include a description of the property where soil is proposed to be excavated, moved or graded, including drawings with dimensions to a scale which sets forth the size and details of the proposed excavation activities, including any cut and fill, trenching, well drilling, mineral excavation, post hole drilling or other activities of any sort.
- Soil Management Plan – required as a component of the construction support plan for projects including grading or soil movement. The Soil Management Plan would be identified as a requirement during the construction support planning process and submitted for review with the construction support plan. Soil management requirements are site-specific, but generally indicate that excavated soils are to remain within the munitions response area and tracking soil movements within the site.
- Organizational Roles and Responsibilities – identify the organizations involved with construction support activities and their roles and responsibilities. It is critical that roles and responsibilities be clearly identified including coordination within the construction project, implementation of actions to identify and address explosives hazards, transitioning to on-call construction support and after action reporting.

- Military Munitions Background – provide a summary of relevant military munitions background information considered by the construction support contractor in preparing the support plan. Background information should include a brief summary of the types of military training that historically occurred on the project site, the types of munitions used at the site and munitions most likely to be encountered; a summary of previous munitions response actions conducted at the site which may include the date of the action, objective of the action, MEC detection instruments used and identification of any areas where previous MEC removal actions were not completed (i.e., under roadways, building or other obstacles) or may have limited the effectiveness of the response actions (i.e., tree roots, steep slopes or other potential technical challenges); include a map describing provided information.
- MEC Explosive Hazard Removal Procedures – identify site-specific action to be conducted to identify and address explosive hazards within the construction footprint either prior to or during construction such that the probability of encountering MEC can be reassessed to be low. As an alternative, anomaly avoidance techniques may be used to avoid subsurface anomalies during ground-disturbing or intrusive activities. Actions that may be included in an on-site construction support plan include vegetation removal, geophysical mapping and analysis, anomaly excavation and addressing MEC if encountered. MEC related activities including MEC destruction must be detailed in the construction support plan. MEC construction support procedures must be consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines.
- MEC Construction Support Procedures – identify activities to be conducted to provide on-call construction support during construction activities, after on-site construction support is successfully conducted, the probability of encountering MEC has been reduced to low and on-call construction support determined to be appropriate. The plan must, at a minimum, include construction support planning, munitions recognition and safety training, on-call construction support (UXO safety support) resources, response to suspect munitions items, and construction support notification and reporting requirements identified in Section 4.3.2. MEC construction support procedures must be consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines (use forms in Appendix I).
- Response to MEC Items – include contingency for response to MEC items during MEC explosive hazard removal activities, anomaly avoidance and construction activities.
  - MEC items encountered during MEC explosive hazard removal operations will be destroyed by the UXO support contractor following MEC destruction procedures included in the On-site Construction Support Plan. Locations for MEC storage and performing MEC demolition shots are required to be included in the On-site Construction Support Plan. FORA, Army, EPA, and DTSC are notified of the MEC find. On-site construction support may resume after the MEC item has been destroyed.
  - The objective of anomaly avoidance is to avoid encountering MEC. In the unlikely event MEC items are encountered during anomaly avoidance

operations, the items will not be moved or destroyed by the UXO support contractor. Discoveries of MEC during anomaly avoidance operations requires a reassessment of the construction support approach before anomaly avoidance operations or other site work may resume.

- If a suspect munitions item is encountered during construction activities, procedures for response to suspect munitions finds during on-call construction support are followed (Sections 4.3.2.3 and 4.3.2.4). Discoveries of MEC during construction activities after on-site construction support has been completed require a reassessment of the construction support approach before construction activities or other work may resume.
- Destruction of MEC Items – The plan must provide concise descriptions of the actions, roles and responsibilities for response to suspect munitions finds during MEC explosive hazard removal, including locations for MEC storage and performing MEC demolition shots and procedures for destruction of MEC items. The intent of the section is to provide a single point of reference and clearly communicate the actions to be taken in response to a MEC during on-site construction support (Section 4.3.3.3).
- Reporting and Notification Requirements – The plan must identify all reporting and notification requirements including status reporting, MEC safety training reporting, MEC incident reporting and after action reporting (use forms in Appendix I).

As part of developing the construction support plan, UXO-qualified personnel will physically preview the actual construction footprint with the on-site manager of the construction contractor and discuss visual observations and any potential areas of concern prior to the start of the project.

The On-site Construction Support Plan must be reviewed and finalized prior to soil-disturbing activities (See Section 4.3.1.2 FORA Coordination and Construction Support Plan Coordination and Review Process). A final construction support plan must be submitted by the construction activity proponent (i.e., permittee) to the local Building Official (i.e., County or City) with jurisdiction over the property as part of the digging and excavation ordinance permitting process.

#### ***4.3.3.2 Munitions Recognition and Safety Training***

All personnel conducting ground-disturbing or intrusive activities must be provided munitions recognition and safety training and a copy of the MEC Safety Guide. The objective of munitions recognition and safety training is to ensure site workers involved in ground-disturbing or intrusive activities are educated about the possibility of encountering MEC, ensure that they stop ground-disturbing or intrusive activities in the vicinity of the suspect munitions item when a suspect munitions is encountered, and report the encounter to the appropriate authority as identified in the construction support plan. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. Training records are maintained and available for inspection during the project and reported by the permittee in the Construction Support After Action Report. Details regarding

implementation and administration of the munitions recognition and safety training program are provided in Section 4.2.

#### ***4.3.3.3 On-site Construction Support Explosive Hazard Removal Requirements***

This section presents requirements for implementing on-site construction support for explosive hazard removal on sites where the probability of encountering MEC is moderate to high. On-site construction support or anomaly avoidance must be provided to remove or avoid potential explosive hazards in the construction footprint before ground-disturbing or intrusive activities occur. Actions that may be conducted during on-site construction support include vegetation removal, surface MEC evaluation, geophysical mapping and analysis, anomaly excavation and addressing MEC if encountered.

Subsurface MEC evaluation is conducted to address explosive hazards identified within the construction footprint either prior to or during construction such that the probability of encountering MEC can be reassessed to be low. Subsurface geophysical surveys may be completed using detection instruments with real time or post-processing identification techniques.

The level of effort for construction support is site and task-specific and must be determined on a case-by-case basis by the UXO support contractor in coordination with the Army, EPA, and DTSC. The level of construction support, and tasks and procedures for conducting construction support will be documented in a construction support plan. Timing with respect to transitioning to on-call construction support and initiation of construction activities on the project site is site-specific and will be specified in the construction support plan.

On-site support must be provided by UXO-qualified personnel using procedures consistent with explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines.

#### ***4.3.3.4 Suspect Munitions Item Response During On-site Construction Support***

When UXO-qualified personnel conducting on-site construction support confirm that a suspect munitions item is MEC they follow the site-specific MEC item response procedures as identified in the construction support plan.

MEC items encountered during MEC explosive hazard removal operations will be destroyed by the UXO support contractor following MEC destruction procedures included in the final construction support plan. Locations for MEC storage and performing MEC demolition shots are required to be included in the On-site Construction Support Plan. FORA, Army, EPA, and DTSC are notified of the MEC find. On-site construction support may resume after the MEC item has been destroyed.

In the unlikely event MEC items are encountered during anomaly avoidance operations, the items will not be moved or destroyed by the UXO support contractor. Follow the procedures for response to suspect munitions finds during on-call construction support (Sections 4.3.2.3 and 4.3.2.4). Discoveries of MEC during anomaly avoidance operations require a



reassessment of the construction support approach before anomaly avoidance operations or other site work may resume.

If a suspect munitions item is encountered during construction activities, the item will not be moved or destroyed by the UXO support contractor. Follow the procedures for response to suspect munitions finds during on-call construction support (Sections 4.3.2.3 and 4.3.2.4). Discoveries of MEC during construction activities after on-site construction support has been completed require a reassessment of the construction support approach before construction activities or other work may resume.

#### ***4.3.3.5 On-site Construction Support After Action Reporting***

Following completion of an on-site construction support project, the permittee must submit a Construction Support After Action Report. This reporting requirement is applicable to permitted on-site construction support projects and on-site construction support for minimal soil-disturbing activities. A standardized form for construction support after action reporting is presented in Appendix I. The permittee must complete the applicable form and submit the requested project information and required attachments to the permitting agency and FORA, Army, EPA, and DTSC within 30 days of project completion. Required attachments include a map of the final excavation footprint with plot of MEC finds, table summarizing any MEC, munitions debris or military training related items recovered from the project site, applicable MEC safety training logs and applicable construction support daily reports. MPC will use the information provided in Construction Support After Action Reports to compile information required for annual LUC monitoring and reporting.

For on-site construction support projects involving less than ten (10) cy of soil disturbance, the Construction Support Plan must include details on the preparation of the Construction Support After Action Report and submission of the report to FORA, Army, EPA, and DTSC within 30 days of project completion. MPC will use the information provided in on-site construction support project Construction Support After Action Reports for annual LUC monitoring and reporting.

A Construction Support After Action Report must also provide the information and data required in a post-MEC removal report or technical information paper.

#### **4.3.4 Response to Suspect Munitions Item During Ground-Disturbing Activities**

As required in the ROD, the property owner or workers will stop work in the vicinity of the suspect munitions item and notify construction support personnel or the local law enforcement agency immediately if any suspect munitions items are encountered during ground-disturbing or intrusive activities in the Interim Action Ranges MRA. The construction support plan prepared by a UXO support contractor will identify the size of the stop-work area. For projects that do not require a construction support plan, ground-disturbing or intrusive activities will stop as indicated on the munitions recognition and safety training materials. The three scenarios for responding to any suspect munitions items are presented below:

- The standard procedure for reporting encounters with a known or suspected munitions item in the transferred former Fort Ord property when construction support is not required (i.e., projects involving less than ten [10] cy of soil disturbance in an area with a low probability of encountering MEC) is to stop work, retreat, and immediately call 911, which will transfer the call to the appropriate local law enforcement agency. The local law enforcement agency will secure the site and promptly request military EOD personnel, or local bomb squad with equivalent training, response to address the suspect munitions item.
- For on-site construction support (i.e., any volume of soil disturbance in an area with a moderate to high probability of encountering MEC), the process for assessing and addressing suspect munitions finds will be included in the on-site construction support plan.
- For on-call construction support (i.e., ten [10] cy or more of soil disturbance in an area with a low probability of encountering MEC), if a worker identifies a suspect munitions item, all work in the area of the suspect munitions item is stopped, the area marked and secured, and the UXO support contractor is notified. No attempt will be made by workers to disturb, remove, or destroy the suspect munitions item. UXO-qualified personnel will inspect and assess the suspect munitions item. UXO-qualified personnel may visually assess the suspect munitions item during inspection. The UXO-qualified personnel will determine if the item can be verified as safe. If the item is not MEC (i.e., MDAS), work may resume. If the item cannot be verified as safe (i.e., MEC or suspect MEC item), all work stops on the site and local law enforcement responds to secure the site and requests military EOD personnel, or local bomb squad with equivalent training, response to address the item (Sections 4.3.4.1 and 4.3.4.2).

#### *4.3.4.1 Confirmed MEC Item Response during On-call Construction Support*

If a suspect munitions item cannot be verified as safe (i.e., MEC or suspect MEC items) by UXO-qualified personnel conducting on-call construction support, all ground-disturbing or intrusive activities at the site remains stopped and law enforcement is notified by the UXO support contractor. No attempt will be made by workers or UXO construction support personnel to disturb, remove, or destroy the suspect munitions item. The local law enforcement agency will immediately notify the appropriate military EOD personnel, or local bomb squad with equivalent training, to respond to the site and remove the suspect munitions item.

After the suspect munitions item has been addressed by military EOD personnel, or local bomb squad with equivalent training, the UXO support contractor completes an Army's Fort Ord MEC Incident Recording Form (Appendix I) and FORA MEC Find Notification Form (Appendix I) and submits both forms to FORA for distribution to Army, EPA, and DTSC. The Army's Fort Ord MEC Incident Recording Form must be submitted to FORA within 24 hours of military EOD response. FORA will distribute the completed Fort Ord MEC Incident Recording Form to the Army, EPA, and DTSC within 48 hours, of the incident. The FORA MEC Find Notification Form must be submitted to FORA as soon as practicable to support FORA's assessment of the MEC find (Section 4.3.5). Completed Fort Ord MEC Incident

Recording Forms and FORA MEC Find Notification forms are included in the Construction Support After Action Report and annual LUC monitoring report.

If the suspect munitions item is determined to be MEC, the probability of encountering MEC will be reevaluated by FORA and may result in additional actions or construction support requirements. FORA conducts a MEC find assessment to develop a recommendation for the probability of encountering MEC (Section 4.3.5). If the probability of encountering MEC is determined by the Army and EPA in consultation with the DTSC, to remain low, work may resume at the site. Site work may not restart until the assessment is completed, the Army and EPA, in consultation with the DTSC, have made a determination of the probability of encountering MEC, and any required additional actions have been conducted.

#### *4.3.4.2 Confirmed Non-MEC Item Response*

A suspect munitions item determined to be MD by UXO-qualified personnel will be removed from the site by a UXO support contractor and securely stored for appropriate off-site disposal in accordance with the construction support plan. A suspect munitions item determined to be a non-munitions related item will be removed from the site and managed as appropriate. Following removal of non-MEC items (i.e., MDAS) from the work area, ground-disturbing or intrusive activities may resume at the site.

#### **4.3.5 FORA MEC Finds Assessment**

After a MEC find within the Interim Action Ranges MRA, FORA will be notified by the property owner of the discovery and the probability of encountering MEC will be reassessed. FORA will assess the probability of encountering additional MEC. FORA will coordinate with the property owner during the reassessment. FORA will propose to the Army, EPA, and DTSC an appropriate probability of encountering MEC (low or moderate/high), and the recommendation for the level of construction support appropriate for the site condition. The probability of encountering MEC and the resulting level of construction support will be jointly determined by the Army and EPA, in consultation with DTSC. Site work may not restart until the assessment is completed, the Army and EPA, in consultation with DTSC, have made a determination of the probability of encountering MEC, and any required additional action has been conducted.

FORA will complete the MEC find assessment in consultation with the Army, EPA and DTSC. FORA will document the MEC find assessment and proposed determination on the FORA MEC Finds Assessment form (Appendix I) and will submit the form with required attachments to the Army, EPA, and DTSC. If EPA, in consultation with DTSC, determines that additional investigation is required as part of the assessment, FORA will conduct such investigation in accordance with an approved work plan, if within the scope of its obligation under the AOC and the ESCA. EPA, in consultation with DTSC, will review and approve results of the investigation (Section 4.8.1).

If the probability of encountering MEC is determined to remain low, ground-disturbing or intrusive activity may resume at the site. If the probability of encountering MEC is

determined to be moderate or high, on-site construction support or other actions will be required prior to resuming ground-disturbing or intrusive activities.

FORA will conduct any additional investigation required by EPA and DTSC pursuant to the AOC, except Army Obligations. FORA will conduct such additional investigation in accordance with an approved work plan, if within the scope of its obligation under the AOC and the ESCA. EPA, in consultation with DTSC, will evaluate and approve the results of the additional investigation. The agency consultation process will be completed as expeditiously as practicable.

FORA will complete the required MEC find assessment and submit the assessment and proposed determination of the probability of encountering additional MEC at the site or recommendation for additional MEC investigation or response at the site within 20 days of a MEC find. FORA will document the assessment and proposed determination on the FORA MEC Finds Assessment form (Appendix I) and will submit the form with required attachments to the Army, EPA, and DTSC. The probability of encountering MEC and resulting level of construction support will be determined jointly by the Army and EPA, in consultation with DTSC. FORA must receive the written determination and provide a copy of the completed assessment and joint Army and EPA determination to the permittee prior to resuming ground-disturbing or intrusive site activities.

#### 4.3.6 Construction Support Annual Monitoring and Reporting

Construction support activities within the Interim Action Ranges MRA will be monitored by MPC as part of the annual Former Fort Ord Land Use Covenant monitoring and reporting program and reported in annual LUC monitoring reports.

The monitoring and reporting of construction support requirements is implemented through a MOA between the DTSC, the County, the City, and MPC which: 1) requires MPC to monitor compliance with all land use covenants; 2) requires MPC to report annually to FORA concerning their compliance with all recorded LUCs within their jurisdiction; and 3) requires FORA to compile the annual LUC monitoring reports received from MPC and transmit the compiled report, referred to in this LUCIP/OMP as the “annual LUC status report”, to the DTSC. The LUC reports will be shared with the Army and EPA.

MPC will submit results of construction support monitoring to FORA utilizing the LUC Report Outline. On-site construction support projects involving less than ten (10) cy of soil disturbance do not require an excavation permit but must be coordinated with FORA (Section 4.3.1). MPC will review and compile results of on-site construction support monitoring utilizing the appropriate sections of the LUC Report Outline for reporting in the annual LUC monitoring report.

The LUC report outline has been expanded to include construction support data elements and is presented in Appendix J (Sections 4.6.1 and 4.6.2). Annual LUC monitoring reporting requirements include verification that projects involving soil disturbance comply with the local digging and excavation ordinance, compilation of munitions recognition and safety training data from construction support projects, compilation of data and results from construction support projects (including on-site construction support for projects involving

less than ten (10) cy of soil disturbance), compilation of MEC-related data identified during use of the property, and summarize MEC-related 911 records for the year.

FORA will compile annual LUC monitoring reports received from MPC and submit them to the Army, EPA, and DTSC in annual LUC status reports, to ensure compliance with construction support monitoring and reporting requirements (Sections 4.6.1 and 4.6.2).

#### **4.3.7 Process for Review of Proposals to Remove Requirement for Construction Support for Ground-disturbing or Intrusive Activities**

The MOA, State CRUP, ROD, and deed ensure any future proposals to remove requirement for construction support for ground-disturbing or intrusive activities within the Interim Action Ranges MRA require review and approval by Army, EPA, and DTSC. The requirement for construction support for ground-disturbing or intrusive activities is a component of the CERCLA remedy for the Interim Action Ranges MRA; therefore, the restriction cannot be removed from the deed and State CRUP until the Army and EPA in consultation with DTSC agree that the land use may be conducted in a manner protective of human health and the environment without the LUC. Only when the requirement under the CERCLA remedy is removed, the property owner can initiate the administrative processes to remove the restriction from the deed and State CRUP.

## 4.4 Restrictions Prohibiting Residential Use

Residential use restrictions are in place for the Interim Action Ranges MRA properties through deed restrictions and the State CRUP (Appendices B and F, respectively). For the purposes of this document, residential reuse includes, but is not limited to: single family or multi-family residences; childcare facilities; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12 (Army 2007). Residential use restrictions in the Interim Action Ranges MRA property deeds will run with the land.

Environmental use restrictions, including the Interim Action Ranges MRA residential use restriction are monitored by MPC annually to ensure compliance. Annual monitoring includes review of deeds, deed amendments, and other property filings, physical inspection of the property and reporting. Annual monitoring is conducted by MPC as a component of the Fort Ord Land Use Covenant Annual Monitoring Report. MPC will inspect the Interim Action Ranges MRA properties and review the Interim Action Ranges MRA deed annually to ensure the residential use restriction remains in place and that no unapproved development or prohibited uses have occurred. FORA will compile annual LUC monitoring reports received from MPC and submit them to the Army, EPA, and DTSC, to ensure compliance with the restriction prohibiting residential use.

FORA will ensure the deed transferring Interim Action Ranges MRA property to MPC includes land use restrictions in the EPPs, including residential use restrictions, placed on the property by the Army remain in place. In addition, the County and City review the deed, property transfer documents, deed amendments and other property filings associated with the Interim Action Ranges MRA properties to ensure land use restrictions in the EPPs, including residential use restrictions placed on the property by the Army remain in place.

MPC will coordinate proposals to remove the residential use restrictions, in consultation with Army, EPA, and DTSC. Additional details regarding the process for review and approval of a property owner or developer request to remove a residential use restriction are provided in Section 4.4.1.

Residential use restrictions will be evaluated by the Army as part of the five-year review (Section 4.6) process to determine if the restrictions should continue. If further evaluation indicates that this LUC is no longer necessary for the Interim Action Ranges MRA, the program may be discontinued upon Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.

### 4.4.1 Process for Review of Proposals to Remove Residential Use Restriction

The MOA, State CRUP, ROD, and deed ensure any future proposals to remove residential use restrictions within the Interim Action Ranges MRA require review and approval by Army, EPA, and DTSC. The requirement for the residential use restriction is a component of the CERCLA remedy for the Interim Action Ranges MRA; therefore, the restriction cannot be removed from the deed and State CRUP until the Army and EPA in consultation with DTSC agree that the land use may be conducted in a manner protective of human health and

the environment without the LUC. Only when the requirement under the CERCLA remedy is removed, the property owner can initiate the administrative processes to remove the restriction from the deed and State CRUP. As indicated in Section 1.4.5, DTSC may require additional verification equivalent to the DTSC residential protocol before termination of the residential use restrictions in the State CRUP.

## 4.5 Restrictions Prohibiting Inconsistent Uses

Restrictions prohibiting uses inconsistent with the HMP are in place for the habitat reserve parcels in the Interim Action Ranges MRA through deed restrictions (Appendix B). Uses that are inconsistent with the HMP are prohibited, including but not limited to residential, school, and commercial/industrial development. Restrictions against inconsistent uses (applicable to the habitat reserve areas) in the Interim Action Ranges MRA property deeds will run with the land.

Environmental use restrictions, including the Interim Action Ranges MRA restrictions prohibiting uses inconsistent with the HMP, are monitored annually by MPC to ensure compliance. Annual monitoring includes review of deeds, deed amendments, and other property filings, physical inspection of the property and reporting. Annual monitoring is conducted by MPC as a component of the Fort Ord Land Use Covenant Annual Monitoring Report (“annual LUC monitoring report”). MPC will inspect the Interim Action Ranges MRA properties and review the Interim Action Ranges MRA deed annually to ensure the restrictions against inconsistent uses (applicable to the habitat reserve areas) remain in place and that no prohibited uses have occurred. FORA will compile annual LUC monitoring reports received from MPC and submit them to the Army, EPA, and DTSC in annual LUC status reports, to ensure compliance with the restrictions against inconsistent uses.

FORA will ensure the deed transferring Interim Action Ranges MRA property to MPC include land use restrictions in the EPPs, including restrictions against uses inconsistent with the HMP, placed on the property by the Army remain in place. In addition, the County and City review the deed, property transfer documents, deed amendments and other property filings associated with the Interim Action Ranges MRA properties to ensure land use restrictions in the deed, including restrictions against inconsistent uses (applicable to the habitat reserve areas), placed on the property by the Army remain in place.

MPC will coordinate proposals to remove the CERCLA restrictions against inconsistent uses (applicable to the habitat reserve areas) included in the ROD, in consultation with Army, EPA, and DTSC. The provisions against inconsistent uses in the Federal deed appear under the “notice of rare, threatened and endangered species management” section of the EPPs. These provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure. Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the “notice of rare, threatened and endangered species management” deed provisions. Additional details regarding the process for review and approval of a property owner request to remove a CERCLA restriction against inconsistent uses are provided in Section 4.5.1.

### 4.5.1 Process for Review of Proposals to Remove Restrictions Prohibiting Inconsistent Use

The MOA and ROD ensure any future proposals to remove restrictions against inconsistent uses (applicable to the habitat reserve areas) within the Interim Action Ranges MRA require review and approval by the Army, EPA, and DTSC. The requirement for the restrictions against inconsistent uses (applicable to the habitat reserve areas) is a component of the



CERCLA remedy for the Interim Action Ranges MRA; therefore, the CERCLA restriction cannot be removed until the Army and EPA in consultation with DTSC agree that the land use may be conducted in a manner protective of human health and the environment without the LUC. Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the deed provisions against inconsistent uses. The deed provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure and will run with the land.

## 4.6 Long-Term Management Measures

The LUCIP/OMP also describes the following LTMM implementation defined in the ESCA and supporting documents. FORA will implement post-Site Closeout LTO through the ESCA 2037 performance period. The LTOs to be implemented include long-term review, monitoring, and operation and maintenance activities/reporting required to maintain the effectiveness of the remedy. Site Closeout is defined as the time after FORA has performed all the environmental services except LTO per the ESCA (Section 1.2) and the AOC. The MOA with DTSC includes an Annual LUC Report Outline, which has been expanded to fulfill the requirements of this LUCIP/OMP and the LTOs (Appendix J).

### 4.6.1 LUCIP/OMP Annual Inspections

LUCIP/OMP compliance includes annual on-site inspection of the Interim Action Ranges MRA, review of local building and planning department records, and Construction Support After Action Reports that show the number of suspected munitions finds and confirmed MEC finds in the Interim Action Ranges MRA. For reference, the Annual LUC Report Outline has been expanded to fulfill the requirements in this LUCIP/OMP (Appendix J).

### 4.6.2 Annual LUC Monitoring Reports

The LUCIP/OMP annual inspections and record review results will be summarized by FORA in an annual LUC status report using a letter report format. MPC has agreed to conduct annual LUC reporting upon property transfer as established in the executed MOA with DTSC and the State CRUP. The existing MOA with DTSC Annual LUC Report Outline has been expanded to include and fulfill the requirements in this LUCIP/OMP (Appendix J). Annual LUC monitoring reports cover the period from July 1 to June 30 of each year. MPC will submit annual LUC monitoring reports to FORA by September 1 of each year (within 60 days). FORA will compile the annual LUC monitoring reports and submit them to the Army, EPA, and DTSC in annual LUC status reports within 90 days following receipt of reports from MPC.

FORA is responsible for compiling and submitting the annual LUC monitoring reports to the EPA and DTSC. FORA is also responsible for preparation and submittal of annual MEC letter reports to the EPA and DTSC summarizing any MEC found and changes in site conditions that could increase the possibility of encountering MEC; the submittal of the annual LUC status report satisfies this requirement. The annual LUC status reports will also be provided to the Army for inclusion in the five-year reviews.

### 4.6.3 CERCLA Five-Year Reviews

The Army shall conduct five-year reviews of the Interim Action Ranges MRA remedy as required by CERCLA and the National Contingency Plan. Five-year reviews will be conducted by the Army in accordance with CERCLA Section 121(c) and the Fort Ord FFA. The five-year review will evaluate the protectiveness of the selected remedy. Based on the evaluation, the selected LUCs may be modified or discontinued, with Army, EPA, and DTSC

approval (Section 4.8.3). FORA may assist the Army in these five-year reviews as defined in the ESCA. The EPA and DTSC review the five-year review reports, provide comments to the Army, and concur with the findings as appropriate. Five-year review involves a comprehensive assessment of the remedy performance of the environmental and munitions cleanup programs and its ongoing protectiveness of human health and the environment. The selected LUCs may be modified by the Army, with the approval of the EPA, and DTSC, in the future based on the five-year review process.

#### 4.7 Notification Should Action(s) Interfere with LUCIP/OMP Effectiveness

Within seventy-two (72) hours of discovery of any activity on the property that is inconsistent with the Interim Action Ranges MRA LUCIP/OMP objectives, MPC, the County, and the City shall notify FORA and FORA shall notify EPA, DTSC, and the Army (Section 5.1.7). Examples of inconsistent activities include: not executing requirement for munitions recognition and safety training or construction support; violating State CRUP prohibiting residential uses; or not meeting local digging and excavation ordinances and local permitting requirements. This reporting requirement is separate from the annual LUC monitoring and reporting requirements of Sections 5.1.6 and 5.2.7.

Within forty-five (45) days of identifying a LUCIP/OMP inconsistency, FORA, in consultation with the County, City, and/or MPC shall identify the LUCIP/OMP inconsistency cause, and evaluate and implement any necessary changes to avoid future noncompliance, and FORA shall notify EPA, DTSC, and the Army of the evaluation and actions taken. This reporting requirement does not preclude the Army from taking immediate action to prevent exposure. This reporting requirement will enable the Army to take appropriate action to ensure the effectiveness of the remedy.

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## 4.8 Additional Response or Remedy Modification

### 4.8.1 Additional Investigation or Follow-up Action

If the Army and EPA, in consultation with DTSC, determines that additional investigation is necessary within the Interim Action Ranges MRA, the property owner will cease all development activities in the identified portion of the MRA. FORA will notify the property owner of the additional investigation and will coordinate with the property owner during additional actions. FORA will conduct any additional investigation required by EPA and DTSC pursuant to the AOC, except Army Obligations. FORA will conduct such additional investigation in accordance with an approved work plan, if within the scope of its obligation under the AOC and the ESCA. EPA, in consultation with DTSC, will evaluate and approve the results of the additional investigation. The agency consultation process will be completed by the EPA and DTSC as expeditiously as practicable.

If EPA determines that additional investigation and/or action is required that is not within the scope of FORA obligations under the AOC and ESCA, EPA will advise the Army that it is obligated under the FFA to conduct the investigation and/or action. Additional action will be conducted in accordance with an approved work plan. EPA, in consultation with DTSC, will evaluate and approve the results of the investigation and/or response action. The agency consultation process will be completed by the EPA and DTSC as expeditiously as practicable. If additional investigation is necessary by the Army, the agency consultation process and timelines will be completed per the FFA.

The Army retains full responsibility for Army obligations pursuant to the ESCA “Army obligations”. Nothing shall require FORA to assume responsibility for any Army Obligation, as contractor to the Army, under the terms of the ESCA.

Although the Army has already transferred the responsibilities to implement, maintain, monitor, and enforce LUCs to another party by contract, property transfer agreement, or through other means, the Army retains the ultimate responsibility for remedy integrity. Future property owners will also have responsibilities to act in accordance with the LUCs as specified in the deed(s).

If additional evaluation or work or modification of the selected remedy is proposed based on five-year review, it will be implemented in accordance with Paragraph 34 of the AOC, and/or Section C.4.1.7 of the ESCA. The Army is ultimately responsible for remedy integrity.

### 4.8.2 Remedy Modification – Remedy No Longer Protective

If the Army and EPA, in consultation with DTSC, determine that the selected remedy for the Interim Action Ranges MRA is no longer protective, FORA will propose and the Army and EPA will jointly select an additional response action or modification of the remedy to be implemented by FORA if within the scope of its obligations under the AOC and the ESCA. DTSC will be provided an opportunity to review and comment on the proposal. The additional actions required and their remedial objectives will be documented in an Explanation of Significant Differences (ESD) or ROD Amendment, as appropriate.

### 4.8.3 Remedy Modification – Discontinue Portion of LUC Remedy

As specified in the ROD, LUCs identified in the Interim Action Ranges MRA ROD will be maintained until Army, EPA, and DTSC concur that the land use may be conducted in a manner protective of human health and the environment without the LUCs. This concurrence may be based on: 1) new information (e.g., limited geophysical mapping, site development); or 2) where the depth of soil disturbance related to ground-disturbing or intrusive activities is sufficient to address the uncertainty of MEC remaining in the subsurface and any MEC encountered during such activities is removed.

If the Army and EPA, in consultation with DTSC, determine that the selected LUC remedy, or components of the remedy, are no longer necessary to protect human health and the environment, the ROD may be modified, as appropriate, to remove the specific LUC requirement for all or a portion of the Interim Action Ranges MRA.

If the MEC-related data collected during the development of the reuse areas indicate that the construction support LUC is no longer necessary, the ROD requirement for construction support may be discontinued for the developed reuse areas with Army, EPA, and DTSC approval. Any such proposal that would modify the remedy or performance objectives of the selected remedy must also be coordinated with the Army, EPA, and DTSC. FORA, the County, the City, and MPC may prepare the MEC-related data proposal and present it to the Army, EPA, and DTSC for review to determine if the LUC may be removed.

The MOA with DTSC, State CRUP, ROD, and deed ensure any future proposals to remove residential use restrictions within the Interim Action Ranges MRA require review and approval by Army, EPA, and DTSC. As indicated in Section 1.4.5, DTSC may require additional verification equivalent to the DTSC residential protocol before termination of the residential use restrictions in the State CRUP. The LUC requirements are components of the CERCLA remedy for the Interim Action Ranges MRA, therefore, they cannot be removed from the deed and State CRUP until the Army and EPA in consultation with DTSC agree that the land use may be conducted in a manner protective of human health and the environment without the LUC. Only when the requirement under the CERCLA remedy is removed, the property owner can initiate the administrative processes to remove the restriction from the deed and State CRUP.

The MOA with DTSC, State CRUP, and ROD ensure any future proposals to remove restrictions against inconsistent uses (applicable to the habitat reserve areas) within the Interim Action Ranges MRA require review and approval by the Army, EPA, and DTSC. The requirement for the restrictions against inconsistent uses (applicable to the habitat reserve areas) is a component of the CERCLA remedy for the Interim Action Ranges MRA; therefore, the CERCLA restriction cannot be removed until the Army and EPA, in consultation with DTSC, agree that the land use may be conducted in a manner protective of human health and the environment without the LUC. Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the deed provisions against inconsistent uses. The deed provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure and will run with the land.

## 5.0 LAND USE CONTROL OPERATION AND MAINTENANCE

This section presents responsibilities for operation and maintenance of the LUC remedy implementation actions identified in Section 4.0 to facilitate long-term compliance with the LUC remedy objectives. Responsibilities for the operation and maintenance of LUCs, including monitoring, inspecting, and reporting requirements, of FORA, the County, the City, MPC, Army, and property owners are provided in the following subsections.

The Army retains ultimate responsibility for remedy integrity. FORA, per the ESCA and AOC, is responsible for implementing, inspecting, reporting, and enforcing the LUC requirements until 2037.

### 5.1 FORA Responsibilities

FORA's responsibilities during the operation and maintenance of the LUCs remedy for the Interim Action Ranges MRA are identified below. These responsibilities are currently assigned to FORA, but will eventually be transferred to FORA's successor in interest (Section 1.2.1). FORA has entered into agreements with the County, the City, and MPC to conduct certain activities during the operation and maintenance of the LUCs remedy. However, FORA remains responsible to the Army for operation and maintenance of the LUCs remedy, including responsibility for those activities MPC, the County, and the City have agreed to conduct. Specific activities that MPC, the County, and the City have agreed to conduct are identified in Section 5.2.

#### 5.1.1 Munitions Recognition and Safety Training

FORA is responsible for maintenance of munitions recognition and safety training materials, monitoring implementation of the training requirements, and compiling the annual LUC status report of training activities to DTSC. Munitions recognition and safety training materials have been developed (Section 4.2).

FORA will conduct the following activities during operation and maintenance of the munitions recognition and safety training LUC:

- FORA will maintain training resources and materials including the MEC Safety Guide, web-based training materials, web hosting services, and maintenance of web-based training resources.
- FORA will monitor property owner, MPC, the County, and the City implementation of training responsibilities, including notifications, distribution of MEC Safety Guide, excavation permit training requirements, and annual monitoring and reporting.
- FORA will compile annual training statistics and status information from the annual LUC monitoring reports received from MPC and transmit to the Army, EPA, and DTSC as part of annual LUC status reports.



### 5.1.2 Construction Support

FORA is responsible for monitoring the MPC, the County, and the City implementation of construction support under the digging and excavation ordinances.

In the unlikely event that MEC is found during construction support, FORA is responsible for notifications of MEC finds and assessment of MEC finds including additional investigations or other actions necessary as a result of MEC finds. FORA is responsible for compiling the annual reporting of construction support activities as part of the annual LUC status report.

FORA will conduct the following activities during operation and maintenance of the construction support LUC:

- FORA will monitor the County and City implementation and enforcement of the digging and excavation ordinances, including excavation permitting, to ensure compliance with construction support requirements.
- FORA will ensure notification of the Army, EPA, and DTSC of reported MEC finds during construction support activities, including ensuring initial notification occurs within 24 hours of a MEC find, distribution of Fort Ord MEC Incident Recording Forms and distribution of FORA MEC Find Notification forms submitted to FORA during construction support.
- FORA will coordinate with property owners, Army, EPA, and DTSC on appropriate on-site construction support requirements, including use of anomaly avoidance techniques, for projects involving less than ten [10] cy of soil disturbance in areas with moderate to high probability of encountering MEC.
- After the response to a suspect munitions item during on-call construction support, if the suspect munitions item is determined to be MEC, and if within the scope of its obligations under the AOC and the ESCA, FORA will assess the probability of encountering additional MEC. Such assessment may include additional investigation, which will be coordinated with the Army, EPA, and DTSC. As part of the assessment, FORA will evaluate available historical records, onsite investigation data, and other physical evidence, such as: MEC items that have been found to-date during the ongoing construction project; most-recent five-year review; and annual reports since the most recent five-year review.
- If EPA, in consultation with DTSC, determines that additional investigation is required as part of the assessment, FORA will conduct such investigation in accordance with an approved work plan, if within the scope of its obligations under the AOC and ESCA. EPA, in consultation with DTSC, will evaluate and approve the results of the additional investigation.
- FORA will conduct MEC find assessments for MEC finds reported on the Interim Action Ranges MRA to develop a recommendation for the probability of encountering MEC (Section 4.3.5). FORA will complete the required MEC find assessment and submit the assessment and proposed determination of the probability of encountering MEC at the site or recommendation for additional investigation or response at the site within 20 days of an MEC find. FORA will document the

assessment and proposed determination on the FORA MEC Finds Assessment form (Appendix I).

- After conducting a MEC find assessment, FORA will propose to the Army, EPA, and DTSC an appropriate site level determination (low or moderate/high), and a recommendation for the level of construction support appropriate for the site conditions (Section 4.3.5). The agency consultation process will be completed as expeditiously as practicable. The probability of encountering MEC and the resulting level of construction support will be determined jointly by the Army and EPA, in consultation with DTSC. If the probability of encountering MEC is determined by the Army and EPA in consultation with the DTSC, to remain low, work may resume with on-call construction support. If the probability of encountering MEC is moderate/high, FORA will propose, and the Army and EPA in consultation with DTSC will determine, an appropriate follow-on action to be implemented by FORA, if within the scope of its obligation under the AOC and the ESCA. If an existing CERCLA decision document has addressed this contingency, FORA will implement the required action if within the scope of its obligations under the AOC and the ESCA.
- Notwithstanding the foregoing, nothing herein shall be construed to require FORA to assume responsibility for any Army obligation, as such term is defined in the ESCA and the AOC. After the response, and if not within the scope of FORA's obligations under the AOC and the ESCA, the Army, in consultation with the DTSC and EPA, shall proceed with MEC removal within the construction footprint before construction resumes.
- FORA will compile information on construction support activities from annual LUC monitoring report information received from MPC and transmit to Army, EPA, and DTSC as part of annual LUC status report.

### 5.1.3 Residential Use Restriction

FORA is responsible for reviewing property transfers and development projects to ensure residential use restrictions remain in property deeds and monitoring compliance with the residential use restrictions in the Federal deed and State CRUP.

FORA will conduct the following activities during operation and maintenance of the residential use restriction LUC:

- FORA will ensure residential use restriction in the Federal deed remains as provisions in the deed transferring property to MPC. FORA is also responsible for notifying MPC of the deed restrictions and property owner LUC obligation.
- FORA will provide at least 60-day prior notice to the Army, EPA, and DTSC of Interim Action Ranges MRA property transfer to MPC. The notice shall reference residential use restrictions and other environmental protection provisions in the Federal deed and State CRUP.

- FORA will compile annual LUC monitoring information on use restrictions received from MPC, verify compliance with residential use restrictions, and transmit to Army, EPA, and DTSC in an annual LUC status report.

#### 5.1.4 Restrictions Prohibiting Inconsistent Uses

FORA is responsible for reviewing property transfers to ensure restrictions against inconsistent uses (applicable to the habitat reserve areas) remain in property deeds and monitoring compliance with the restrictions against inconsistent uses in the Federal deed.

FORA will conduct the following activities during operation and maintenance of the restrictions against inconsistent uses LUC:

- FORA will ensure restrictions against inconsistent uses (applicable to the habitat reserve areas) in the Federal deed remains as provisions in the deed transferring property to MPC. FORA is also responsible for notifying MPC of the deed restrictions and property owner LUC obligation.
- FORA will provide at least 60-day prior notice to the Army, EPA, and DTSC of Interim Action Ranges MRA property transfer to MPC. The notice shall reference restrictions against inconsistent uses (applicable to the habitat reserve areas) and other environmental protection provisions in the Federal deed.
- FORA will compile annual LUC monitoring information on use restrictions received from MPC, verify compliance with inconsistent use restrictions (applicable to the habitat reserve areas), and transmit to Army, EPA, and DTSC in an annual LUC status report.

#### 5.1.5 Long-Term Management Measures

FORA will conduct the following long-term management measures during operation and maintenance of the LUCs:

- FORA will notify the Army, EPA, and DTSC of any MEC-related data identified during use of the property and report results of monitoring activities annually.
- FORA will implement post-site closeout long-term obligations through the ESCA 2037 performance period, at which time responsibility will revert to the Army. The long-term obligations to be implemented include long-term review, monitoring, operation and maintenance activities, and reporting required to maintain the effectiveness of the remedy. Site closeout is defined as the time after FORA has performed all the environmental services except long-term obligations. The Annual LUC Report Outline will be used to fulfill this LTO (Appendix J).

#### 5.1.6 Annual LUC Monitoring and Reporting

FORA is responsible for compiling annual LUC monitoring reports received from MPC and submittal to the Army, EPA, and DTSC in an annual LUC status report. The annual LUC

inspections and monitoring reports are completed by MPC and submitted to FORA. FORA then compiles the reports for submittal to DTSC. The annual LUC status reports will be shared with the Army and EPA. Annual LUC monitoring reports and annual LUC status reports cover all environmental restrictions, covenants and controls for the properties, including the munitions recognition and safety training, construction support, residential use restrictions, and restrictions prohibiting inconsistent uses (applicable to habitat reserve areas).

FORA will conduct the following LUCs monitoring and reporting during operation and maintenance of the LUCs.

- FORA will monitor MPC compliance with LUC monitoring and reporting obligations per the MOA with DTSC.
- FORA will submit the annual LUC status reports to the Army, EPA, and DTSC within 90 days following receipt of annual LUC monitoring reports from MPC. The County is responsible for compiling and submitting annual LUC monitoring reports received from MPC after FORA ceases to exist.
- FORA is responsible for submitting an annual letter report to the EPA and DTSC summarizing any MEC found and changes in site conditions that could increase the possibility of encountering MEC. As part of compiling annual LUC monitoring reports, FORA will include a summary of any MEC found and changes in site conditions that could increase the probability of encountering MEC within the Interim Action Ranges MRA. The submittal of the annual LUC status report satisfies this requirement.

#### 5.1.7 Notification Should Action(s) Interfere with LUCIP/OMP Effectiveness

FORA is responsible for notifying EPA, DTSC, and the Army, within seventy-two (72) hours of discovery of activity on the property that is inconsistent with the Interim Action Ranges MRA LUCIP/OMP. This FORA reporting requirement is separate from the annual LUC monitoring and reporting requirements of Section 5.1.6.

- Within forty-five (45) days of identifying a LUCIP/OMP inconsistency, FORA, in consultation with the County, City, and/or MPC, shall identify the LUCIP/OMP inconsistency cause. FORA will evaluate and implement any necessary changes to avoid future noncompliance. The evaluation and any recommended changes to avoid future noncompliance will be reviewed and approved by the Army, EPA and DTSC before implementation.
- FORA is responsible for implementing corrective actions necessary to ensure the effectiveness of the LUC remedy.

This reporting and corrective action requirement does not preclude the Army from taking immediate action to prevent exposure. This reporting and corrective action requirement will enable FORA and the Army to take appropriate action to ensure the effectiveness of the remedy.

### 5.1.8 Additional Response or Remedy Modification

If the Army and EPA, in consultation with DTSC, determines that the LUC remedy is not protective of human health and the environment, the property owner will cease all development activities in the area of concern within the MRA. Under the AOC and ESCA, FORA is responsible for undertaking further response actions, if within its obligations. Under the ESCA, FORA will conduct any additional response actions as required by EPA and DTSC pursuant to the AOC, except Army Obligations.

FORA will conduct the following additional response actions and remedy modification activities during operation and maintenance of the LUCs.

- If the Army and EPA, in consultation with DTSC, determine that the selected remedy is no longer protective, FORA will propose and the Army and EPA will jointly select, an additional response action or modification of the remedy. Additional response actions will be implemented by FORA if within the scope of its obligation under the AOC and the ESCA. DTSC will be provided an opportunity to review and comment on the proposal. The additional actions required and their remedial objectives will be documented in an ESD or ROD Amendment, as appropriate.

### 5.1.9 Notice of FORA Planned Property Conveyance

At least 60 days prior to conveyance of the property to any other agency, person, or entity, FORA shall provide notice to the Army, EPA, and DTSC of such intended conveyance. The notice shall describe the mechanism by which LUCs will continue to be implemented, maintained, inspected, reported, and enforced.

### 5.1.10 LUC Enforcement

FORA is responsible under the ESCA and AOC for long-term obligations, including the operation and maintenance of LUCs. The EPA monitors and enforces these FORA requirements under the provisions of the AOC. The Army monitors and enforces FORA long-term obligation requirements under provisions in the ESCA.

Should FORA discover any activities inconsistent with the LUC remedy objectives, FORA shall notify Army, EPA, and DTSC of the discovery, identify the LUCIP/OMP inconsistency cause, and evaluate and implement any necessary changes to avoid future noncompliance. This reporting requirement does not preclude the Army from taking immediate action to prevent exposure. This reporting requirement will enable FORA and the Army take appropriate action to ensure the effectiveness of the remedy.

FORA is responsible for ensuring MPC fulfills their LUC operation and maintenance obligations, including the monitoring and reporting responsibilities under the MOA with DTSC. This reporting requirement will enable FORA and the Army to take appropriate action for ensuring MPC is notified of the LUC requirements and comply with the LUC requirements and activities identified in this LUCIP/OMP.

## 5.2 MPC, the County, and the City Responsibilities

The County and City are responsible for implementation of the digging and excavation ordinances applicable to the Interim Action Ranges MRA, including annual notifications to property owners and administering excavation permitting to include construction support requirements. MPC is responsible for annual LUC monitoring and annual reporting to FORA per the MOA with DTSC. MPC is responsible for maintaining use restrictions in deeds and ensuring the deed provisions remain in place for the Interim Action Ranges MRA. As an Interim Action Ranges MRA property owner, MPC is also responsible for the property recipient responsibilities identified in Section 5.3.

Within seventy-two (72) hours of discovery of any activity on the property that is inconsistent with the Interim Action Ranges MRA LUCIP/OMP, MPC, County and/or City shall notify FORA, and FORA shall notify EPA, DTSC, and the Army. Examples of inconsistent activities include: not executing requirement for munitions recognition and safety training or construction support; violating State CRUP prohibiting residential uses; or not meeting the local digging and excavation ordinance and local permitting requirements. This reporting requirement is separate from the annual LUC monitoring and reporting requirements of Sections 5.2.6 and 5.2.7.

### 5.2.1 Munitions Recognition and Safety Training

The County and City is responsible for providing annual notification to Interim Action Ranges MRA property owners of munitions recognition and safety training requirements, including delivery of the MEC Safety Guide and requiring munitions recognition and safety training during construction support per excavation permits. MPC is responsible for annual monitoring and reporting of the training requirements.

MPC, the County, and the City will conduct the following activities during operation and maintenance of the munitions recognition and safety training LUC:

- The County and City will provide annual notification to Interim Action Ranges MRA property owners and other land users (related to habitat management and utilities serving the property) of the obligation to follow the digging and excavation ordinance, including requirement to provide MEC Safety Guide to every worker conducting ground-disturbing or intrusive activities. Property owners and/or land users will be reminded of the requirement to deliver a copy of the MEC Safety Guide to all site workers conducting ground-disturbing or intrusive activities.
- The County and City will maintain and enforce requirement for munitions recognition and safety training as condition for excavation permits for Interim Action Ranges MRA property under digging and excavation ordinance.
- MPC will ensure all MPC workers, including contractors, conducting ground-disturbing or intrusive activities on the Interim Action Ranges MRA receive munitions recognition and safety training and a copy of the MEC Safety Guide.
- MPC will compile annual munitions recognition and safety training statistics for the Interim Action Ranges MRA from construction support excavation permits,

Construction Support After Action Reports, and the training web site, and will report to FORA as part of annual LUC monitoring and reporting.

## 5.2.2 Construction Support

As permitting agencies, the County and City are responsible for monitoring and enforcing construction support requirements at the Interim Action Ranges MRAs for excavation permit requirements under the digging and excavation ordinances. The County and the City are responsible for consultation with Army, EPA, and DTSC regarding construction support requirements prior to issuing excavation permits. MPC is responsible for annual monitoring and reporting of the construction support activities.

MPC, the County, and the City will conduct the following activities during operation and maintenance of the construction support LUC:

- The County, and the City will implement and enforce the digging and excavation ordinance, including annual notification requirements and excavation permitting requirements.
- The County and the City, in consultation with FORA, will determine the level of construction support required on a case-by-case and project specific basis during the excavation permitting process.
- The County and the City will consult with Army, EPA, and DTSC on project and site-specific construction support requirements prior to issuing excavation permits, including review and finalization of construction support plans (Section 4.3.1.2).
- MPC will monitor and enforce property owner and permittee requirements for response to suspect munitions finds, including stopping work, notifications to local law enforcement personnel, FORA notification, and conditions for re-start of work.
- The County and City, as permitting agencies, will ensure Construction Support After Action Reports are received from permittees and distributed by permittees to FORA, Army, EPA, and DTSC.
- MPC will conduct annual construction support LUC monitoring and reporting including site inspections to verify no unpermitted projects, review of excavation permits to verify compliance with requirement for construction support, compile excavation permit and construction support statistics (including statistics for on-site construction support projects involving less than ten [10] cy of soil disturbance), and report on excavation permits and construction support to FORA, Army, EPA, and DTSC as part of annual LUC monitoring and reporting.

## 5.2.3 Residential Use Restriction

MPC is responsible for maintaining residential use restrictions for the Interim Action Ranges MRA in the property deed and monitoring compliance with the residential use restrictions in the Federal deed and State CRUP.

The MPC will conduct the following activities during operation and maintenance of the residential use restriction LUC.

- MPC will maintain the residential use restrictions placed on the property in the Federal deed, including ensuring deed restrictions remain on property through future property transfer deeds. MPC will notify new property owners of deed restrictions and obligations.
- MPC will conduct annual inspections of the property deed and annual physical inspections of the property to verify residential use restrictions remain in place as part of annual LUC monitoring and reporting.
- MPC will notify FORA, Army, EPA, and DTSC of any proposed changes in land use or development projects and the determination that such projects are consistent with the residential use restriction.
- MPC will coordinate Army, EPA, and DTSC review of any proposals to remove the residential use restrictions.

#### 5.2.4 Restrictions Prohibiting Inconsistent Uses

MPC, the County, and City are responsible for maintaining restrictions against inconsistent uses (applicable to the habitat reserve areas) for the Interim Action Ranges MRA in the property deed and monitoring compliance with the restrictions against inconsistent uses in the Federal deed.

The MPC, the County, and City will conduct the following activities during operation and maintenance of the restrictions against inconsistent uses LUC.

- MPC, the County, and City will maintain the restrictions against inconsistent uses (applicable to the habitat reserve areas) placed on the property in the Federal deed, including ensuring deed restrictions remain on property through future property transfer deeds. MPC will notify new property owners of deed restrictions and obligations.
- MPC will conduct annual inspections of the property deed and annual physical inspections of the property to verify restrictions against inconsistent uses (applicable to the habitat reserve areas) remain in place as part of annual LUC monitoring and reporting.
- MPC will notify FORA, Army, EPA, and DTSC of any proposed changes in land use and the determination that such changes are consistent with the restrictions against inconsistent uses.
- MPC will coordinate Army, EPA, and DTSC review of any proposals to remove the CERCLA restrictions against inconsistent uses. Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the deed provisions against inconsistent uses. The deed provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure and will run with the land.



### 5.2.5 Long-Term Management Measures

MPC will conduct the following long-term management measures during operation and maintenance of the Interim Action Ranges MRA LUCs.

- MPC will notify FORA, Army, EPA, and DTSC, as soon as practicable, of any MEC-related data identified during use of the property.
- MPC will monitor compliance with residential use restrictions and restrictions prohibiting inconsistent use (applicable to the habitat reserve areas) in the property deed as described in Sections 5.2.3 and 5.2.4, respectively.
- MPC will perform annual monitoring and reporting of LUC as described in Sections 5.2.6 and 5.2.7.

### 5.2.6 LUCIP/OMP Annual Inspections

MPC is responsible for compliance with the LUC remedy for the Interim Action Ranges MRA through annual on-site inspections and review of local building and planning department records, and construction support MEC finds report review. MPC will conduct the following annual inspection requirement during operation and maintenance of the Interim Action Ranges MRA LUCs.

- MPC will compile annual munitions recognition and safety training statistics from construction support excavation permits, Construction Support After Action Reports, and training, and will report to FORA as part of annual LUC monitoring and reporting as described in Section 5.2.1.
- MPC will conduct annual construction support LUC monitoring and reporting including site inspections to verify no unpermitted projects have occurred, review of excavation permits to verify compliance with requirement for construction support, compile excavation permit and construction support statistics (including on-site construction support projects involving less than ten [10] cy of soil disturbance) and report on excavation permits and construction support to FORA, Army, EPA, and DTSC as part of annual LUC monitoring and reporting as described in Section 5.2.2.
- MPC will conduct annual inspections of the property deed and annual physical inspections of the property to verify residential use restrictions and restrictions prohibiting inconsistent use (applicable to the habitat reserve areas) remain in place as part of annual LUC monitoring and reporting as described in Sections 5.2.3 and 5.2.4, respectively.
- For reference, the following is provided in this LUCIP/OMP: Appendix J – Former Fort Ord Land Use Covenant Reporting Outline.

### 5.2.7 Annual LUC Monitoring Reports

MPC is responsible for conducting annual LUC inspections and monitoring for the Interim Action Ranges MRA and submitting annual LUC monitoring reports to FORA. FORA will compile the reports received from MPC and submit them to the Army, EPA, and DTSC in

annual LUC status reports. Annual LUC monitoring reports and annual LUC status reports cover all environmental restrictions, covenants and controls for the properties, including the munitions recognition and safety training, construction support, residential use restrictions, and restrictions prohibiting inconsistent uses (applicable to habitat reserve areas).

MPC will conduct the following LUCs monitoring and reporting during operation and maintenance of the LUCs.

- MPC will conduct annual LUC monitoring and inspection obligations per the MOA with DTSC.
- MPC will submit the annual LUC monitoring and inspection reports to FORA by September 1 of each year covering the period July 1 to June 30 of the previous year.
- After FORA ceases to exist, the County will compile and submit the annual LUC status reports to the Army, EPA, and DTSC within 90 days following receipt of annual LUC monitoring reports from MPC.
- MPC has agreed to conduct annual LUC monitoring and reporting upon property transfer, as established in the MOA with DTSC and State CRUP. The LUC annual inspections and record review results will be summarized in an annual LUC monitoring report (Appendix J).

### 5.2.8 Notice of Planned Property Conveyances

MPC (as a jurisdiction under the MOA with DTSC) is responsible for monitoring Interim Action Ranges MRA property transfer to ensure use restrictions, LUC and State CRUP restrictions, are maintained in future deeds. Army, EPA, and DTSC will be notified of property transfers through annual LUC monitoring reports, which will include MPC verification of property transfer compliance with deed restriction, LUC and State CRUP requirements.

### 5.2.9 LUC Enforcement

MPC is responsible for fulfilling their LUC operation and maintenance obligations for the Interim Action Ranges MRA, including the monitoring and reporting responsibilities under the MOA with DTSC, State CRUP, and deed restrictions.

The County and City are responsible for implementing and enforcing the requirements of the local digging and excavation ordinances for the Interim Action Ranges MRA.

## 5.3 Property Recipient Responsibilities

The future property owners, including MPC, are responsible for compliance with LUCs, deed restrictions, and the State CRUP. Property owner responsibilities are implemented through the digging and excavation ordinances, deed restrictions, and the State CRUP, and include provisions to comply with the munitions recognition and safety training, construction support, residential use restriction, and restrictions against inconsistent uses LUCs.

Per a Memorandum of Agreement with FORA and Monterey County, habitat management activities will be the responsibility of FORA and the County (Appendix E). In addition to MPC's property recipient responsibilities, the County and FORA will be responsible for ensuring LUCIP/OMP property owner responsibilities are implemented.

### 5.3.1 Munitions Recognition and Safety Training

The property owner is responsible for ensuring all personnel conducting ground-disturbing or intrusive activities are aware of and comply with the munitions recognition and safety training program requirement before engaging in ground-disturbing or intrusive activities within the Interim Action Ranges MRA. The property owner will conduct the following training requirements during operation and maintenance of the Interim Action Ranges MRA LUCs.

- Property owners at time of transfer will notify any subsequent property owners, assigns, leases or site users of the requirements of the digging and excavation ordinances, including requirements for munitions recognition and safety training, and construction support.
- Property owners and/or land users will annually deliver a copy of the MEC Safety Guide to personnel conducting ground-disturbing or intrusive activities and, at time of transfer, to any subsequent property owners, assigns, leases or site users.
- Property owners will ensure that construction support requirements for munitions recognition and safety training are implemented and personnel conducting ground-disturbing or intrusive activities receive required training.
- Property owners will document and maintain records of compliance with training requirements through the duration of the construction support project.

### 5.3.2 Construction Support

The property owner is responsible for compliance with the excavation permitting and construction support requirements of the digging and excavation ordinances applicable to the Interim Action Ranges MRA. The property owner will conduct the following construction support requirements during operation and maintenance of the Interim Action Ranges MRA LUCs.

- Property owners will comply with excavation permitting requirements of the digging and excavation ordinances, including requirements for construction support and after action reporting. For projects involving more than ten (10) cy of soil disturbance, regardless of the probability of encountering MEC, and projects involving less than ten (10) cy of soil disturbance in areas with moderate to high probability of encountering MEC, property owner will confirm appropriate construction support requirements with FORA prior to conducting ground-disturbing or intrusive activities. For projects involving less than ten (10) cy of soil disturbance in areas with low probability of encountering MEC, property owner will provide the MEC Safety Guide and Army Safety Alert pamphlet to construction personnel prior to start of ground-disturbing or intrusive activities.

- Property owner and/or land user will obtain construction support prior to conducting ground-disturbing or intrusive activities on Interim Action Ranges MRA property.
- Property owner and/or land user will retain UXO contractor to provide construction support services including a construction support plan, construction support services, and after action reporting.
- Property owner will provide initial notification within 24 hours to FORA of MEC finds and will prepare (through their required UXO support contractor) and submit a FORA MEC Find Notification Form (use template in Appendix I) to FORA as soon as practicable.
- Property owner (through their required UXO support contractor) will prepare and submit a Fort Ord MEC Incident Recording Form (use template in Appendix I) to FORA, Army, EPA, and DTSC within 24 hours of military EOD response.
- Property owner (through their required UXO support contractor), as a permittee, will prepare and submit a Construction Support After Action Report (use template in Appendix I) for permitted on-call and permitted on-site construction support projects to the permitting agency, FORA, Army, EPA and DTSC within 30 days of project completion.
- Property owner (through their required UXO support contractor) will prepare and submit a Construction Support After Action Report (use template in Appendix I) for on-site construction support projects that do not require a permit to FORA, Army, EPA and DTSC within 30 days of project completion.

### 5.3.3 Residential Use Restriction

Future property owners, including MPC, will conduct the following activities during operation and maintenance of the residential use restrictions LUC at the Interim Action Ranges MRA.

- Property owners will comply with residential use restrictions during use of the property.
- Property owners will maintain the residential use restrictions placed on the properties in the Federal deed, including ensuring deed restrictions remain on property through future property transfer deeds.
- Property owners will cooperate with the County and/or City in conducting annual inspections of property to verify residential use restrictions remain in place.

### 5.3.4 Restrictions Prohibiting Inconsistent Uses

Future property owners, including MPC, will conduct the following activities during operation and maintenance of the restrictions against inconsistent uses LUC at the Interim Action Ranges MRA.

- Property owners will comply with restrictions against inconsistent uses (applicable to the habitat reserve areas) during use of the property.

- Property owners will maintain the restrictions against inconsistent uses (applicable to the habitat reserve areas) placed on the properties in the Federal deed, including ensuring deed restrictions remain on property through future property transfer deeds.
- Property owners will cooperate with the County and/or City in conducting annual inspections of property to verify restrictions against inconsistent uses (applicable to the habitat reserve areas) remain in place.

### 5.3.5 Notice of Planned Property Conveyances

Prior to transfer of an Interim Action Ranges MRA property, property recipients will be notified by the property owner of the property restrictions and LUC and State CRUP compliance requirements. For initial property conveyance from FORA to MPC, FORA (as property owner) will be responsible for providing deed restriction notifications. MPC will be responsible for FORA-to-jurisdiction deed recordation. MPC (as property owner) is responsible for providing property restriction notification in subsequent land transfers.

MPC (as jurisdiction under the MOA with DTSC) is responsible for monitoring property transfer to ensure use restrictions, LUC and State CRUP restrictions are maintained in future deeds for the Interim Action Ranges MRA property. Army, EPA, and DTSC will be notified of property transfers through annual LUC monitoring reports, which will include MPC verification of property transfer compliance with deed restriction, LUC and State CRUP requirements.

## 5.4 Army Responsibilities

The Army retains ultimate responsibility under CERCLA for remedy integrity. FORA, per the ESCA and AOC, is responsible for implementing, inspecting, reporting, and enforcing the LUCIP/OMP requirements on behalf of the Army until 2037.

### 5.4.1 Munitions Recognition and Safety Training

The Army is responsible for monitor implementation, operation and maintenance of the munitions recognition and safety training set forth in this LUCIP/OMP to ensure FORA compliance with requirements of the LUC remedy.

- The Army will review annual LUC status reports submitted by FORA to ensure continued compliance with the munitions recognition and safety training requirements of the LUC remedy.

### 5.4.2 Construction Support

The Army will conduct the following activities during operation and maintenance of the construction support LUC.

- The Army will monitor FORA and MPC implementation and enforcement of construction support requirements through the review of annual LUC status reports.

- The Army will participate with EPA and DTSC in the review of On-call Construction Support Plans (See Section 4.3.1.2 Construction Support Plan Consultation and Review Process).
- The Army will provide a consistency review regarding explosives safety criteria and considerations for On-site Construction Support Plans.
- 
- The Army will participate, in consultation with EPA and DTSC, in MEC find assessments for MEC finds and review of any additional actions.
- The Army will conduct any Army obligations identified as a result of MEC finds assessments.

### 5.4.3 Residential Use Restriction

The Army is responsible for monitoring compliance with the residential use restrictions in the Federal deed.

The Army will conduct the following activities during operation and maintenance of the residential use restriction LUC.

- The Army will ensure residential use restrictions in the Federal deed remain as provisions in the FORA deed transferring property to MPC.
- The Army will take appropriate actions necessary to maintain and enforce use restrictions in the Federal deed upon subsequent property owners.
- The Army will review annual LUC status reports, including use restrictions, to verify compliance with residential use restrictions.

### 5.4.4 Restriction Prohibiting Inconsistent Uses

The Army is responsible for monitoring compliance with the restrictions against inconsistent uses (applicable to the habitat reserve areas) in the Federal deed.

The Army will conduct the following activities during operation and maintenance of the restrictions against inconsistent uses LUC.

- The Army will ensure restrictions against inconsistent uses (applicable to the habitat reserve areas) in the Federal deed remain as provisions in the FORA deed transferring property to MPC.
- The Army will take appropriate actions necessary to maintain and enforce use restrictions in the Federal deed upon subsequent property owners.
- The Army will review annual LUC status reports, including use restrictions, to verify compliance with restrictions against inconsistent uses.

#### 5.4.5 Five-Year Review

Five-year reviews will be conducted by the Army in accordance with CERCLA Section 121(c) and the Fort Ord FFA. The five-year review will evaluate the protectiveness of the selected remedy. Based on the evaluation, the selected LUCs may be modified or discontinued, with Army, EPA, and DTSC approval (Section 4.8.3).

- The Army is responsible for conducting the five-year review of the Interim Action Ranges MRA remedy as required by CERCLA and the National Contingency Plan. FORA may assist the Army in these five-year reviews as defined in the ESCA.

#### 5.4.6 Additional Response or Remedy Modification

If the Army and EPA, in consultation with DTSC, determines that the LUC remedy is not protective of human health and the environment, the property owner will cease all development activities in the MRA. Under the ESCA, FORA will conduct additional investigation required by EPA and DTSC pursuant to the AOC, except Army Obligations.

The Army is responsible for participating in determining if the selected remedy remains protective and if additional response or remedy modification is necessary.

- The Army and EPA, in consultation with DTSC, will determine if the selected remedy remains protective. If no longer protective, FORA will propose and the Army and EPA will jointly select, an additional response action or modification of the remedy. The Army will document additional response actions or modifications of the remedy in an ESD or ROD Amendment, as appropriate. DTSC will be provided an opportunity to review and comment on the proposal.
- The Army will ensure that additional response actions are implemented by FORA if within the scope of FORAs obligation under the AOC and the ESCA. The Army will implement any Army Obligations.

#### 5.4.7 LUC Enforcement

The Army is ultimately responsible for remedy integrity. The FORA has undertaken a portion of the Army responsibilities under the ESCA and AOC for long-term obligations, including the operation and maintenance of LUCs. The EPA monitors and enforces these FORA requirements under the provisions of the AOC.

- The Army is responsible for enforcing the land use restrictions contained in the Federal deed.
- The Army is responsible for reporting discovery of any activities inconsistent with the LUC remedy, if it becomes aware of such information, such as based on review of the annual LUC status reports that will be provided by FORA. Should the Army discover any activities inconsistent with the LUC remedy objectives, the Army shall notify FORA, EPA, and DTSC of the discovery. This reporting requirement does not preclude the Army from taking immediate action to prevent exposure. This reporting

requirement will enable FORA and the Army to take appropriate action to ensure the effectiveness of the remedy.



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## 6.0 REFERENCES

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- United States Department of the Army (Army). 2002. Final Record of Decision, Interim Action for Ordnance and Explosives at Range 43-48, Range 30A, and Site OE-16, Former Fort Ord, California. August 26. (Fort Ord Administrative Record No. OE-0414)
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- United States Army Corps of Engineers (USACE). 1997. Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord, California (HMP). April. With technical assistance from Jones and Stokes Associates, Sacramento, California. (Fort Ord Administrative Record No. BW-1787)

United States Army Corps of Engineers/Fort Ord Reuse Authority (USACE/FORA). 2007. Environmental Services Cooperative Agreement (ESCA) under the authority of Title 10 United States Code, Section 2701 (d) – Environmental Restoration Program (10 U.S.C. 2701). (Fort Ord Administrative Record No. ESCA-0031)

Zander Associates (Zander). 2002. Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California. May 1. (Fort Ord Administrative Record No. BW-2180)

Table 1  
Roles, Responsibilities, and Authority for LUC Remedy Implementation and Enforcement

Organization	Roles & Responsibilities	Authority
Army BRAC	<ul style="list-style-type: none"> <li>• Ensure protectiveness of remedy</li> <li>• Army Obligations per ESCA</li> </ul>	<ul style="list-style-type: none"> <li>• FFA</li> <li>• ESCA</li> </ul>
EPA Region 9	<ul style="list-style-type: none"> <li>• Lead regulatory agency</li> </ul>	<ul style="list-style-type: none"> <li>• FFA/AOC</li> </ul>
DTSC	<ul style="list-style-type: none"> <li>• Regulatory concurrence</li> <li>• CRUP enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• FFA/AOC</li> <li>• CRUP</li> <li>• MOA w/DTSC</li> </ul>
FORA	<ul style="list-style-type: none"> <li>• LUC remedy implementation/enforcement</li> <li>• Annual LUC status reporting</li> </ul>	<ul style="list-style-type: none"> <li>• AOC</li> <li>• ESCA</li> <li>• MOA w/DTSC</li> </ul>
ESCA RP Team	<ul style="list-style-type: none"> <li>• LUCIP/OMP development / implementation</li> <li>• ESCA/AOC Site Closure</li> </ul>	<ul style="list-style-type: none"> <li>• AOC</li> <li>• ESCA/RSA with FORA</li> </ul>
Monterey County and City of Seaside	<ul style="list-style-type: none"> <li>• Enforce Digging &amp; Excavation Ordinance</li> <li>• Maintain and enforce deed restrictions</li> </ul>	<ul style="list-style-type: none"> <li>• Municipal Code</li> <li>• MOA w/DTSC</li> </ul>
MPC*	<ul style="list-style-type: none"> <li>• Annual LUC monitoring and reporting</li> <li>• Comply with LUCs, deed restrictions, CRUP</li> <li>• Maintain deed restrictions</li> </ul>	<ul style="list-style-type: none"> <li>• MOA w/DTSC</li> <li>• Property Deed</li> <li>• CRUP</li> </ul>
Property Owners	<ul style="list-style-type: none"> <li>• Comply with LUCs, deed restrictions, CRUP</li> </ul>	<ul style="list-style-type: none"> <li>• Property Deed</li> <li>• CRUP</li> </ul>

**Notes:**

AOC = Administrative Order on Consent  
 BRAC = Base Realignment and Closure  
 CRUP = Covenant to Restrict Use of Property  
 DTSC = California Department of Toxic Substances Control  
 EPA = Environmental Protection Agency  
 ESCA = Environmental Services Cooperative Agreement  
 ESCA RP = Environmental Services Cooperative Agreement Remediation Program  
 FFA = Federal Facility Agreement  
 FORA = Fort Ord Reuse Authority  
 LUC = Land Use Control  
 MOA = Memorandum of Agreement

Table 1  
Roles, Responsibilities, and Authority for LUC Remedy Implementation and Enforcement

MPC = Monterey Peninsula College

RSA = Remediation Services Agreement

\* = As an Interim Action Ranges MRA property owner, MPC is also responsible for the property owner responsibilities. If the property owner is other than MPC, each jurisdiction will be responsible for annual monitoring and reporting on only those properties within their jurisdiction (MOA with DTSC).

Table 2  
Current Probability of Encountering MEC by Parcel

MRS Site Number	Past MRS Use	Planned Reuse <sup>1</sup>	Transfer Parcel No.	Approx. Acreage <sup>2</sup>	MRS Site Investigation Status <sup>3</sup>	Probability of Encountering MEC <sup>4</sup>
MRS Ranges 43-48	<ul style="list-style-type: none"> <li>• Mortar training and subsequently platoon live fire course at the time of base closure (Range 43)</li> <li>• Antitank weapons range at the time of base closure (Range 44)</li> <li>• Grenade launcher range at the time of base closure (Range 45)</li> <li>• Small arms range from the late 1950s to the time of base closure (Range 46)</li> <li>• 40mm grenade range in the 1960s (Range 47)</li> </ul>	MPC Non-residential Development	E40	23.8	MEC removal to depth of detection completed.	Low
				1.2	MEC removal to 2 feet bgs completed.	Moderate to High
		Habitat Reserve	E38	18	MEC removal to depth of detection completed.	Low
			E39	134	MEC removal to depth of detection completed.	Low
				28	Surface MEC removal completed. MEC removal to depth of detection for sensitively-fuzed munitions completed in Range 44 SCA (North) and transects in Range 44 SCA (South) and Central Area NCAs.	Moderate to High
			E41	9	MEC removal to depth of detection completed.	Low
			E42	12.7	MEC removal to depth of detection completed.	Low
				0.1	MEC removal to depth of detection for sensitively-fuzed munitions completed in Range 44 SCA (North).	Moderate to High

Table 2  
Current Probability of Encountering MEC by Parcel

**Notes:**

bgs = below ground surface

MEC = munitions and explosives of concern

mm = millimeter

MRS = Munitions Response Site

n/a = not applicable

1. Planned use information obtained from the *FORA Fort Ord Reuse Plan (FORA 1997)* and the *Zander Associates Assessment, East Garrison – Parker Flats Land Use Modifications (Zander 2002)*.
2. Acreage stated is the portion of Transfer Parcel with the designated probability of encountering MEC. Acreages stated are approximate and generally rounded to nearest whole acre.
3. All anomalies (i.e., ferromagnetic material) were investigated and all detectable MEC were removed during MEC removal actions.
4. The probability of encountering MEC is presented as general guidance: each project must be assessed for the probability of encountering MEC based on site- and project-specific information.

Table 3  
On-call Construction Support Requirements

Requirement	Description
On-call Construction Support Plan  (Section 4.3.2.1)	A written plan prepared by a UXO support contractor to implement on-call construction support. The plan identifying the MEC safety resources and activities to be conducted during on-call construction support, including procedures for response to suspect munitions items. An On-call Construction Support Plan template is provided in Appendix I.
Soil Management Plan  (Section 4.3.2.1)	A Soil Management Plan may be required as a component of the Construction Support Plan for projects including grading or soil movement. The Soil Management Plan would be identified as a requirement during the permit application process and submitted for review with the Construction Support Plan. Soil management requirements are site-specific and generally include a requirement that excavated soils remain within the MRA and for tracking soil movements within the site.
Munitions Recognition and Safety Training  (Section 4.3.2.2)	All personnel conducting ground-disturbing or intrusive activities are required to have munitions recognition and safety training. The munitions recognition and safety training resources are described in Section 4.2. Worker training records must be available for inspection through the duration of the construction support project and documented in the Construction Support After Action Report.
On-call Construction Support  (Section 4.3.2.3)	UXO-qualified personnel must be on standby and available to assist if a suspect munitions item is encountered. Support can be from offsite when called or be on location and available to provide immediate support.
Response to Suspect Munitions Items  (Sections 4.3.2.4 and 4.3.4)	If a suspect munitions item is found, all work in the vicinity of the item must cease while UXO-qualified personnel assess the item. The Construction Support Plan will identify the size of the stop-work area. If the item is confirmed non-MEC (i.e., MDAS), work may resume. If the item cannot be verified as safe (i.e., MEC or suspect MEC item), all work stops, local law enforcement responds to secure the site and requests military EOD personnel, or local bomb squad with equivalent training, respond to address the item. FORA, Army, EPA, and DTSC are notified of the suspect munitions find. Discoveries of MEC require reassessment of the level of construction support before work may resume. FORA conducts a MEC find assessment to determine what, if any, additional actions may be necessary. Site work may resume when the MEC find assessment and any required additional action have been completed and approved by the Army, EPA, and DTSC. A FORA MEC Find



Table 3  
On-call Construction Support Requirements

	Notification form and FORA MEC Finds Assessment form are provided in Appendix I.
Construction Support After Action Reporting  (Section 4.3.2.5)	An After Action Report must be completed and submitted by the permittee to the excavation permitting agency, FORA, Army, EPA, and DTSC within 30 days following completion of permitted activities. The After Action Report documents the construction support activities conducted including locations of and response to any MEC finds, MEC find assessment results and any actions taken in response to MEC finds. A Construction Support After Action Report form is provided in Appendix I.

**Notes:**

Army = United States Department of the Army  
DTSC = California Department of Toxic Substances Control  
EOD = explosive ordnance disposal  
EPA = United States Environmental Protection Agency  
FORA = Fort Ord Reuse Authority  
MDAS = material documented as safe  
MEC = munitions and explosives of concern  
MRA = Munitions Response Area  
UXO = unexploded ordnance

Table 4  
On-site Construction Support Requirements

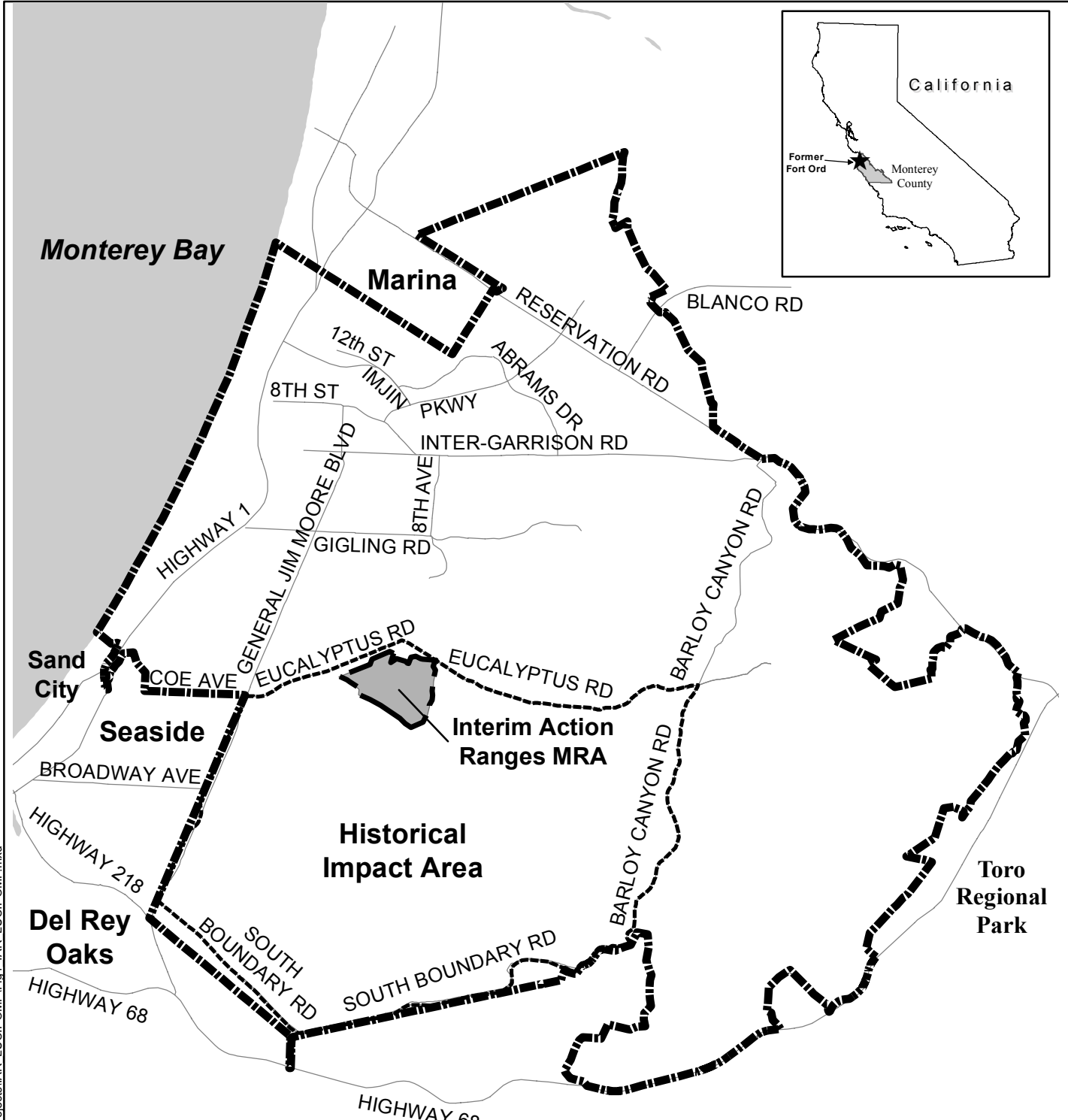
Requirement	Description
On-site Construction Support Plan  (Section 4.3.3.1)	A written plan prepared by a UXO support contractor to implement on-site construction support. The plan identifying the MEC safety resources and activities to be conducted during on-site construction support, including procedures to address subsurface explosive hazards and respond to suspect munitions items. On-site Construction Support Plan must include all requirements for a MEC removal work plan.
Soil Management Plan  (Section 4.3.3.1)	A Soil Management Plan may be required as a component of the Construction Support Plan for projects including grading or soil movement. The Soil Management Plan would be identified as a requirement during the permit application process and submitted for review with the Construction Support Plan. Soil management requirements are site-specific and generally include requirements that excavated soils remain within the MRA and for tracking soil movements within the site.
Munitions Recognition and Safety Training  (Section 4.3.3.2)	All personnel conducting ground-disturbing or intrusive activities are required to have munitions recognition and safety training. The munitions recognition and safety training resources are described in Section 4.2. Worker training records must be available for inspection through the duration of the construction support project and documented in the Construction Support After Action Report.
MEC Explosive Hazard Removal  (Section 4.3.3.3)	Site-specific actions to be conducted at the site to address explosive hazards identified within the construction footprint either prior to or during construction such that the probability of encountering MEC can be reassessed to be low. Anomaly avoidance techniques may also be used to avoid subsurface anomalies during ground-disturbing or intrusive activities.
Response to Suspect Munitions Items  (Sections 4.3.3.4 and 4.3.4)	Contingency for response to MEC items during MEC explosive hazard removal activities, anomaly avoidance operations, and construction activities (i.e., ground-disturbing or intrusive activities). MEC items encountered during MEC explosive hazard removal operations will be destroyed by the UXO support contractor following MEC destruction procedures included in the final On-site Construction Support Plan. Locations for MEC storage and performing MEC demolition shots are required to be included in the On-site Construction Support Plan. FORA, Army, EPA, and DTSC are notified of the MEC find. On-site construction support may resume after the MEC item has been destroyed. MEC items encountered during anomaly avoidance operations will not be moved or destroyed by the UXO support contractor. Procedures for response to suspect munitions finds during on-call





Table 4  
On-site Construction Support Requirements

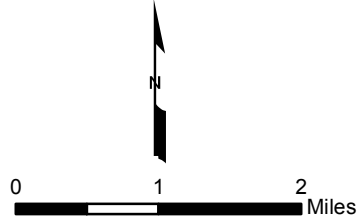
	<p>construction support will be followed (Sections 4.3.2.3 and 4.3.2.4). Discoveries of MEC during anomaly avoidance operations require a reassessment of the construction support approach before anomaly avoidance operations or other site work may resume. If a suspect munitions item is encountered during construction activities, the item will not be removed or destroyed by the UXO support contractor. Procedures for response to suspect munitions finds during on-call construction support will be followed (Sections 4.3.2.3 and 4.3.2.4). Discoveries of MEC during construction activities after on-site construction support has been completed require a reassessment of the construction support approach before construction activities or other work may resume.</p>
<p>Construction Support After Action Reporting  (Section 4.3.3.5)</p>	<p>For permitted on-site construction support projects, an After Action Report must be completed and submitted to the excavation permitting agency, FORA, Army, EPA, and DTSC within 30 days following completion of permitted activities. For on-site construction support projects that do not require a permit, the property owner is responsible for completion and submittal of Construction Support After Action Reports to FORA, Army, EPA and DTSC. The After Action Report documents the construction support activities conducted including locations of and response to any MEC finds, and any actions taken in response to MEC finds. A Construction Support After Action Report must also provide the information and data required in a post-MEC removal report or technical information paper.</p>

**Notes:**

Army = United States Department of the Army  
DTSC = California Department of Toxic Substances Control  
EOD = explosive ordnance disposal  
EPA = United States Environmental Protection Agency  
FORA = Fort Ord Reuse Authority  
MDAS = material documented as safe  
MEC = munitions and explosives of concern  
MRA = Munitions Response Area  
UXO = unexploded ordnance



-  Interim Action Ranges MRA
-  Historical Impact Area Boundary
-  Former Fort Ord Boundary
-  Major Road



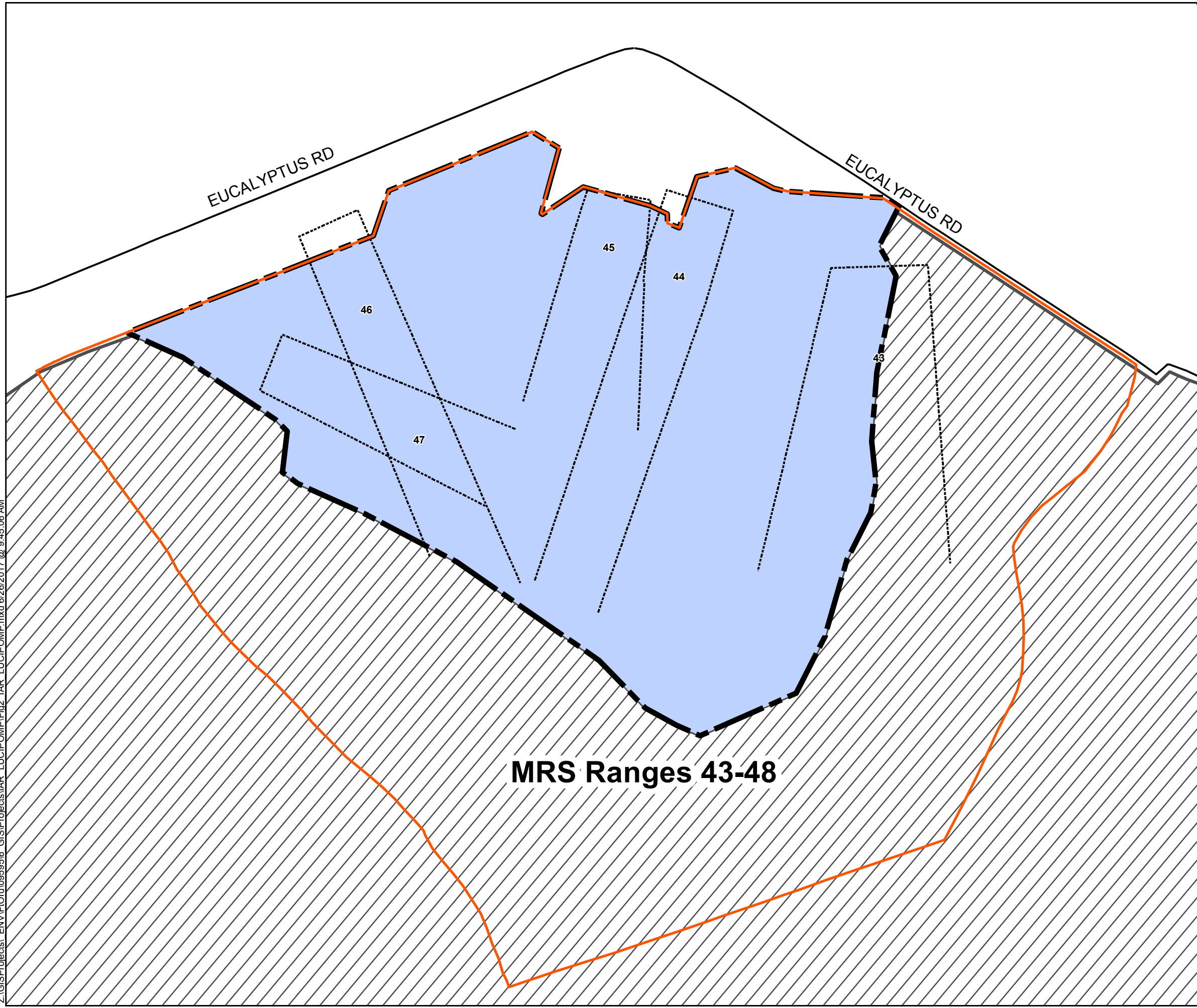
**Interim Action Ranges MRA and Fort Ord Location Map**

Monterey County, California

**Figure 1**







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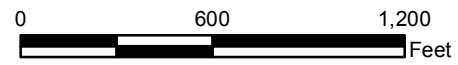
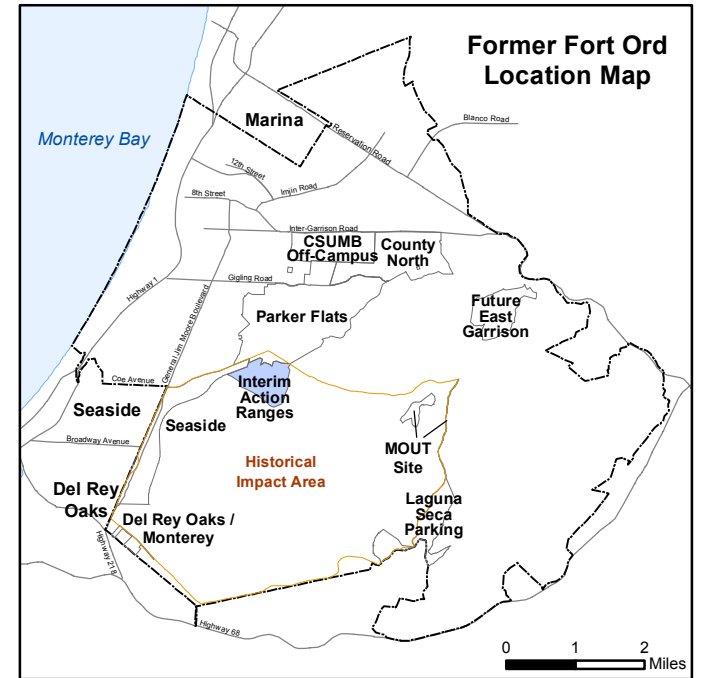
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**MRS Ranges 43-48**

### Legend

-  Munitions Response Area (area subject to land use controls)
-  Interim Action Ranges MRA
-  Impact Area MRA
-  Munitions Response Site
-  Firing Range
-  Major Road

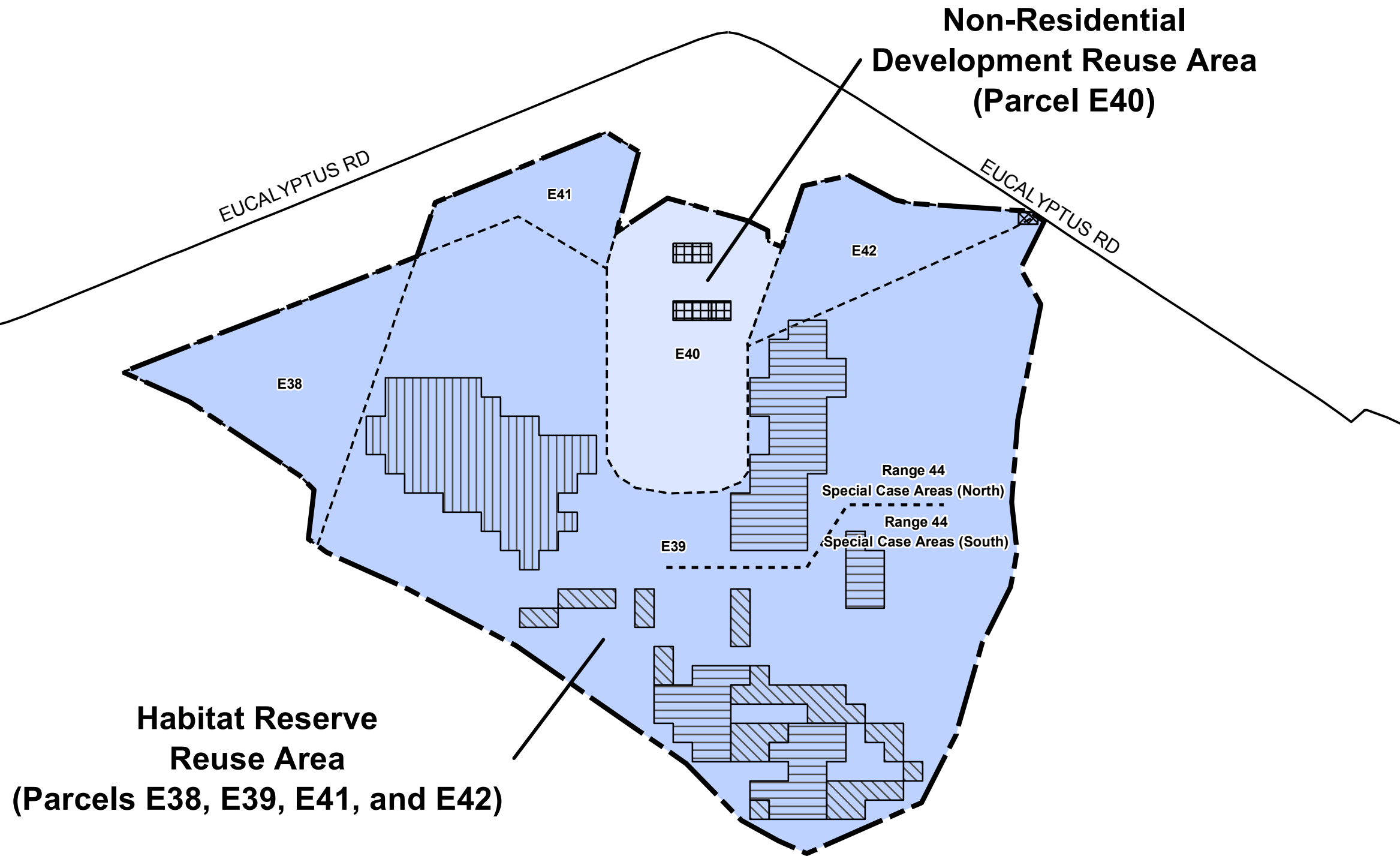


**Interim Action Range MRA  
Munitions Response Site**

Monterey County, California

**Figure 2**





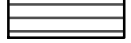





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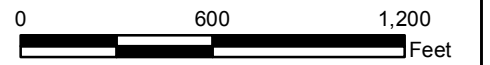
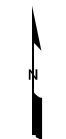
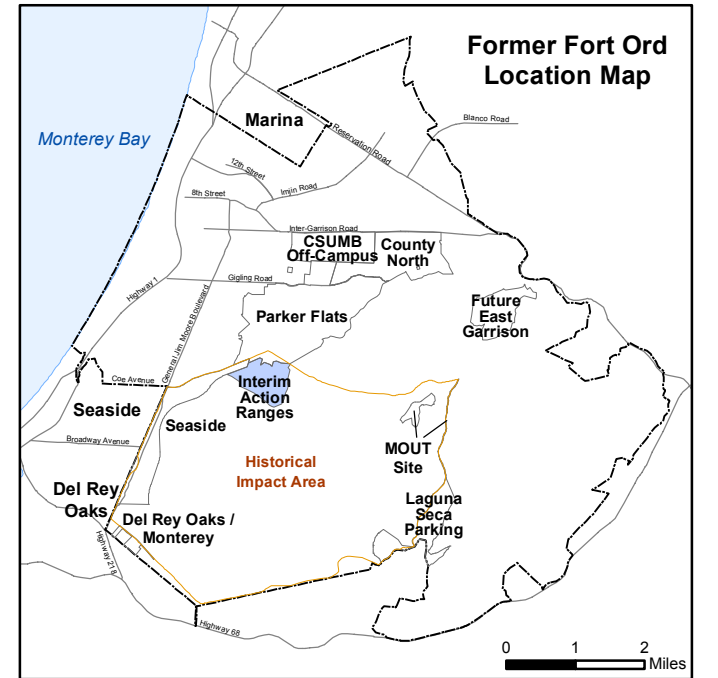


**Habitat Reserve Reuse Area  
(Parcels E38, E39, E41, and E42)**

**Non-Residential Development Reuse Area  
(Parcel E40)**

**Legend**

-  Habitat Reserve Reuse Area  
(area subject to Land Use Controls including MEC recognition and safety training, construction support, residential use restriction, and restrictions prohibiting inconsistent use)
-  Non-Residential Development Reuse Area  
(area subject to Land Use Controls including MEC recognition and safety training, construction support, and residential use restriction)
-  Interim Action Ranges MRA
-  Range 47 Special Case Areas
-  Range 44 Special Case Areas
-  Central Area Non-Completed Areas
-  USACE Parcel
-  Major Road
-  Fenceline Special Case Area
-  Trench Special Case Area

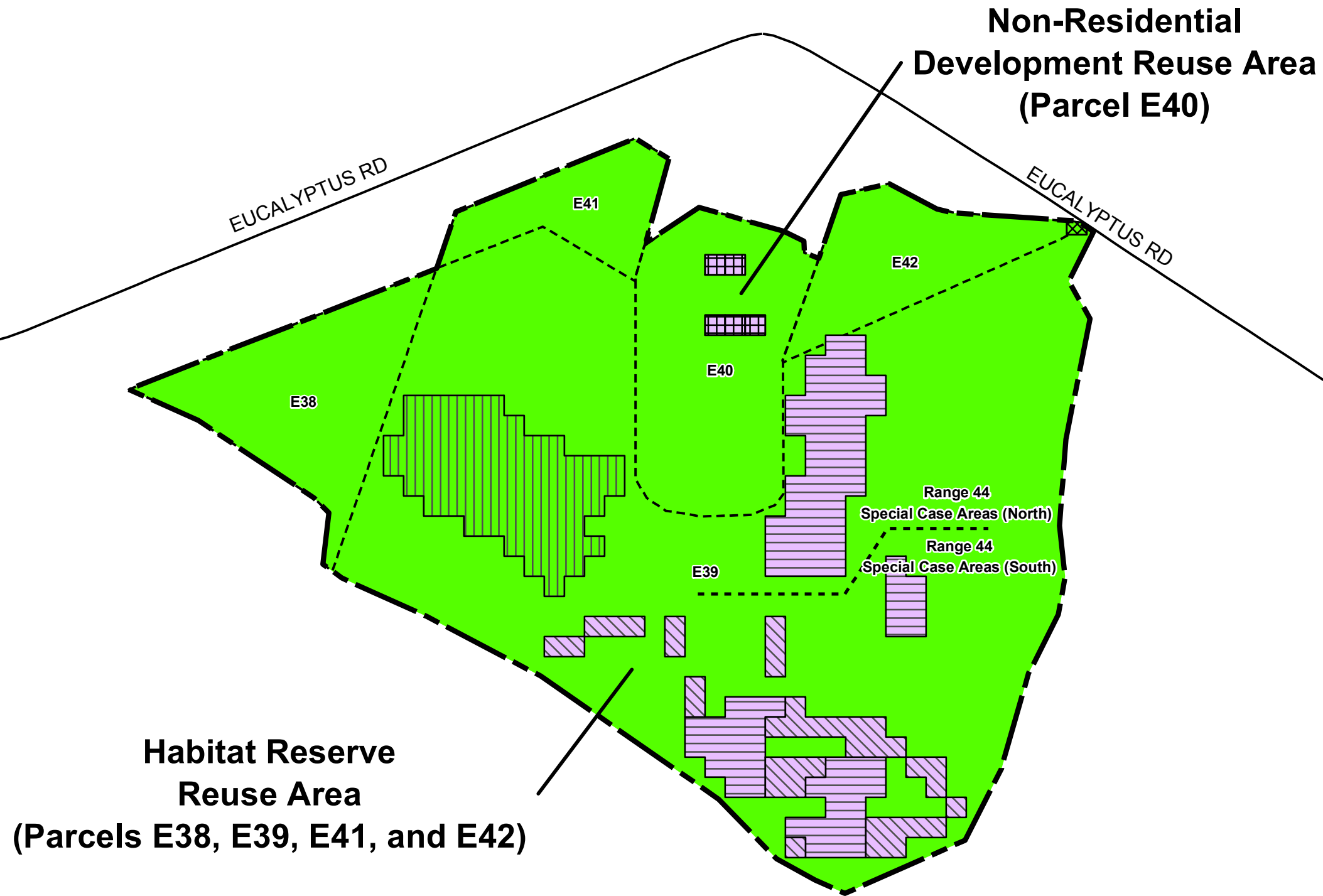


**Interim Action Range MRA  
Designated Future Land Use and  
USACE Land Transfer Parcels**

Monterey County, California

**Figure 3**

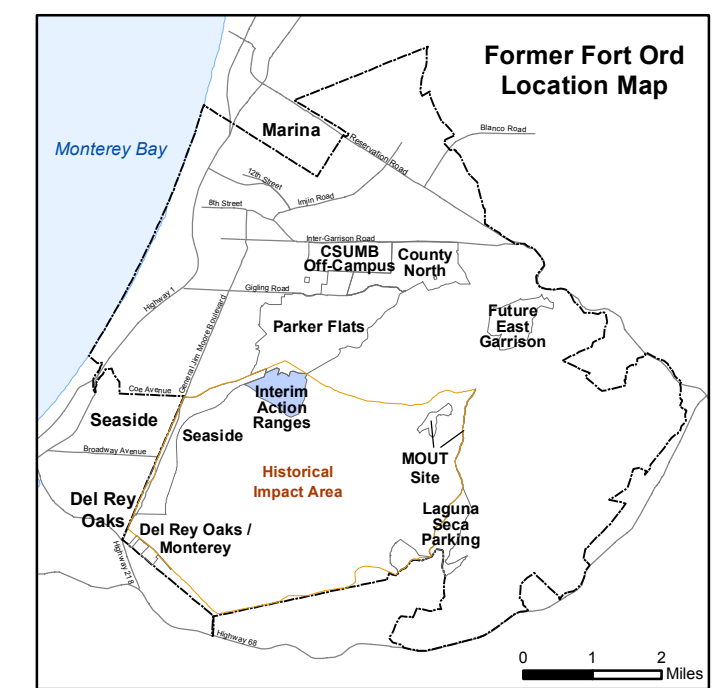
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**Legend**

- Moderate to High Probability of Encountering MEC
- Low Probability of Encountering MEC
- Interim Action Ranges MRA
- Range 47 Special Case Areas
- Range 44 Special Case Areas
- Central Area Non-Completed Areas
- USACE Parcel
- Major Road
- Fenceline Special Case Area
- Trench Special Case Area

Note:  
The probability of encountering MEC is presented as general guidance; each project must be assessed for the probability of encountering MEC based on site- and project-specific information.



**Interim Action Ranges MRA Probability of Encountering MEC**

Monterey County, California

**Figure 4**

**APPENDIX A**

**Record of Decision Interim Action Ranges Munitions Response Area, Former Fort Ord, California, dated December 12, 2016, and finalized January 18, 2017**



**FINAL**

Record of Decision  
Interim Action Ranges Munitions Response Area  
Former Fort Ord, California

December 12, 2016

**United States Department of the Army**  
Base Realignment and Closure (BRAC)  
Former Fort Ord, California

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#### APPENDIX

- A Glossary of Military Munitions Response Program Terms

## 1. DECLARATION

### 1.1. Site Name and Location

The former Fort Ord is located in northwestern Monterey County, California, approximately 80 miles south of San Francisco (Figure 1). The U.S. Environmental Protection Agency (EPA) identification number for Fort Ord is CA7210020676. This Record of Decision (ROD) addresses Munitions and Explosives of Concern (MEC), specifically unexploded ordnance (UXO) and discarded military munitions (DMM), that potentially remain in the Interim Action Ranges Munitions Response Area (MRA).

Since 1917, military units (e.g., cavalry, field artillery, and infantry) used portions of the former Fort Ord for training (e.g., maneuvers, live-fire target ranges) and other purposes. Because the military conducted munitions-related activities (e.g., live-fire training) on the facility, military munitions (e.g., UXO and DMM) may be present on parts of the former Fort Ord. The types of military munitions used at the former Fort Ord included: artillery and mortar projectiles, rockets, guided missiles, rifle and hand grenades, practice land mines, pyrotechnics, bombs, and demolition materials. For the Fort Ord Military Munitions Response Program (MMRP) being conducted and this ROD, MEC does not include small arms ammunition (.50 caliber and below). A Glossary of Military Munitions Response Program Terms is provided in Appendix A.

In March 2007, the United States Department of the Army (Army) and Fort Ord Reuse Authority (FORA) entered into an Environmental Services Cooperative Agreement (ESCA) to provide funding for MEC remediation services. In accordance with the ESCA and an Administrative Order on Consent (AOC), FORA is responsible for completion of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) response actions, except for those responsibilities retained by the Army, on approximately 3,300 acres of the former Fort Ord with funding provided by the Army. The AOC was entered into voluntarily by FORA, EPA, California Environmental Protection Agency Department of Toxic Substances Control (DTSC), and the United States Department of Justice Environment and Natural Resources Division in December 2006 (EPA Region 9 CERCLA Docket No. R9-2007-03). The underlying property was transferred to FORA in May 2009. The Interim Action Ranges MRA is included in the ESCA between the Army and FORA.

The Interim Action Ranges MRA is a site where MEC were found and munitions response (MEC removal) actions were conducted. The Interim Action Ranges MRA is located within the munitions response site (MRS) Ranges 43-48 (Figure 2, Table 1). The *Record of Decision, Interim Action for Ordnance and Explosives at Ranges 43-48, Range 30A, and Site OE-16, Former Fort Ord, California* ("Interim Action ROD") was produced by the Army in August 2002 for Interim Action Sites at the former Fort Ord, including MRS Ranges 43-48 (Army 2002). The remedial action selected for the Interim Action Sites included surface and subsurface MEC removal. Interim remedial action was conducted by the Army on MRS Ranges 43-48 (approximately 500 acres) from November 2003 to December 2005 (Parsons 2007). Interim remedial action was completed by FORA for the remaining portions of MRS Ranges 43-48 within the Interim Action Ranges MRA in March 2013 (ESCA RP Team 2015a).

The portion of MRS Ranges 43-48 within the Interim Action Ranges MRA was investigated, with all identified MEC removed. These munitions response actions included Quality Control and Quality Assurance requirements that evaluated the adequacy of the munitions response actions. Although munitions response actions were conducted, it is possible that some MEC may not have been detected and

remains present. Because a future land user (e.g., recreational user, habitat monitor, maintenance worker, or construction worker) may encounter MEC at the MRA, a Focused Feasibility Study was conducted to evaluate remedial alternatives to address this potential risk to future land users (ESCA RP Team 2015b). The *Focused Feasibility Study, Interim Action Ranges Munitions Response Area, Former Fort Ord, Monterey County, California* (“Final Focused Feasibility Study”; ESCA RP Team 2015b) was developed by FORA under the ESCA and in accordance with the AOC.

## 1.2. Basis and Purpose

This decision document selects the remedial action for MEC for the Interim Action Ranges MRA. The remedy for the MRA was selected in accordance with CERCLA of 1980, as amended, and to the extent practicable, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This decision is based on information and reports contained in the Administrative Record for the former Fort Ord.

This decision is undertaken pursuant to the President's authority under CERCLA Section 104, as delegated to the Army in accordance with Executive Order 12580, and in compliance with the process set out in CERCLA Section 120. The selection of the remedy is authorized pursuant to CERCLA Section 104, and the selected remedy will be carried out in accordance with CERCLA Section 121.

The Army and EPA have jointly selected the remedy. The DTSC has had an opportunity to review and comment on the ROD.

## 1.3. Site Assessment

This ROD addresses hazardous substances and pollutants or contaminants which may pose a threat to human health and welfare or the environment.

The Army has provided the CERCLA covenant in the deed for the property. Some MEC items found and detonated on the property in the past were a Resource Conservation and Recovery Act (RCRA) reactive waste and thus a CERCLA hazardous substance. Therefore, MEC items discovered on the property in the future will likewise be addressed as such pursuant to the CERCLA covenant unless the Army determines that an item is not a hazardous substance by making a waste specific determination based on testing or knowledge consistent with RCRA.

## 1.4. Description of the Selected Remedy

The selected remedy addresses risks to human health and the environment from MEC that potentially remains in the Interim Action Ranges MRA. Munitions responses (MEC removals) have been completed at the MRA, significantly reducing the risks to human health and the environment. The selected remedy for the Interim Action Ranges MRA includes Land Use Controls (LUCs) because detection technologies may not detect all MEC present. The LUCs include requirements for: (1) MEC recognition and safety training for those people that conduct ground-disturbing or intrusive activities on the property; (2) construction support by UXO-qualified personnel for ground-disturbing or intrusive activities; (3) restrictions prohibiting residential use; and (4) restrictions against inconsistent uses (applicable to the habitat reserve areas). For the purpose of this decision document, residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; playgrounds; hospitals; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12. Any proposal for residential use, as defined in this ROD, in the Interim Action Ranges MRA will be subject to regulatory agency and Army review and approval. The selected

remedy will be implemented by FORA in its capacity as Grantee under the ESCA and as a party to the AOC and not in its capacity as the owner of the real estate or as a government entity. A Remedial Design/Remedial Action (RD/RA) Work Plan and/or Land Use Control Implementation Plan and Operation and Maintenance Plan (LUCIP/OMP) will be developed to: (1) outline the processes for implementing the LUCs selected as part of the remedy; and (2) identify procedures for responding to discoveries of MEC. This plan will be submitted in accordance with the deadline established in this ROD. The Army will evaluate the Interim Action Ranges MRA as part of the installation-wide CERCLA five-year review. The selected LUCs may be modified in the future based on the five-year review process. The next five-year review will occur in 2017.

As part of the LUC implementation strategy, long term management measures comprised of a deed notice and restrictions, annual monitoring and reporting, and five-year review reporting will be included for the land use areas within the Interim Action Ranges MRA. As part of the early transfer of the subject property, the Army has entered into State Covenant to Restrict the Use of Property (CRUP) with the DTSC that document land use restrictions. The existing deeds to FORA for the Interim Action Ranges MRA parcels include the following land use restrictions: 1) residential use restriction; and 2) excavation restrictions (unless construction support and MEC recognition and safety training are provided). The Army will modify the existing land use restrictions in the federal deeds, as necessary, to reflect the selected remedy. FORA, or its successor under the ESCA and the AOC, will prepare and submit annual letter reports to the EPA and the DTSC summarizing any MEC found and changes in site conditions that could increase the possibility of encountering MEC. Copies of the annual monitoring reports will also be provided to the Army for inclusion in the five-year reviews.

While the Army does not consider California laws and regulations concerning CRUPs to be potential applicable or relevant and appropriate requirements (ARARs), the Army entered into a CRUP with the DTSC at the time the property was transferred to FORA (Army/DTSC 2009). The DTSC will modify the existing CRUP, as appropriate, to reflect the land use restrictions included in the selected remedy. Although the DTSC and the EPA Region IX disagree with the Army's determination that California laws and regulations concerning CRUPs are not potential ARARs, they will agree-to-disagree on this issue since the Army executed the CRUP and the DTSC will modify the CRUP, as appropriate, to be consistent with the identified remedy.

### 1.5. Statutory Determination

The selected remedy is protective of human health and the environment, complies with Federal and State requirements that are applicable or relevant and appropriate to this remedial action, and is cost effective. Munitions responses to address the principal threat by removing all identified MEC items have already been completed. This meets the intent of using permanent solutions and alternative treatment (or resource recovery) technologies to the maximum extent practicable, and satisfies the statutory preference for treatment as a principal element (i.e., reducing the toxicity, mobility, or volume of hazardous substances, pollutants, or contaminants as a principal element through treatment).

Because the selected remedy may not result in removal of all MEC potentially present within the Interim Action Ranges MRA, a statutory review will be conducted by the Army within five years after initiation of the remedial action to ensure the remedy is, or will be, protective of human health and the environment. The next five-year review will occur in 2017.

## 1.6. ROD Data Certification Checklist

The following information is included in the Decision Summary section of this ROD. Additional information can be found in the Administrative Record file for this site.

- Types of MEC identified during previous removal actions (Section 2.8.).
- Current and reasonably anticipated future land use assumptions used in the Risk Assessment and ROD (Section 2.9. and Table 2).
- Current after-action “Overall MEC Risk Scores” estimated in the Risk Assessment based upon the current site conditions (Section 2.10.).
- Remedial action objectives for addressing the current after-action “Overall MEC Risk Scores” estimated in the Risk Assessment (Section 2.11.).
- How source materials constituting principal threats are addressed (Sections 2.13. and 2.14.).
- Potential land use that will be available at the site as a result of the selected remedy (Section 2.14. and Table 2).
- Estimated capital, annual operations and maintenance (O&M), and total present worth costs, discount rate, and the number of years over which the remedy cost estimates are projected (Section 2.14.4).
- Key factor(s) that led to selection of the remedy (Sections 2.14.1 and 2.15. and Table 3).

**1.7. Authorizing Signatures and Support Agency Acceptance of Remedy**

**Record of Decision  
Interim Action Ranges Munitions Response Area  
Former Fort Ord, California**

Signature Sheet for the foregoing Record of Decision for Interim Action Ranges Munitions Response Area, Former Fort Ord, California, among the United States Army, the United States Environmental Protection Agency, and the California Environmental Protection Agency, Department of Toxic Substances Control.



Thomas E. Lederle  
Chief  
Base Realignment and Closure Division  
U.S. Department of the Army

11 JAN 2017

Date



**Record of Decision  
Interim Action Ranges Munitions Response Area  
Former Fort Ord, California**

Signature Sheet for the foregoing Record of Decision for Interim Action Ranges Munitions Response Area, Former Fort Ord, California, among the United States Army, the United States Environmental Protection Agency, and the California Environmental Protection Agency, Department of Toxic Substances Control.



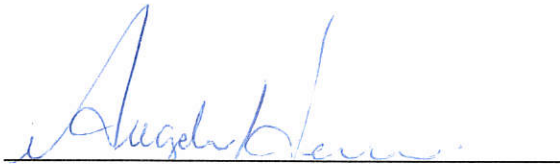
William K. Collins  
William K. Collins  
BRAC Environmental Coordinator  
Fort Ord BRAC Office  
U.S. Department of the Army

12-12-2016

Date

**Record of Decision  
Interim Action Ranges Munitions Response Area  
Former Fort Ord, California**

Signature Sheet for the foregoing Record of Decision for Interim Action Ranges Munitions Response Area, Former Fort Ord, California, among the United States Army, the United States Environmental Protection Agency, and the California Environmental Protection Agency, Department of Toxic Substances Control.



Angeles Herrera  
Assistant Director, Superfund Division  
Federal Facilities and Site Cleanup Branch  
U.S. Environmental Protection Agency, Region IX

1/18/2017  
Date

**Record of Decision  
Interim Action Ranges Munitions Response Area  
Former Fort Ord, California**

Signature Sheet for the foregoing Record of Decision for Interim Action Ranges Munitions Response Area, Former Fort Ord, California, among the United States Army, the United States Environmental Protection Agency, and the California Environmental Protection Agency, Department of Toxic Substances Control.

The State of California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) had an opportunity to review and comment on the Record of Decision (ROD) and our concerns were addressed.



Charlie Ridenour, P.E.  
Branch Chief  
Cleanup Program - Sacramento Office  
California Environmental Protection Agency  
Department of Toxic Substances Control

11/9/17  
Date

## 2. DECISION SUMMARY

### 2.1. Site Description

The former Fort Ord is located near Monterey Bay in northwestern Monterey County, California, approximately 80 miles south of San Francisco (Figure 1). The former Army post consists of approximately 28,000 acres adjacent to Monterey Bay and the cities of Seaside, Sand City, Monterey, and Del Rey Oaks to the south and Marina to the north. State Route 1 passes through the western portion of former Fort Ord, separating the beachfront from the rest of the base. Laguna Seca Recreation Area and Toro Regional Park border former Fort Ord to the south and southeast, respectively, as well as several small communities, such as Toro Park Estates and San Benancio. Additional information about the site:

- EPA Identification Number: CA7210020676;
- Lead Agency: Army;
- Lead Oversight Agency: EPA;
- Support Agency: DTSC;
- Source of Cleanup Monies: Army;
- Site Type: Former Military Installation.

### 2.2. Site History

Since 1917, portions of the former Fort Ord were used by cavalry, field artillery, and infantry units for maneuvers, target ranges, and other purposes. From 1947 to 1974, Fort Ord was a basic training center. The 7th Infantry Division was activated at Fort Ord in October 1974, and occupied Fort Ord until base closure in 1994. Fort Ord was selected in 1991 for decommissioning, but troop reallocation was not completed until 1993 and the base was not officially closed until September 1994. The property remaining in the Army's possession was designated as the Presidio of Monterey Annex on October 1, 1994, and subsequently renamed the Ord Military Community (OMC). Although Army personnel still operate parts of the base, no active Army division is stationed at the former Fort Ord. Since the base was selected in 1991 for Base Realignment and Closure (BRAC), site visits, historical and archival investigations, military munitions sampling, and removal actions have been performed and documented in preparation for transfer and reuse of the former Fort Ord property. The Army will continue to retain the OMC and the U.S. Army Reserve Center located at the former Fort Ord. The remainder of former Fort Ord was identified for transfer to Federal, State, and local government agencies and other organizations and, since base closure in September 1994, has been subjected to the reuse process. Portions of the property on the installation have been transferred. A large portion of the Inland Training Ranges was assigned to the U.S. Department of the Interior, Bureau of Land Management (BLM). Other areas on the installation have been, or will be, transferred through economic development conveyance, public benefit conveyance, negotiated sale, or other means.

Munitions-related activities (e.g., live-fire training, demilitarization) involving different types of conventional military munitions (e.g., artillery and mortar projectiles, rockets and guided missiles, rifle and hand grenades, practice land mines, pyrotechnics, bombs, and demolition materials) were conducted at Fort Ord. Because of these activities, MEC, specifically UXO and DMM, have been encountered and are known or suspected to remain present at sites throughout the former Fort Ord. A Glossary of Military Munitions Response Program Terms is provided in Appendix A.

### 2.3. Enforcement and Regulatory History

The Army is the responsible party and lead agency for investigating, reporting, making cleanup decisions, and taking cleanup actions at the former Fort Ord under CERCLA. To address the possibility of the public being exposed to explosive hazards, MEC investigations and removal actions began following BRAC listing and closure of Fort Ord. In November 1998, the Army agreed to evaluate military munitions at former Fort Ord in an Ordnance and Explosives Remedial Investigation/Feasibility Study (basewide OE RI/FS) — now termed the basewide Munitions Response Remedial Investigation/Feasibility Study (basewide MR RI/FS) — consistent with CERCLA. A Federal Facility Agreement (FFA) was signed in 1990 by the Army, EPA, DTSC (formerly the Department of Health Services or DHS), and the California Regional Water Quality Control Board (RWQCB). The FFA established schedules for performing remedial investigations and feasibility studies and requires that remedial actions be completed as expeditiously as possible. In April 2000, an agreement was signed between the Army, EPA, and DTSC to evaluate military munitions and perform military munitions response activities at the former Fort Ord subject to the provisions of the Fort Ord FFA.

The basewide MR RI/FS program reviews and evaluates past investigative and removal actions, as well as recommends future response actions deemed necessary to protect human health and the environment regarding explosive safety risks posed by MEC on the basis of designated reuses. These reuses are specified in the Base Reuse Plan (FORA 1997) and its updates. The basewide MR RI/FS documents are being prepared in accordance with the FFA, as amended. These documents are made available for public review and comment, and placed in the Administrative Record.

The Army has been conducting military munitions response actions (e.g., investigation, removal) at identified MRSs and will continue these actions to mitigate imminent MEC-related hazards to the public, while gathering data about the type of military munitions and level of hazard at each of the MRSs for use in the basewide MR RI/FS. The Army is performing its activities pursuant to the President's authority under CERCLA Section 104, as delegated to the Army in accordance with Executive Order 12580 and in compliance with the process set out in CERCLA Section 120. Regulatory agencies (EPA and DTSC) have been and will continue to provide oversight of the munitions response activities pursuant to the FFA.

The Army conducts ongoing and future responses to MEC at the former Fort Ord that are components of the Army's basewide efforts to promote explosive safety because of Fort Ord's history as a military base. These efforts include: (1) five-year reviews and reporting; (2) notices and restrictions in deeds and property transfer documentations (e.g., letter of transfer); (3) MEC incident reporting; (4) MEC recognition and safety training; (5) school education; and (6) community involvement.

In March 2007, the Army and FORA entered into an ESCA to provide funding for MEC remediation services. In accordance with the ESCA, the AOC, and the FFA Amendment No. 1, FORA is responsible for completion of the CERCLA remedial activities, except for those responsibilities retained by the Army, on approximately 3,300 acres of the former Fort Ord with funding provided by the Army. The AOC was entered into voluntarily by FORA, EPA, DTSC, and the United States Department of Justice Environment and Natural Resources Division in December 2006 (EPA Region 9 CERCLA Docket No. R9-2007-03). The underlying property was transferred to FORA in May 2009.

As part of the early transfer of the subject property, the Army has entered into a State CRUP with the DTSC that documents land use restrictions. The DTSC has agreed to modify the existing CRUP to document the land use restrictions included in the identified remedy. After the signature of this ROD, DTSC will modify the existing CRUP to be consistent with the final remedy. The applicability of and

requirements for CRUPs are described in California Code of Regulations Section 67391.1 and California Civil Code Section 1471.

As described in the *Final Summary of Existing Data Report, Former Fort Ord, Monterey County, California* (ESCA RP Team 2008), the ESCA areas were combined into nine MRAs, and they were further consolidated into four groups according to similar pathway-to-closure characteristics. Group 1 consists of the Parker Flats and Seaside MRAs. Group 2 consists of the CSUMB Off-Campus and County North MRAs. Group 3 consists of Del Rey Oaks/Monterey, Laguna Seca Parking, and Military Operations in Urban Terrain Site MRAs. Group 4 consists of the Future East Garrison MRA. The County North MRA was subsequently removed from Group 2 following completion of the *Track 1 Plug-In Approval Memorandum County North Munitions Response Area, Former Fort Ord, California* (Army 2010). The Interim Action Ranges MRA had been removed from Group 3 for independent evaluation as agreed upon by FORA, the EPA, DTSC, and the Army. This ROD addresses the Interim Action Ranges MRA.

#### 2.4. Community Participation

The Final Focused Feasibility Study for the Interim Action Ranges MRA was published on October 23, 2015, and the Interim Action Ranges MRA Proposed Plan was made available to the public on March 14, 2016. The Proposed Plan presented the preferred alternative of Land Use Controls (Alternative 2). The Land Use Control alternative is being selected as the final remedy in this ROD. The Proposed Plan also summarized the information in the Final Focused Feasibility Study and other supporting documents in the Administrative Record. These documents were made available to the public at the Administrative Record and [www.fortordcleanup.com](http://www.fortordcleanup.com). The Administrative Record and Information Repositories are located at:

- Fort Ord Administrative Record, Building 4463, Gigling Road, Room 101, Ord Military Community, California ([www.fortordcleanup.com](http://www.fortordcleanup.com)).
- Seaside Branch Library, 550 Harcourt Avenue, Seaside, California.
- California State University Monterey Bay Tanimura & Antle Family Memorial Library, Divarty Street, CSUMB Campus, Seaside, California.

The notice of the availability of the Proposed Plan was published in the Monterey County Herald and the Salinas Californian on March 16, 2016. A 30-day public comment period was held from March 16, 2016, to April 14, 2016. In addition, a public meeting was held on March 30, 2016, to present the Proposed Plan to a broader community audience than those that had already been involved at the site. At this meeting, representatives from the Army, EPA, and DTSC were present, and the public had the opportunity to submit written and oral comments about the Proposed Plan. Representatives from FORA were also present to answer questions. The Army's response to the comments received during this period is included in the Responsiveness Summary, which is part of this ROD (Section 3.0).

#### 2.5. Scope and Role of Response Action

This ROD addresses the planned response action for managing the potential risk to future land users from MEC that potentially remains in the Interim Action Ranges MRA, where munitions response activities have been completed as described in Section 2.7 below and detailed in the Final Focused Feasibility Study (ESCA RP Team 2015b).

The Interim Action Ranges MRA comprises a 227-acre portion of MRS Ranges 43-48 where an interim remedial action was conducted under the Interim Action ROD (Army 2002). The Interim Action ROD

selected interim remedial actions for the three areas, consisting of vegetation clearance by prescribed burning, surface and subsurface MEC removal, and detonation of MEC using engineering controls. Subsurface removal depths were to be determined in the site-specific work plans based on the military munitions used, the depth to which these types of munitions would penetrate or be found, the planned reuse of the specific areas within the Interim Action site, and the capabilities of the geophysical detection equipment selected by the site geophysicist. Interim remedial action was conducted by the Army on MRS Ranges 43-48 (Parsons 2007). Additional work was conducted by FORA within the northern portion of the site that comprises the Interim Action Ranges MRA (ESCA RP Team 2015a). The Interim Action Ranges MRA was subsequently evaluated in the Final Focused Feasibility Study (ESCA RP Team 2015b).

The remedy that is selected in this ROD serves as the final remedy for the 227-acre portion of MRS-Ranges 43-48 Interim Action site. The southern portion of MRS-Ranges 43-48 was included in the *Record of Decision, Impact Area MRA, Track 3 Munitions Response Site, Former Fort Ord, California* ("Track 3 ROD"; Army 2008) (Figure 2).

The planned response action for the Interim Action Ranges MRA will be the final remedy for protection of human health and the environment. Remedial Alternative 2, which was identified as the preferred remedial alternative for the Interim Action Ranges MRA, is summarized as follows:

- **Remedial Alternative 2 - Land Use Controls (LUCs):** MEC recognition and safety training for people that will conduct ground-disturbing or intrusive activities; construction support during ground-disturbing or intrusive activities; restrictions prohibiting residential use (as defined in this ROD); and restrictions against inconsistent uses (applicable to the habitat reserve areas).

The selected remedy will be implemented by FORA under the ESCA and in accordance with the AOC. An RD/RA Work Plan and/or LUCIP/OMP will be developed to: (1) outline the processes for implementing land use restrictions; and (2) identify procedures for responding to discoveries of MEC, including coordinating a response to a discovery of a significant amount of MEC in the Interim Action Ranges MRA. The selected LUCs may be modified in the future based on the five-year review process.

In addition, long term management measures comprised of a deed restriction, annual monitoring and reporting, and five-year review reporting will be implemented for the reuse areas within the Interim Action Ranges MRA.

The potential presence of hazardous and toxic waste chemicals of concern in soil is being addressed under the Army Basewide Range Assessment Program (Shaw 2012) and the *Record of Decision Amendment, Site 39 Inland Ranges, Former Fort Ord, California* ("Site 39 ROD Amendment"; Army 2009). As presented in the *Final Remedial Action Completion Report, Site 39 Inland Ranges Habitat Reserve, Former Fort Ord, California*, soil remedial actions have been completed by the Army at the Site 39 Inland Ranges and results of the remedial actions meet the remedial action objectives (RAOs) established for the Site 39 Inland Ranges for removal of soil contaminated with lead and/or explosives constituents (ITSI Gilbane 2014).

## 2.6. Site Characteristics

The Interim Action Ranges MRA is located in the north-central portion of the former Fort Ord. The Interim Action Ranges MRA encompasses approximately 227 acres within the MRS Ranges 43-48 (Figure 2).

Historical records and recovered MEC and munitions debris (MD) indicate that the Interim Action Ranges MRA was used for military training since the initial 1917 government purchase and designation of the land as an artillery range. Cavalry and artillery troops conducted training activities within the historical impact area. The Interim Action Ranges MRA contains all or portions of five firing ranges used for a variety of training purposes from the 1950s through the 1990s. The usage of each range included: mortar training and subsequently platoon live fire course at the time of base closure (Range 43); antitank weapons range at the time of base closure (Range 44); grenade launcher range at the time of base closure (Range 45); small arms range from the late 1950s to the time of base closure (Range 46); and 40mm grenade range in the 1960s (Range 47) (Figure 2).

## 2.7. Interim Action Ranges MRA Remedial Investigation Summary

The Interim Action Ranges MRA comprises a 227-acre-portion of MRS Ranges 43-48 where an interim remedial action was conducted. The Final Focused Feasibility Study for the Interim Action Ranges MRA is based on the evaluation of previous work conducted for the MRA in accordance with the *Final Group 3 Remedial Investigation/Feasibility Study Work Plan, Former Fort Ord, Monterey, California* (“Group 3 RI/FS Work Plan”; ESCA RP Team 2009) and described in the *Final Interim Remedial Action Completion Report, Interim Action Ranges Munitions Response Area, Phase II, Former Fort Ord, Monterey, California* (“Phase II Interim RACR”; ESCA RP Team 2015a).

This section provides background information on the munitions responses completed by the Army and FORA at the Interim Action Ranges MRA and review (site evaluations) conducted for the MRA. Table 1 summarizes the site-specific interim remedial actions, and Section 2.8 presents a summary of the site evaluations for the Interim Action Ranges MRA as presented in the Final Focused Feasibility Study (ESCA RP Team 2015b).

**Scope of Removal Actions** – Several munitions response actions were completed prior to interim remedial action at the Interim Action Ranges MRA. These munitions response actions included grid sampling, visual surface MEC removal in accessible areas, and subsurface MEC removal on roads and fuel breaks. As the remedial action selected in the Interim Action ROD, surface removal and subsurface removal operations were conducted by the Army on MRS Ranges 43–48. The interim remedial action in MRS Ranges 43-48 was started in 2002 and completed in 2005 and encompassed the Interim Action Ranges MRA. Approximately 235 acres within MRS Ranges 43-48 where subsurface MEC removal was not completed were designated as Special Case Areas (SCAs) or Non-completed Areas (NCAs). Approximately 35.9 acres of the SCAs and approximately 9.2 acres of NCAs within MRS Ranges 43-48 are located within the boundaries of the Interim Action Ranges MRA. An additional surface MEC removal was conducted in a portion of the Range 44 SCA in 2007.

Under the ESCA, FORA completed interim remedial action in the SCAs and NCAs located within the Interim Action Ranges MRA. To determine areas where interim remedial action was warranted, a design study was conducted in the Range 44 SCA, Range 47 SCA, and Central Area NCAs (Figure 3). Based on the results of the design study, a remedial action was conducted by FORA in the Range 47 SCA.

Two additional SCAs (Range 45 Trench SCA [approximately 1.2 acres; subsurface removal to a 2-ft depth across the top of the SCA conducted by the Army] and a small portion of the Fenceline SCA [one partial 100-ft by 100-ft grid]) are also located within the Interim Action Ranges MRA; however, these areas were not included in the interim remedial action completed by FORA.

All detected MEC items were removed and destroyed during the removal actions. A summary of the removal actions is provided in Section 2.8.



The investigations and removal actions conducted within the Interim Action Ranges MRA were focused on addressing explosive hazards.

**Site Evaluation** – The evaluation process was documented by completion of a series of checklists for the Interim Action Ranges MRA in accordance with the Group 3 RI/FS Work Plan (ESCA RP Team 2009) and the *Phase II Interim Action Work Plan, Interim Action Ranges Munitions Response Area, Former Fort Ord, Monterey County, California* (“Phase II Interim Action Work Plan”; ESCA RP Team 2011). Checklists prepared for the MRA were provided as Appendix D of the Final Focused Feasibility Study (ESCA RP Team 2015b).

The Interim Action Ranges MRA is located within MRS Ranges 43-48 within the historical impact area (Figure 2). The MRS was identified when the Army evaluated three sites for interim remedial actions in the *Final Interim Action OE Remedial Investigation/Feasibility Study for Ranges 43-48, Range 30A, Site OE-16, Former Fort Ord, California* (Harding 2002). The MRA boundaries encompass five United States Army Corps of Engineers (USACE) property transfer parcels: E38, E39, E40, E41, and E42 (Table 2 and Figure 3). The Interim Action Ranges MRA contains all or portions of five firing ranges (Ranges 43, 44, 45, 46, and 47) used for a variety of training purposes from the 1950s through the 1990s. Based on the results of the literature review, investigations, and removal actions, the usage of each range included: mortar training and subsequently platoon live fire course at the time of base closure (Range 43); antitank weapons range at the time of base closure (Range 44); grenade launcher range at the time of base closure (Range 45); small arms range from the late 1950s to the time of base closure (Range 46); and 40mm grenade range in the 1960s (Range 47).

Interim remedial action was conducted by the Army on MRS Ranges 43-48 from November 2003 to December 2005 (Parsons 2007). Interim remedial action was completed by FORA for the remaining portions of MRS Ranges 43-48 within the Interim Action Ranges MRA in March 2013 (ESCA RP Team 2015a). Two SCAs (Range 45 Trench SCA [approximately 1.2 acres; subsurface removal to a 2-ft depth across the top of the SCA conducted by the Army] and a small portion of the Fenceline SCA [one partial 100-ft by 100-ft grid]) are also located within the Interim Action Ranges MRA; however, these areas were not included in the interim remedial action completed by FORA.

## 2.8. Interim Action Ranges MRA Munitions Response Site Summary

### MRS Ranges 43-48

The interim action in MRS Ranges 43-48 began in 2002 with site preparation followed by a prescribed burn in October 2003. Interim remedial actions were conducted from November 2003 to December 2005 and consisted of the following activities:

- Visual surface removal conducted from November 2003 to February 2004
- Subsurface removal to depth at 1,251 100-ft by 100-ft grids using Schonstedt magnetometers (approximately 272 acres) from December 2003 to July 2005 and at ten 100-ft by 100-ft grids (approximately 2.3 acres) from May 2005 to October 2005
- Excavation and sifting, followed by analog subsurface removal and digital geophysical mapping (DGM)-based subsurface removal in a 14-acre area of Range 45 (May to October 2005). Target box trenches (i.e., the Range 45 Trench SCA) were left in place below the 2-ft scraped surface within 5 grids (approximately 1.2 acres) of Range 45.

- Deconstruction of the Range 45 pad (1.75 acres in 8 grids) followed by analog subsurface removal and DGM-based subsurface removal in the pad footprint (October and November 2005)
- DGM and subsurface removal in accessible areas, which included 1,249 100-ft by 100-ft grids from April 2004 to November 2005 (Parsons 2007)

After completing the above activities, approximately 235 acres within MRS Ranges 43-48 where the interim remedial action was not completed were designated as SCAs or NCAs. Subsurface MEC remediation was not completed within the SCAs due to high concentrations of anomalies caused by metallic debris and various other reasons (Parsons 2007). Approximately 35.9 acres of the SCAs and approximately 9.2 acres of NCAs within MRS Ranges 43-48 are located within the boundaries of the Interim Action Ranges MRA. An additional surface removal was conducted in a portion of the Range 44 SCA in 2007 (Shaw 2007).

In 2010, approximately 150 cubic yards of soil from historical area 43 (HA-43) and approximately 4,070 cubic yards of soil from HA-44 were excavated as part of soil remedial action under the Site 39 ROD Amendment. The soil remedial actions included performance of subsurface MEC removal in the excavated footprints. Soil remedial actions that have been completed by the Army in the Interim Action Ranges MRA are documented in the *Final Remedial Action Completion Report, Site 39 Inland Ranges Habitat Reserve, Former Fort Ord, California* (ITSI Gilbane 2014).

Under the ESCA, FORA completed interim remedial action in the SCAs and NCAs located within the Interim Action Ranges MRA from February 2011 to March 2013. To determine areas where interim remedial action was warranted, a design study was conducted in the Range 44 SCA (approximately 18.9 acres), Range 47 SCA (approximately 15.2 acres), and Central Area NCAs (approximately 9.2 acres). Based on the results of the design study, interim remedial action was continued in Range 47 SCA (approximately 15.2 acres; Figure 3). Activities were performed in accordance with the Phase II Interim Action Work Plan (ESCA RP Team 2011) and the approved Field Variance Forms associated with the Phase II Interim Action Work Plan. Results of the design study and interim action completed by FORA are reported in detail in the Final Interim RACR (ESCA RP Team 2015a). Two additional SCAs (Range 45 Trench SCA [approximately 1.2 acres; subsurface removal to a 2-ft depth across the top of the SCA conducted by the Army] and a small portion of the Fenceline SCA [one partial 100-ft by 100-ft grid]) are also located within the Interim Action Ranges MRA; however, these areas were not included in the interim action completed by FORA.

To facilitate completion of the design study, the Range 44 SCA and Central Area NCAs were divided into northern and southern portions referred to by FORA as “Range 44 SCA (North)” and “Range 44 SCA (South) and Central Area NCAs” (Figure 3). Additionally, one grid of the Central Area NCAs located adjacent to Range 47 SCA was combined with the Range 47 SCA (Figure 3).

The design study was conducted to determine the areas where continuing the interim remedial action was warranted and to refine the technical approach for the additional interim remedial actions. The design study focused on delineating areas potentially containing high density of subsurface MEC of the type containing sensitive fuzes (e.g., 40mm grenades, 66mm high explosive anti-tank [HEAT] rockets, and 90mm HEAT projectiles). The study involved investigations in select transects and grids, and activities included soil excavation and sifting, analog investigation, DGM surveys, and investigation and removal

of selected target anomalies, to evaluate the presence of MEC of the types that contain sensitive fuzes. Based on the results of the design study:

- completion of the interim remedial action was not warranted within the Range 44 SCA (South) and Central Area NCA due to the lack of evidence of sensitive fuze-type MEC;
- completion of the interim remedial action was not warranted within the Range 44 SCA (North) as the potential for residual intact MEC of types containing sensitive fuzes was not evident; and
- completion of the interim remedial action is warranted in the Range 47 SCA.

The interim action at the Range 47 SCA included excavation and sifting of approximately 37,000 cubic yards of soil, DGM surveys and target investigation in approximately 15.4 acres, and analog investigation in select areas. The MEC removal was concluded with the finding that the potential for residual intact MEC of types containing sensitive fuzes was not evident (ESCA RP Team, 2015a).

The MEC and MD encountered within the Interim Action Ranges MRA were consistent with the documented historical uses. The types of MEC and MD removed from the MRA included: blasting caps, bulk explosives, bombs, hand grenades and hand grenade fuzes, rifle grenades, mines and mine fuzes, flares and signals, smoke generating items, firing devices, missiles, rockets and rocket motors, mortars, various projectiles and projectile fuzes, and simulators.

FORA performed habitat restoration activities in the habitat parcels affected by interim action activities between October 2012 and December 2015. The *Final Phase II Interim Action Work Plan Addendum, Habitat Restoration Plan, Interim Action Ranges Munitions Response Area, Former Fort Ord, California* (“Habitat Restoration Plan”; ESCA RP Team 2013) was prepared to describe the activities to be undertaken to restore the natural resources in habitat parcels that were affected by the MEC remedial activities. The Habitat Restoration Plan includes restoration requirements outlined in the *Installation-Wide Multispecies Habitat Management Plan (HMP) for Former Fort Ord, California* (“the HMP”; USACE 1997b) and in Biological Opinions (USFWS 1999, 2002, 2005, 2007, and 2015) issued by U.S. Fish and Wildlife Service.

Construction and implementation of the restoration areas has been completed and restoration systems are in place, operational and functioning. Operation and maintenance to support the long-term success of restoration at the site is being implemented through a post-installation adaptive management process to evaluate and manage the restoration areas as described in the Habitat Restoration Plan (ESCA RP Team 2013). The initiated restoration activities are currently on track to achieve the prescribed performance criteria in the Interim Action Ranges MRA restoration areas (ESCA RP Team 2016).

## 2.9. Current and Potential Future Land and Resource Uses

The future land uses for the Interim Action Ranges MRA, summarized below, are based upon the Fort Ord Base Reuse Plan (FORA 1997). Future land use information is also included in the HMP (USACE 1997b) and modifications to the HMP provided in *Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California* (Zander 2002), and *Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land-Use Modification* (Army 2004).

The Interim Action Ranges MRA is designated for non-residential development with borderland interface and habitat reserve. The reasonably foreseeable reuses being considered for the Interim Action Ranges MRA include:

- Non-Residential Development, Parcel E40 — Approximately 25 acres in the north-central portion of the MRA are designated for development by Monterey Peninsula College. A 100-foot buffer from the borderland interface along the Natural Resources Management Area (NRMA), designated as habitat reserve, was identified in the ESCA (USACE/FORA 2007); however, the buffer width is subject to change based on future fire-wise planning by FORA. The borderland development area along the NRMA interface, designated as habitat reserve, was established in the HMP (USACE 1997b). Construction and maintenance of buildings and roads, installation of utilities, as well as the activities associated with Monterey Peninsula College are expected within this reuse area.
- Habitat Reserve, Parcels E38, E39, E41, and E42 — Approximately 202 acres of the MRA are designated for habitat reserve.

## 2.10. Summary of Site Risks

Munitions response actions have been completed at the Interim Action Ranges MRA, significantly reducing the potential risks to human health and the environment from explosive hazards associated with MEC. Because detection technologies may not detect all MEC present, a future land user (i.e., receptors) may encounter MEC. The risk was evaluated in a MEC Risk Assessment as part of the Final Focused Feasibility Study (Appendix C of ESCA RP Team 2015b).

The Fort Ord Ordnance and Explosives Risk Assessment Protocol (Malcolm Pirnie 2002) was developed to qualitatively estimate the risk to future land users of the property from potentially remaining MEC in terms of an “Overall MEC Risk Score” for each receptor expected to be present during area development and reuse.

The MEC Risk Assessment Protocol results are based on three key factors (MEC Hazard Type, Accessibility, and Exposure) that are assigned use-specific values and are weighted in importance. These factors were used to develop an Overall MEC Risk Score for each receptor at a given reuse area. The Overall MEC Risk Scores are expressed in letters A through E, with A being the lowest risk and E being the highest risk.

The qualitative Overall MEC Risk Scores were used in the Final Focused Feasibility Study (ESCA RP Team 2015b) to guide the development and evaluation of response alternatives for the Interim Action Ranges MRA during development and for reasonably anticipated future uses. The future land users of the property identified for analysis in the MEC Risk Assessment and a summary of the Overall MEC Risk Scores for each receptor for the reuse areas within the Interim Action Ranges MRA are provided below. It is recognized that although all identified MEC have been removed during the previous removal actions conducted on the Interim Action Ranges MRA, the potential exists that MEC may remain in the subsurface at the MRA. Therefore, the risks associated with subsurface (intrusive) receptors (e.g., maintenance workers and construction workers) are assumed to remain at the Interim Action Ranges MRA at a level that requires mitigation and remedial alternatives were evaluated in a Final Focused Feasibility Study.

The response actions selected in this ROD are necessary to protect the public health or welfare from the possible presence of subsurface MEC.

The receptors identified for analysis in the MEC Risk Assessment for the Interim Action Ranges MRA included: law enforcement personnel, habitat monitors, maintenance workers, construction workers, and trespassers. The Risk Assessment (Appendix C of ESCA RP Team 2015b) focused on four sectors in the Interim Action Ranges MRA:

- Range 45 Trench SCA (totaling approximately 1.2 acre) located within Parcel E40 in the non-residential development area;
- the remaining approximately 23.9-acre portion of Parcel E40 within the non-residential development area;
- Range 44 SCA and Central Area NCAs (totaling approximately 28.1 acres) within the habitat reserve area; and
- the remaining habitat reuse area totaling approximately 173.9 acres.

The Risk Assessment for the Interim Action Ranges MRA (Appendix C of ESCA RP Team 2015b) estimated the post-interim remedial action Overall MEC Risk Scores of “A” (lowest risk) for both surface and subsurface receptors (e.g., habitat monitors, law enforcement personnel, maintenance workers, construction workers, and trespassers) in the non-residential development area and the majority of the habitat reuse area. Calculated Overall MEC Risk Scores are higher for receptors in Range 44 SCA and Central Area NCAs, ranging from “B” (low risk) to “C” (medium risk) for surface receptors (e.g., habitat monitors) and from “D” (high risk) to “E” (highest risk) for subsurface receptors (e.g., maintenance workers and trespassers). The overall MEC risk scores for the Trench SCA ranged from “A” (lowest risk) to “B” (low risk) for surface receptors (e.g., law enforcement personnel and trespassers) and from “B” (low risk) and “E” (highest risk) for subsurface receptors (e.g., maintenance workers and construction workers). A summary of the overall MEC risk scores for each receptor for the two reuse areas within the Interim Action Ranges MRA is provided below.

Reuse Area	Receptor	Overall MEC Risk Score				
		A Lowest	B Low	C Medium	D High	E Highest
Non-Residential Development	Maintenance Worker	✓	✓	✓		
	Construction Worker	✓			✓	✓
	Law Enforcement Personnel	✓	✓			
	Trespasser	✓	✓			
Habitat Reserve	Maintenance Worker	✓			✓	✓
	Habitat Monitor	✓	✓	✓		
	Trespasser	✓			✓	✓

2.11. Remedial Action Objectives

The RAO for the Interim Action Ranges MRA is based on the MEC Risk Assessment results and on EPA’s Remedial Investigation/Feasibility Study Guidance (EPA 1988) to achieve the EPA’s threshold criteria of “Overall Protection of Human Health and the Environment” and “Compliance with ARARs.” The RAO developed for the protection of human health and the environment for Interim Action Ranges MRA is to prevent or reduce the potential for the Interim Action Ranges MRA reuse receptors to come in direct contact with MEC items potentially remaining in subsurface soil and minimize potential impacts from such exposures.

As described in EPA’s Land Use in the CERCLA Remedy Selection Process (EPA 1995), “Remedial action objectives provide the foundation upon which remedial cleanup alternatives are developed. In general, remedial action objectives should be developed in order to develop alternatives that would

achieve cleanup levels associated with the reasonably anticipated future land use over as much of the site as possible. EPA's remedy selection expectations described in section 300.430(a)(1)(iii) of the NCP should also be considered when developing remedial action objectives. Where practicable, EPA expects to treat principal threats, to use engineering controls such as containment for low-level threats, to use institutional controls to supplement engineering controls....”

For the purpose of this ROD, the contaminant of concern within the Interim Action Ranges MRA is MEC. The potential presence of hazardous and toxic waste chemicals of concern in soil is being addressed under the Army Basewide Range Assessment Program (Shaw 2012) and the Site 39 ROD Amendment (Army 2009).

Consistent with EPA’s guidance, (1) the principal threats at the Interim Action Ranges MRA have already been treated (i.e., MEC removal actions have been completed), and (2) institutional controls (herein referred to as land use controls or LUCs) are considered appropriate remedial alternatives.

## 2.12. Description of Alternatives

Four remedial alternatives were evaluated for the Interim Action Ranges MRA in the Final Focused Feasibility Study (ESCA RP Team 2015b). The alternatives were summarized in the Interim Action Ranges MRA Proposed Plan (Army 2016).

Long-term management measures (deed notice and restrictions, annual monitoring, and five-year review reporting) are implementation and management measures for Alternatives 2 and 3. Long-term management measures are described further in Section 2.14.3. The cost associated with implementing these measures over a period of 30 years is approximately \$281,000.

The Risk Assessment for the Interim Action Ranges MRA (Appendix C of ESCA RP Team 2015b) estimated the post-interim remedial action Overall MEC Risk Scores as described in Section 2.10. Although previous removal actions have been conducted on the MRA, the potential exists for MEC to remain in the subsurface. Therefore, the risks associated with intrusive receptors (e.g., maintenance workers, construction workers, and trespassers) are assumed to remain at a level that requires mitigation. The four remedial alternatives developed to mitigate this risk are summarized below:

### *Alternative 1 – No Further Action*

This alternative assumes no further action would be taken at the Interim Action Ranges MRA to address potential MEC risks for those receptors identified in the Risk Assessment. This alternative is provided as a baseline for comparison to the other remedial alternatives, as required under CERCLA and the NCP. There are minimal costs associated with implementation of this alternative.

### *Alternative 2 – Land Use Controls*

This alternative assumes that LUCs, without additional MEC remediation on any portion of the Interim Action Ranges MRA, would be implemented to address potential MEC risks for intrusive or ground-disturbing reuse. The LUCs alternative consists of MEC recognition and safety training, construction support, continuation of the existing residential use restriction, and restrictions against inconsistent uses (applicable to the habitat reserve areas). The components of the alternative are described below:

**MEC Recognition and Safety Training** - People involved in intrusive operations during the designated reuses and development at the Interim Action Ranges MRA would be required to attend the MEC

recognition and safety training to increase their awareness of and ability to recognize MEC items. Prior to planned intrusive activities, the property owner would be required to notify FORA or its successor to provide MEC recognition and safety training for all workers performing intrusive activities.

**Construction Support** - Construction support would be performed by UXO-qualified personnel during any intrusive or ground-disturbing activities at Interim Action Ranges MRA reuse areas to address potential MEC risks to those involved in such activities. Construction support would be arranged during the planning stages of the project prior to the start of any intrusive activities. The level of construction support will be determined on a case-by-case basis depending on the type and location of planned intrusive activities. Two levels of construction support have been identified: on-call construction support and on-site construction support.

For on-call construction support, UXO-qualified personnel must be contacted prior to the start of intrusive activities to ensure their availability, advised about the project, and placed “on call” to assist if suspected MEC are encountered. If evidence of MEC is found during construction support activities, the intrusive and ground-disturbing work will immediately cease; no attempt will be made to disturb, remove, or destroy the MEC, and the local police department will be immediately notified so that appropriate explosive ordnance disposal personnel can be dispatched to address the MEC, as required under applicable laws and regulations.

For on-site support, UXO-qualified personnel must attempt to identify and remove any explosive hazards in the construction footprint prior to any intrusive construction activities.

Construction support may be applicable in the short term during development of the reuse area, and/or in the long term during established reuse. Based on the site information, on-call construction support is generally expected to be sufficient to support the anticipated future reuse of the property.

**Residential Use Restriction** - Residential use restriction placed on the Interim Action Ranges MRA property at the time of property transfer to FORA would be maintained. For the purpose of this decision document, residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; playgrounds; hospitals; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12.

**Restrictions Against Inconsistent Uses** - For the habitat reserve, Parcels E38, E39, E41, and E42, uses that are inconsistent with the HMP would be prohibited, including but not limited to residential, school, and commercial/industrial development.

The LUCs included in this alternative are based on the planned reuse of the Interim Action Ranges MRA. The specific details of LUCs would be presented in the RD/RA Work Plan and/or LUCIP/OMP. The cost associated with implementing this alternative is estimated to be \$542,000. In addition, a long-term management cost of \$281,000 applies to this alternative.

### ***Alternative 3 – Additional Subsurface MEC Remediation***

This alternative assumes that subsurface MEC remediation would be conducted throughout the entire footprint of the Interim Action Ranges MRA, including excavation and sifting in the Range 44 SCA and the Central Area NCA. This alternative includes implementing the appropriate type of vegetation

clearance, if necessary, and the implementation of additional MEC remediation. For the habitat reserve areas in the Interim Action Ranges MRA, vegetation clearance would be conducted via prescribed burning, to the extent feasible. Additional subsurface MEC remediation would involve detection and removal of subsurface MEC to the depth of detection using best available and appropriate detection technology and Department of Defense Explosives Safety Board (DDESB)-approved MEC detonation procedures in areas where explosive MEC items are identified during remedial activities and require disposal. The specific details of the vegetation clearance methods and the MEC detection equipment would be presented in the RD/RA Work Plan, or similar document. Post-remediation habitat restoration and monitoring would be required within the habitat reserve area. The cost associated with implementing this alternative is estimated to be \$14.7 million. In addition, a long-term management cost of \$281,000 applies to this alternative.

#### ***Alternative 4 – Additional Subsurface MEC Remediation in Selected Areas of the MRA and Land Use Controls***

This alternative assumes that subsurface MEC remediation would be conducted throughout selected portions of the Interim Action Ranges MRA. This alternative includes implementation of the LUCs described in Alternative 2 and the implementation of additional MEC remediation within the Range 44 SCA and the Central Area NCA (approximately 28.1 acres), to address specific risk and/or reuse needs. Additional MEC remediation in the selected area would include sifting the top 2-ft layer of soil followed by additional subsurface MEC remediation in the excavated footprints. Additional subsurface MEC remediation would involve detection and removal of subsurface MEC to the depth of detection using best available and appropriate detection technology and procedures and DDESB-approved MEC detonation procedures in areas where explosive MEC items are identified during remedial activities and require disposal. Vegetation clearance would be accomplished by mechanical methods. The specific details of the vegetation clearance methods and the MEC detection equipment would be presented in the RD/RA Work Plan, or similar document. Post-remediation habitat restoration and monitoring would be required within the excavated areas. The residential use restriction would continue to apply. Intrusive activities would be conducted with construction support by UXO-qualified personnel, and MEC recognition and safety training would be provided for workers conducting intrusive activities. This alternative solution will cost approximately \$7.7 million plus \$281,000 for long-term management.

### 2.13. Principal Threat Wastes

Munitions responses have been completed at the Interim Action Ranges MRA. All MEC items which would meet the principal threat waste criteria identified as part of the investigation have already been addressed. The selected remedy includes LUCs because detection technologies may not detect all MEC present. The source material constituting the principal threats at the Interim Action Ranges MRA are MEC that potentially remain below the ground surface (in the subsurface).

The selected remedy will address the residual threats through implementing the following LUCs:

- MEC recognition and safety training for people that will conduct ground-disturbing or intrusive activities;
- Construction support for ground-disturbing or intrusive activities to address the possibility that MEC remains in the subsurface;
- Restrictions prohibiting residential use (as defined in this ROD); and



- Restrictions against inconsistent uses (applicable to the habitat reserve areas).

## 2.14. Selected Remedy

### 2.14.1. Summary of the Rationale for the Selected Remedy

Each alternative developed for the Interim Action Ranges MRA was assessed against the nine EPA evaluation criteria described in Table 3. Using the results of this assessment, the alternatives were compared and a remedy selected for the MRA. The remedy that best meets the nine evaluation criteria is Alternative 2 (Land Use Controls). This remedy was selected because LUCs will be protective of human health for future land users, and would be effective in the short- and long-term at mitigating the risk to workers conducting ground-disturbing or intrusive activities from MEC that is potentially present. This remedy will require a low level of effort to implement, a moderate level of effort to administer over time, and would be cost effective. The remedy can be implemented in a manner consistent with Federal and State guidance.

The Army and EPA have jointly selected the remedy. The DTSC has had an opportunity to review and comment on the ROD.

Community acceptance is discussed in the Responsiveness Summary (Section 3.0). The selected remedy is further described below.

### 2.14.2. Description of the Selected Remedy

The selected remedial alternative for the Interim Action Ranges MRA is Alternative 2 (Land Use Controls). LUCs and their implementation strategy are described below.

#### **Land Use Controls**

The LUCs that will be implemented at the Interim Action Ranges MRA include requirements for: (1) MEC recognition and safety training for people that will conduct ground-disturbing or intrusive activities, (2) construction support for ground-disturbing or intrusive activities to address MEC that potentially remains in the subsurface, (3) restrictions prohibiting residential use (as defined in this ROD), and (4) restrictions against inconsistent uses (applicable to the habitat reserve areas).

- **MEC recognition and safety training** - For the areas addressed in this ROD, ground-disturbing or intrusive activities are expected to occur. Personnel involved in ground-disturbing or intrusive operations at these areas will be required to attend the MEC recognition and safety training to increase their awareness of and ability to recognize MEC items. Prior to conducting ground-disturbing or intrusive activities, the property owner will be required to notify FORA or its successor to provide MEC recognition and safety training for all persons performing ground-disturbing or intrusive activities.

MEC recognition and safety training will be evaluated as part of the five-year review process to determine if the training program should continue. If further evaluation indicates that this LUC is no longer necessary, the program may be discontinued with regulatory approval.

- **Construction support** - Construction support performed by UXO-qualified personnel is required during any intrusive or ground-disturbing activities at the Interim Action Ranges MRA reuse areas to address potential MEC risks to those involved in such activities. Construction support will be arranged during the planning stages of the project prior to the start of any intrusive or ground-

disturbing activities. The level of construction support will be determined on a case-by-case basis depending on the type and location of planned intrusive activities. Two levels of construction support have been identified: on-call construction support and on-site construction support.

For on-call construction support, UXO-qualified personnel must be contacted prior to the start of intrusive activities to ensure their availability, advised about the project, and placed “on call” to assist if suspected MEC are encountered during intrusive activities. If evidence of MEC is found during construction support activities, the intrusive and ground-disturbing work will immediately cease; no attempt will be made to disturb, remove, or destroy the MEC, and the local police department will be immediately notified so that appropriate explosive ordnance disposal personnel can be dispatched to address the MEC, as required under applicable laws and regulations.

For on-site support, UXO-qualified personnel must attempt to identify and remove any explosive hazards in the construction footprint prior to any intrusive construction activities.

Construction support may be applicable in the short term during development of the reuse area, and/or in the long term during established reuse. Based on the site information, on-call construction support is generally expected to be sufficient to support the anticipated future reuse of the property.

Construction support will be evaluated as part of the five-year review process to determine if the LUC should continue. If the MEC-related data collected during the development of the reuse areas indicates that this LUC is no longer necessary, construction support may be discontinued with regulatory approval.

- **Restrictions prohibiting residential use** - Residential use restriction placed on the Interim Action Ranges MRA property at the time the property was transferred will be maintained. For the purposes of this document, residential reuse includes, but is not limited to: single family or multi-family residences; childcare facilities; playgrounds; hospitals; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12.
- **Restrictions against inconsistent uses** - For the habitat reserve, Parcels E38, E39, E41, and E42, uses that are inconsistent with the HMP are prohibited, including but not limited to residential, school, and commercial/industrial development.

### 2.14.3 Land Use Control Implementation Strategy

The performance objectives for the LUCs that are part of the remedy are the following:

- **MEC recognition and safety training:** (1) to ensure that land users involved in ground-disturbing or intrusive activities are educated about the possibility of encountering MEC, and (2) to ensure that land users involved in ground-disturbing or intrusive activities stop the activity when encountering MEC and report to the appropriate authority.
- **Construction support:** to ensure projects involving ground-disturbing or intrusive activities are coordinated with UXO-qualified personnel so discoveries of potential MEC items will be handled appropriately. Mechanisms for implementing the requirement for construction support may include local ordinance(s), and details of implementation will be described in the RD/RA Work Plan and/or LUCIP/OMP for the LUCs.
- **Restrictions prohibiting residential use:** to ensure that any proposals to allow residential use (as defined in this ROD) or modifications to residential restrictions are approved by EPA and Army in coordination with DTSC.

- **Restrictions against inconsistent uses (applicable to the habitat reserve):** to maintain the integrity of the habitat management and conservation systems that are in place until EPA and the Army determine that they are no longer necessary.

The LUCs restricting land use and requiring construction support and MEC recognition/safety training for any intrusive or ground-disturbing activities shall remain in place until EPA and DTSC concur that the site is protective of human health and the environment. This concurrence may be based on: 1) new information (e.g., limited geophysical mapping, site development); or 2) where the depth of soil disturbance related to ground-disturbing or intrusive activities is sufficient to address the uncertainty of MEC remaining in the subsurface and any MEC encountered during such activities is removed.

Prior to seeking approval from EPA and DTSC, the recipient of the property must notify and obtain approval from the Army of any proposals for a land use change at a site inconsistent with the use restrictions and assumptions described in this ROD. The land use restrictions and notices set forth in the federal deed and provisions set forth in the CRUPs run with the land and are binding upon all future owners and occupants of the property.

The LUCs and the implementation actions will be explained in more detail in the RD/RA Work Plan and/or LUCIP/OMP. In accordance with the ESCA, the AOC, and the FFA Amendment No.1, FORA will prepare a LUC remedial design which shall contain implementation, monitoring and maintenance actions, including periodic inspections and reports. Within 90 days of the signature of the ROD, FORA shall provide a LUC remedial design to EPA and DTSC for review and approval.

As part of the implementation, the RD/RA Work Plan and/or LUCIP/OMP will also describe the following long-term management measures:

- **Land use restrictions:** The deed to FORA for the Interim Action Ranges MRA parcels restricts residential use. Residential use includes, but is not limited to: single family or multi-family residences; childcare facilities; playgrounds; hospitals; nursing homes or assisted living facilities; and any type of educational purpose for children or young adults in grades kindergarten through 12. It should be noted that the CRUPs for the Interim Action Ranges MRA parcels restrict residential use. For the habitat reserve, Parcels E38, E39, E41, and E42, uses that are inconsistent with the HMP are prohibited, including but not limited to residential, school, and commercial/industrial development.
- **Annual monitoring and reporting:** After this ROD is signed, FORA, or its successor entity under the ESCA and the AOC, will perform annual monitoring and reporting. FORA or its successor entity will notify the regulatory agencies, as soon as practicable, of any MEC-related data identified during use of the property, and report the results of monitoring activities annually.
- **Five-year review reporting:** Five-year reviews will be conducted by the Army in accordance with CERCLA Section 121(c) and the Fort Ord FFA. The five-year review will evaluate the protectiveness of the selected remedy. Based on the evaluation, the selected LUCs may be modified or discontinued, with the approval of the EPA and DTSC.

The standard procedure for reporting any encounter with a known or suspected MEC item in the transferred former Fort Ord property is to immediately report the encounter to the local law enforcement agency having jurisdiction on the property so that appropriate explosive ordnance disposal personnel can be dispatched to address the MEC, as required under applicable laws and regulations. After the response, the probability of encountering MEC will be reassessed. If the probability of encountering MEC is low, construction may resume with construction support. If the probability of encountering MEC is moderate

to high, UXO-qualified personnel will attempt to identify and remove any explosive hazard in the construction footprint prior to any intrusive construction activities.

FORA or its successor will notify the regulatory agencies, as soon as practicable, of any MEC-related data identified during use of the property, and report the results of monitoring activities annually. The Army will conduct five-year reviews. If additional evaluation or work or modification of the selected remedy is proposed based on such review, it will be implemented in accordance with Paragraph 34 of the AOC, and/or Section C.4.1.7 of the ESCA.

Pursuant to the ESCA, the AOC and the FFA Amendment No.1, FORA assumes full responsibility for completion of necessary CERCLA response actions (except Army Obligations) which include implementing, maintaining, reporting, and enforcing the land use controls. Although the Army has already transferred the responsibilities to implement, maintain, monitor, report on, and enforce LUCs to another party by contract, property transfer agreement, or through other means, the Army retains the ultimate responsibility for remedy integrity. Future property owners will also have responsibilities to act in accordance with the LUCs as specified in the deed(s).

#### 2.14.4. Summary of the Estimated Remedy Costs

For those alternatives whose life-cycle is indeterminate or exceeds 30 years, for the purposes of evaluating and comparing alternatives as specified in EPA's Remedial Investigation/Feasibility Study Guidance (EPA 1988), a period of 30 years is used for estimating long term O&M costs. For the Interim Action Ranges MRA, the life-cycle is indeterminate; therefore, long term O&M costs were estimated over a period of 30 years. Capital and long term O&M costs for implementing and maintaining LUCs under Alternative 2 are estimated at a total of approximately \$542,000 for the reuse areas within the Interim Action Ranges MRA. Capital and long term O&M costs for implementing and maintaining Long Term Management Measures are estimated at approximately \$281,000 for the reuse areas within the MRA. Therefore, the total estimated 30-year Net Present Value cost of the remedy is approximately \$823,000. Long term O&M costs are based on a 1.4 percent real interest rate for Years 1-7 (assumed duration for development and construction), and a 1.4 percent real interest rate for Years 8-30 (established reuse). A detailed, activity-based breakdown of the estimated costs associated with implementing and maintaining the remedy is provided in the Final Focused Feasibility Study (ESCA RP Team 2015b).

#### 2.14.5. Expected Outcomes of Selected Remedy

The expected outcomes of the selected remedy would be protection of human health and the environment through implementation of LUCs.

If residential use, as defined in this ROD, is planned for the designated future non-residential reuse portion of the Interim Action Ranges MRAs included in this ROD, the plans will be subjected to regulatory agency and Army review and approval.

### 2.15. Statutory Determinations

The selected remedy satisfies the requirements of Section 121 of CERCLA as follows:

- Protection of Human Health and the Environment: The selected remedy provides protection for both human health and the environment through implementation of LUCs to mitigate the risk from potentially remaining MEC.

- Compliance with Applicable or Relevant and Appropriate Requirements: The selected remedy can be implemented in a manner consistent with Federal and State guidance. While the Army does not consider California laws and regulations concerning CRUPs to be potential ARARs, the Army entered into a CRUP with the DTSC at the time the property was transferred to FORA. Although the DTSC and the EPA Region IX disagree with the Army's determination that California laws and regulations concerning CRUPs are not potential ARARs, they will agree-to-disagree on this issue since the Army executed the CRUP and the DTSC will modify the CRUP, as appropriate, to be consistent with the identified remedy.
- Cost Effectiveness: The selected remedy is a cost-effective solution for reducing the risks to human health and the environment. The Net Present Value of the total estimated costs for the reuse areas within the Interim Action Ranges MRA is approximately \$823,000 (including long term management measures costs of \$281,000) for the selected remedy of Land Use Controls (Alternative 2), which is well below the estimate for Additional MEC Remediation (Alternative 3) of approximately \$15 million (including long term management measures costs of \$281,000) and the estimate for Additional MEC Remediation in Selected Areas of the MRA and Land Use Controls (Alternative 4) of approximately \$8 million (including long term management measures costs of \$281,000). In addition, costs for Alternatives 3 and 4 may be higher than estimated because: (1) after additional MEC remediation is completed, these areas would require a re-evaluation of potential risk from MEC; and (2) the areas are likely to continue to require additional risk mitigation measures (e.g., LUCs) to protect human health during development and long-term reuse. There are minimal costs associated with Alternative 1.
- Utilization of Permanent Solutions and Alternative Treatment (or Resource Recovery) Technologies to the Maximum Extent Practicable: The principal threats at the Interim Action Ranges MRA have already been treated (i.e., MEC removal actions have been completed) utilizing permanent solutions and alternative treatment (or resource recovery) technologies to the maximum extent practicable.
- Preference for Treatment as a Principal Element: The principal threats at the Interim Action Ranges MRA have already been addressed (i.e., MEC removal actions have been completed), satisfying the statutory preference for treatment as a principal element (i.e., reducing the toxicity, mobility, or volume of hazardous substances, pollutants, or contaminants as a principal element through treatment).
- Five-Year Review Requirements: Because the selected remedy may result in MEC potentially remaining within the Interim Action Ranges MRA, a statutory review will be conducted by the Army within five years after initiation of the remedial action to ensure the remedy is, or will be, protective of human health and the environment. The purpose of a five-year review is to gather updated information, evaluate the condition of the site, and determine if the site remains safe from contamination that might be left at the site. The next five-year review will occur in 2017.

## 2.16. Documentation of Significant Changes from Preferred Alternative of Proposed Plan

As described in Section 2.4., the Proposed Plan for the Interim Action Ranges MRA was released for public comment on March 14, 2016, and a public meeting was held on March 30, 2016. This Proposed Plan identified the preferred remedial alternative for the Interim Action Ranges MRA. Comments collected over the 30-day public comment period between March 16, 2016, and April 14, 2016, did not necessitate any significant changes to the conclusions or procedures outlined in the Final Focused Feasibility Study and Interim Action Ranges MRA Proposed Plan.

### 3. RESPONSIVENESS SUMMARY

#### 3.1. Proposed Plan Overview

Based on the Final Focused Feasibility Study for the Interim Action Ranges MRA, the Army identified a preferred remedial alternative of LUCs. The preferred remedial alternative presented in the Interim Action Ranges MRA Proposed Plan includes the following LUCs:

- MEC recognition and safety training (for people that will conduct ground-disturbing or intrusive activities, such as construction workers and maintenance workers)
- Construction support by UXO-qualified personnel (for ground-disturbing or intrusive activities)
- Restrictions prohibiting residential use.

#### 3.2. Background on Community Involvement

Focused community involvement for the Interim Action Ranges MRA Proposed Plan involved a notice of availability of the Proposed Plan for review, a 30-day public comment period, a public meeting, and a responsiveness summary to address comments received on the Interim Action Ranges MRA Proposed Plan.

The Interim Action Ranges MRA Proposed Plan notice of availability was published in the Monterey County Herald and the Salinas Californian newspapers on March 16, 2016. The 30-day public comment period began on March 16, 2016, and closed on April 14, 2016.

The public meeting was held on March 30, 2016, to present the Interim Action Ranges MRA Proposed Plan to a broader community audience. At this meeting, representatives from the Army, EPA, and DTSC were present, and the public had the opportunity to submit written and oral comments about the Proposed Plan. Representatives from FORA were also present at the public meeting to answer questions on the Interim Action Ranges MRA Proposed Plan. Copies of the comments received on the Proposed Plan and a transcript of the public comments are available at the former Fort Ord Administrative Record and on the former Fort Ord website at [www.fortordcleanup.com](http://www.fortordcleanup.com).

The responsiveness summary responds to written comments received during the Interim Action Ranges MRA Proposed Plan public comment period as well as oral comments expressed during the Proposed Plan public meeting. A summary of public comments submitted during the Proposed Plan public comment period and the Army's responses to the comments are provided in the following section.

#### 3.3. Summary of Comments Received During the Public Comment Period and Department of the Army Responses

Public comments received during the Interim Action Ranges MRA Proposed Plan public comment period and the Army's responses are summarized below.

Comments were received from the public: (1) at the public meeting held on March 30, 2016; and (2) in written comments received during the 30-day public comment period from March 16, 2016, to April 14, 2016.

Comment summaries are provided below and have been categorized based on the focus of each comment. The three categories are:

- A. Preferred Alternative and Supporting Information
- B. Future Land Use and Land Use Controls
- C. Other Comments

#### **A. Preferred Alternative and Supporting Information**

**A1:** A commenter expressed appreciation for the opportunity to comment on the proposed remedial action for the Interim Action Ranges MRA and support for the preferred alternative described in the Proposed Plan as adequately addressing the risks associated with this portion of the former Fort Ord.

**Response:** The comment is acknowledged.

**A2:** A commenter expressed concern that information provided in handouts at the Proposed Plan public meeting regarding dates during which the Army and FORA conducted interim remedial action in the Interim Action Ranges MRA was not consistent with the information presented during the public meeting.

**Response:** The dates presented in the handouts and presentation provided during the Proposed Plan public meeting and in the Proposed Plan are consistent; however, some dates may appear to vary depending on the specific information being provided. The interim action conducted by the Army in MRS Ranges 43-48, which encompassed the Interim Action Ranges MRA, began in 2002 with site preparation followed by a prescribed burn in October 2003. Interim remedial actions were conducted by the Army from November 2003 to December 2005. Additionally, the Army conducted additional surface removal at the Range 44 SCA in March 2007. FORA conducted interim remedial action in the SCAs and NCAs located within the Interim Action Ranges MRA starting in February 2011 and completed work in March 2013. A summary of the munitions response actions completed at the MRA is presented in Section 2.8 of this ROD. A detailed discussion of previous munitions response actions conducted at the MRA, including dates and references to applicable documents, can be found in the Final Focused Feasibility Study (ESCA RP Team 2015b).

**A3:** A commenter expressed concern regarding the potential for MEC to remain present at the Interim Action Ranges MRA. The commenter cited concerns regarding target box trenches remaining below ground within the Trench SCA, the potential for below ground ammunition bunkers to remain, and adequacy of detection equipment used during munitions removal actions.

**Response:** The capabilities of the detection equipment used during interim remedial action in the Interim Action Ranges MRA are presented in the Phase II Interim RACR (ESCA RP Team 2015a). The adequacy of the interim remedial action was evaluated in the Final Focused Feasibility Study. As presented in the Final Focused Feasibility Study (ESCA RP Team 2015b), interim remedial action was conducted in the Interim Action Ranges MRA, with all detected MEC removed. The interim remedial action also included quality control and quality assurance requirements that validated the adequacy of the munitions response actions. Given the extent of MEC removal actions conducted, MEC is not expected to be encountered within the Interim Action Ranges MRA.

Regarding concerns related to the Trench SCA, a Risk Assessment was conducted for the Trench SCA and is presented in the Final Focused Feasibility Study (Appendix C of ESCA RP Team 2015b). The

Trench SCA, which comprises approximately 1.2 acres of the Interim Action Ranges MRA, encompasses locations where concrete target box trenches with pop-up targets lie below the scraped surface. The Overall MEC Risk Scores for the Trench SCA ranged from “A” (lowest risk) to “B” (low risk) for surface receptors (e.g., law enforcement personnel and trespassers) and from “B” (low risk) and “E” (highest risk) for subsurface receptors (e.g., maintenance workers and construction workers). These scores were used during the development and evaluation of the response alternatives for the Interim Action Ranges MRA, as presented in Sections 4 and 5 of the Final Focused Feasibility Study.

No evidence has been observed to suggest that belowground ammunition bunkers remain at the Interim Action Ranges MRA.

Although MEC is not expected to be encountered within the Interim Action Ranges MRA, it is possible that some MEC may not have been detected and remain present in the subsurface; therefore, a post-interim remedial action risk assessment and feasibility study were conducted and documented in the Final Focused Feasibility Study. Remedial action alternatives were evaluated using the nine CERCLA evaluation criteria to manage the risk to future land users from MEC that potentially remains in the properties. The LUC remedy (Alternative 2) was determined to best meet the CERCLA evaluation criteria and will be protective of human health by requiring safety training and construction support for intrusive activities and restricting the property from residential use (i.e., sensitive uses, as defined in this ROD). The LUCs are appropriate to address risks from MEC that may potentially remain at the site during reuse.

In the event that potential MEC is discovered by a future land user, the discovery should be immediately reported to the local law enforcement agency. The Army has included a notice in the property transfer deed (which will be carried through subsequent property transfers in perpetuity) describing that, should any MEC item be discovered in the future, it should immediately be reported to local law enforcement agency. Appropriate UXO-qualified personnel (e.g., explosive ordnance disposal unit) will address the discovered MEC. As required by the selected remedy, planned ground-intrusive activities will be supported with the appropriate level of construction support. A RD/RA Work Plan or LUCIP/OMP will be developed by FORA for the Interim Action Ranges MRA and will include procedures for responding to discoveries of MEC.

**A4:** One commenter expressed concern regarding the residual MEC risks that may remain in the property and the mitigation actions that may affect future construction activities at Parcel E40, with regard to expense, possible disruption of construction activities, and potential delays during non-residential development due to potential discovery of residual munitions. The commenter stated a preference for Alternative 3 being employed because the alternative includes subsurface MEC remediation.

**Response:** The Army is committed to the goal of selecting and implementing environmental cleanup actions that support the reuse of the former Fort Ord as described in the Fort Ord Reuse Plan -- in this case, non-residential development in Parcel E40 and habitat reserve in Parcels E38, E39, E41, and E42. As described in the Focused Feasibility Study and Proposed Plan, MEC removals in the Interim Action Ranges MRA included surface and subsurface removals in the non-residential development area (Parcel E40) and in the habitat reserve area (Parcels E38, E39, E41, and E42), with the exception of the Range 44 SCA and Central Area NCAs in Parcel E39, which received a surface removal and a subsurface removal in areas where munitions containing sensitive fuzes were encountered. Reflecting the results of the MEC removals, the risk assessment and the feasibility study were developed based on the assumption that MEC may potentially remain in the subsurface of the Interim Action Ranges MRA. The Focused Feasibility Study was developed by FORA under the ESCA.



With regard to the concern that the expense, possible disruption of construction, and potential delays to development plans to address potential risk associated with construction activities in the area of the non-residential development area, MEC recognition and safety training for future land users conducting ground disturbing or intrusive activities and construction support for ground disturbing or intrusive activities are appropriate means to address residual risks concerning ground-intrusive activities at the Interim Action Ranges MRA. These measures are included in Alternative 2 so that appropriate safety measures are incorporated into planned construction projects. While the requirements for such measures could result in additional cost or schedule impacts to future landowners as compared to a project located outside of a former military installation, they are appropriate mitigation measures that should be taken when conducting ground-disturbing activities in areas with potential presence of MEC. Section 5.2.1 of the Focused Feasibility Study describes that, because even current MEC-detection technologies do not have a 100% detection efficiency, Alternative 3 (additional MEC remediation) is not expected to provide a significant increase in protection of human health, and therefore additional mitigation measures such as land use controls may still be necessary.

The Army acknowledges the concerns associated with potentially remaining MEC at the Interim Action Ranges MRA during reuse. Residual risks were carefully considered during the risk assessment process and a set of land use controls, specifically designed to address the residual risks, was selected as the remedy for the Interim Action Ranges MRA.

**A5:** One commenter expressed concern regarding liability associated with trespassers in the habitat reserve portion of the Interim Action Ranges MRA located adjacent to the Fort Ord National Monument.

**Response:** As described in the Focused Feasibility Study and Proposed Plan, MEC removals in the Interim Action Ranges MRA included surface and subsurface removals in the habitat reserve areas (Parcels E38, E39, E41, and E42), with the exception of the Range 44 SCA and Central Area NCAs in Parcel E39, which received a surface removal and a subsurface removal in areas where munitions containing sensitive fuzes were encountered. The potential risk for trespassers was assessed as "A" (lowest risk) for the majority of the habitat reserve area, with the exception of Range 44 SCA and Central Area NCAs where the potential risk for trespassers was assessed as ranging from "D" (high risk) to "E" (highest risk). Since the planned reuse for the area is for continued use as habitat reserve, the potential for MEC to become present on the surface in the future is low. In addition, while the adjacent property that is planned for eventual conveyance to the Bureau of Land Management is a part of the Fort Ord National Monument, public access will be not be unrestricted. Public access management is a component of the selected remedy for the Impact Area MRA. The Army will work with BLM and adjacent landowners in developing and implementing specific safety and access measures for the Impact Area MRA.

The LUC remedy will be protective of human health by providing MEC recognition and safety training, construction support for intrusive activities, restricting the property from residential use (i.e. sensitive uses, as defined in this ROD), and restrictions against inconsistent use (applicable to the habitat reserve areas). The selected LUCs are appropriate to address risks from MEC that may potentially remain at the site during reuse.

**A6:** A commenter expressed concern with the selection of a remedy for the Interim Action Ranges MRA, citing concerns with scheduled prescribed burns and post-burn cleanup on adjacent parcels, potentially remaining deeply buried munitions, uncertainty of future land use, the sunseting of FORA, and the ability of jurisdictions to perform enforcement duties.

**Response:** The selected remedy supports the reasonably anticipated future land uses, which are: non-residential development in approximately 25 acres; and habitat reserve in approximately 202 acres

(described in Section 2.9 of this ROD). The selected remedy places land use controls (constraints) on future land uses, but does not designate or approve any specific development projects.

With regard to the concern for scheduled prescribed burns and post-burn cleanup on parcels adjacent to the Interim Action Ranges MRA, those response actions are based on detailed, site-specific RI/FSs and decision documents. The Final Focused Feasibility Study and Proposed Plan for the Interim Action Ranges MRA only address the areas included within the Interim Action Ranges MRA. The areas of the prescribed burns and post-burn cleanup planned by the Army are located outside of the Interim Action Ranges MRA and are beyond the scope of the Final Focused Feasibility Study and Proposed Plan.

Regarding concerns related to enforcement of LUCs by jurisdictions, a RD/RA Work Plan or LUCIP/OMP will be prepared outlining the plan for implementation of the selected remedy. The property underlying the Interim Action Ranges MRA will be transferred from FORA to Monterey Peninsula College after EPA certifies the completion of the remedial action. Monterey Peninsula College will conduct monitoring and reporting of applicable land use controls based on a 2008 agreement with FORA and DTSC (DTSC 2008). The final remedy selected for the Interim Action Ranges MRA will be implemented by FORA, and its successor under the ESCA. However, the Army is ultimately responsible for the integrity of the remedy.

As described in the Proposed Plan, community acceptance, along with State acceptance, is one of the two modifying criteria amongst the nine CERCLA evaluation criteria. Community acceptance is gauged using available public input and reactions to the information presented within the Proposed Plan as summarized in this Responsiveness Summary. The Army acknowledges some members of the community may not accept the Proposed Plan; however, many members of the public accept it and recognize the need for the proposed remedy.

Please see response to comment A3 above for information on potentially remaining munitions at the Interim Action Ranges MRA.

## **B. Future Land Use and Land Use Controls**

**B1:** Comments were received regarding future land use in the Interim Action Ranges MRA after the property has been transferred from FORA. One commenter asked what reuses are being proposed for MRS Ranges 43-48. The commenter also asked if property can be used by or sold by future land owners for purposes other than currently designated reuses. Another commenter asked what activities will be allowed in habitat reserve areas when restrictions imposed at the time of transfer are no longer required.

**Response:** Approximately 25 acres of the Interim Action Ranges MRA are designated for non-residential development with a borderland development area along the NRMA interface. The remaining approximately 202 acres of the MRA are designated for habitat reserve. The property can be used or sold by future property owners for other reuses; however, future property owners will have responsibilities to use the property in a manner consistent with the LUCs as specified in the deed(s). As described in Section 2.14.3 of this ROD, LUCs restricting land use and requiring construction support and MEC recognition and safety training for any intrusive or ground-disturbing activities are included in the selected remedy. These LUCs will be included in the deed(s) for the property. They will remain in place until EPA and DTSC concur that the site is protective of human health and the environment. Use restrictions for the parcels designated for habitat reserve are identified in the HMP (USACE 1997b) and generally limited to habitat management activities.

**B2:** Comments were received regarding clarification of land use controls. One commenter expressed concern that the Proposed Plan did not include existing LUCs (e.g., the State Covenant to Restrict the Use of Property, the restrictions in the federal deed, and local ordinances). The commenter cited the importance of describing these mechanisms because the final remedy must integrate multiple institutional controls to be effective and implementable. The commenter also suggested that the Record of Decision should identify all elements of the selected remedy for the Interim Action Ranges MRA and that an integrated process be created to satisfy federal, state, and local reporting requirements. Another commenter expressed concern with how land use controls will be defined for the habitat reserve area and the feasibility, efficacy, and expense of implementation.

**Response:** Current land use restrictions are described in the Focused Feasibility Study, and the information was considered in developing and evaluating the remedial alternatives. A RD/RA Work Plan or LUCIP/OMP will be prepared for the Interim Action Ranges MRA and will include detailed explanation of existing LUCs, plans and procedures for LUC implementation and LUC operation and maintenance, and long-term management measures (deed notice and restrictions, annual monitoring, and five-year review reporting). Discussion of expenses associated with remedy implementation, operation, and maintenance are beyond the scope of the Final Focused Feasibility Study, Proposed Plan, and Record of Decision.

Please also see response to comment A6 above regarding enforcement of LUCs by jurisdictions.

**B3:** A commenter recommended that the entire Interim Action Ranges MRA be designated as habitat reserve, citing concerns with unknown risks in the area.

**Response:** The designated future land uses for the Interim Action Ranges MRA as a development parcel with a borderland development area along the NRMA interface, and as habitat reserve, are based upon the 1997 Fort Ord Base Reuse Plan (FORA 1997). Future land use information is also included in the HMP (USACE 1997b) and modifications to the HMP provided in the *Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California* (Zander 2002), and *Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land-Use Modification* (Army 2004), as described in Section 2.9 of this ROD. The reasonably anticipated future uses for the MRA were established based on input from the underlying land use jurisdictions. With respect to the concern for remaining risks in the area, the Risk Assessment completed for the Interim Action Ranges MRA is based on both the field conditions and on the designated future land reuse. The results of the Risk Assessment were considered in developing and evaluating the remedial alternatives. The four remedial alternatives developed for the Interim Action Ranges MRA were evaluated to determine the effectiveness of each to provide mitigation of potentially remaining MEC risks for potential reusers given the anticipated future land use. As described in the Proposed Plan, LUCs and MEC removals were evaluated as remedial alternatives using the nine CERCLA evaluation criteria. The LUC remedy meets the protectiveness criteria by providing for safety training and support for intrusive activities, and by restricting the property from residential use (i.e., sensitive uses, as defined in this ROD). The selected LUCs are appropriate to address risks from MEC that may potentially remain at the site during reuse.

**B4:** Comments were received regarding on-site construction support. Concern was expressed regarding the consistency of the requirements associated with on-site construction support stated throughout the Proposed Plan. The commenter also stated that the requirements in the Proposed Plan are inconsistent with the federal deed and provisions of the AOC and the ESCA. Additionally, the commenter expressed that areas or activities that would require on-site construction support are not adequately identified in the Proposed Plan. The commenter stated that it should be noted that the appropriate level of construction support may change as development activity progresses and that site conditions may provide the basis for

modifying certain requirements. The commenter suggested that the remedy should include a mechanism to allow the construction support requirements to be modified prior to the next five-year review.

**Response:** The Army and EPA have determined that the Proposed Plan is consistent with the AOC process and ESCA requirements. Construction support is a component of the selected remedy that will be implemented by FORA or its successor under the ESCA and AOC. An RD/RA Work Plan or LUCIP/OMP will be prepared for the Interim Action Ranges MRA and will include detailed implementation strategies for on-call and on-site construction support, process for determining the appropriate level of construction support, and construction support monitoring and reporting requirements. The RD/RA Work Plan or LUCIP/OMP will also provide guidance for modification of the requirements for construction support, or other components of the remedy, when determined appropriate.

### C. Other Comments

**C1:** A commenter asked about the purpose of the Proposed Plan public meeting held on March 30, 2016.

**Response:** The purpose of the Proposed Plan meeting was to present information on the remedial action proposed for the Interim Action Ranges MRA and to accept public comments on the Interim Action Ranges MRA Proposed Plan (Army 2016).

**C2:** A commenter expressed concern that chemical contamination of the soil from munitions had not been sufficiently addressed at the Interim Action Ranges MRA.

**Response:** The purpose of the Final Focused Feasibility Study, Proposed Plan, and this ROD, is to address the potential risk to future land users from MEC that potentially remain in the Interim Action Ranges MRA. The potential presence of hazardous and toxic waste chemicals of concern in soil is being addressed under the Army Basewide Range Assessment Program (Shaw 2012) and the *Record of Decision Amendment, Site 39 Inland Ranges, Former Fort Ord, California* (Army 2009). As presented in the *Final Remedial Action Completion Report, Site 39 Inland Ranges Habitat Reserve, Former Fort Ord, California* (ITSI Gilbane 2014), soil remedial actions have been completed by the Army at the Site 39 Inland Ranges and results of the remedial actions meet the remedial action objectives established for the Site 39 Inland Ranges for removal of soil contaminated with lead and/or explosives constituents.

**C3:** A commenter stated that, during the Proposed Plan public meeting, a court reporter was present to record public comments made only during the comment session. The commenter stated that the transcript produced for decision-making purposes should only be considered a partial record of discussions held during the meeting.

**Response:** Under CERCLA and the National Contingency Plan, the Army follows the public participation and community involvement requirements, and encourages members of the local community and other interested parties to make comments on the Proposed Plan. The Army, in conjunction with the regulatory agencies, takes all comments into consideration prior to the selection of a final remedy. Community acceptance of the Proposed Plan is gauged using available public input and reactions to the information presented within the Proposed Plan as summarized in this Responsiveness Summary.

**C4:** A comment was received regarding prescribed burns planned for an area north of Eucalyptus Road and areas south of Eucalyptus Road in the historical impact area. Concern was expressed that the area remains dangerous and that the cleanup effort is being performed piecemeal, despite the chosen CERCLA processes.

**Response:** Please see response to comment A6 above for information on scheduled prescribed burns on parcels adjacent to the Interim Action Ranges MRA.

**C5:** One commenter expressed interest in supporting the cleanup project at the former Fort Ord with technologies offered by a local association.

**Response:** The comment is acknowledged.

## 4. REFERENCES

Department of Toxic Substances Control (DTSC), 2008. Memorandum of Agreement (2008) Among the Fort Ord Reuse Authority, Monterey County and Cities of Seaside, Monterey, Del Rey Oaks, and Marina, California State University Monterey Bay, University of California Santa Cruz, Monterey Peninsula College, and Department of Toxic Substances Control Concerning Monitoring and Reporting on Environmental Restrictions on The Former Fort Ord, Monterey County, California. February 27. (Fort Ord Administrative Record No. OE-0714A)

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## TABLES

Table 1. Summary of Munitions Response Site (MRS) Investigations  
Record of Decision, Interim Action Ranges Munitions Response Area,  
Former Fort Ord, California

MRS Site Number	Site Acreage	Site Name	Past Use	Site Investigation Status **
MRS Ranges 43-48	227*	North-central portion of Historical Impact Area	Mortar training and subsequently platoon live fire course at the time of base closure (Range 43); antitank weapons range at the time of base closure (Range 44); grenade launcher range at the time of base closure (Range 45); small arms range from the late 1950s to the time of base closure (Range 46); and 40mm grenade range in the 1960s (Range 47)	Surface MEC removal completed across the site. Subsurface MEC removal completed in a majority of the site. Areas where subsurface removal was not completed are: the Fenceline SCA; the Trench SCA (removal to 2-ft depth conducted); the Range 44 SCA and the Central Area NCA (subsurface removal conducted in portions of the areas).

Acronyms

MRS = munitions response site  
MEC = munitions and explosives of concern  
NCA = Non-Completed Area  
SCA = Special Case Area  
bgs = below ground surface

Footnotes

\* Acreage stated is the portion of the MRS contained within the Interim Action Ranges MRA.  
\*\* All identified MEC were removed during MEC removal actions.

Table 2. Summary of Transfer Parcels Record of Decision, Interim Action Ranges Munitions Response Area, Former Fort Ord, California

Transfer Parcel No.	Approx. Acreage	Planned Reuse *
E38	17.7	Habitat reserve
E39	161.7	Habitat reserve
E40	25.3	Non-residential development
E41	9.1	Habitat reserve
E42	12.8	Habitat reserve

Footnote

\* Planned use information obtained from the *FORA Fort Ord Reuse Plan* (FORA 1997), *Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord, California* (HMP; USACE 1997b) and modifications to the HMP provided in *Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California* (Zander 2002), and *Memorandum of Understanding Concerning the Proposed East Garrison/Parker Flats Land-Use Modification* (Army 2004).

Table 3. Summary of Remedial Alternatives Evaluation and Comparison  
Record of Decision, Interim Action Ranges Munitions Response Area, Former Fort Ord, California

Remedial Alternative	EPA's 9 CERCLA EVALUATION CRITERIA								
	Threshold Criteria		Balancing Criteria					Modifying Criteria	
	Overall Protectiveness of Human Health and the Environment	Compliance with ARARs	Short-Term Effectiveness	Long-Term Effectiveness & Permanence	Reduction of Toxicity, Mobility, or Volume Through Treatment <sup>1</sup>	Implementability	Cost <sup>2</sup>	State Acceptance	Community Acceptance
Alternative 1 - No Further Action	Not protective; does not mitigate potentially remaining MEC risks to intrusive workers	No potential ARARs identified for this alternative	Not effective in the short-term; no MEC risk mitigation	Not effective in the long-term; no MEC risk mitigation	No reduction in volume because no further MEC removals would be conducted	Not administratively feasible	Minimal	Not acceptable	Not acceptable
Alternative 2 - Land Use Controls	Protective to construction and maintenance workers (intrusive workers); prohibits use for residential reuse	No potential ARARs identified for this alternative	Effective in the short-term; required training and construction support would mitigate risks to construction and maintenance workers (intrusive workers)	Required training and construction support would mitigate risks to construction and maintenance workers (intrusive workers) until evaluation determines LUCs no longer necessary	No reduction in volume because no further MEC removals would be conducted	Technically and administratively feasible to implement	\$542,000	Accepted as the preferred alternative	Acceptable to some community members
Alternative 3 - Additional MEC Remediation	May be protective of human health and the environment	Implementation would require compliance with potential ARARs identified in Appendix E of Final Focused Feasibility Study	May be effective in the short-term; although additional mitigation measures (such as land use controls) may be required	May or may not be effective in the long-term; additional risk mitigation may be needed after additional MEC remediation	May result in MEC reduction if additional MEC is discovered and removed during remediation	Technically and administratively feasible to implement	\$14,700,000	Not selected	Acceptable to some community members
Alternative 4 - Additional Subsurface MEC Remediation in Selected Areas of the MRA and Land Use Controls	Protective to construction and maintenance workers (intrusive workers); may be protective of human health and the environment	Implementation would require compliance with potential ARARs identified in Appendix E of Final Focused Feasibility Study	Effective in the short-term; required training and construction support would mitigate risks to construction and maintenance workers (intrusive workers)	Effective in the long-term; required training and construction support would mitigate risks to construction and maintenance workers (intrusive workers); may reduce MEC risks	May result in MEC reduction if additional MEC is discovered and removed during remediation	Technically and administratively feasible to implement	\$7,650,000	Not selected	Acceptable to some community members

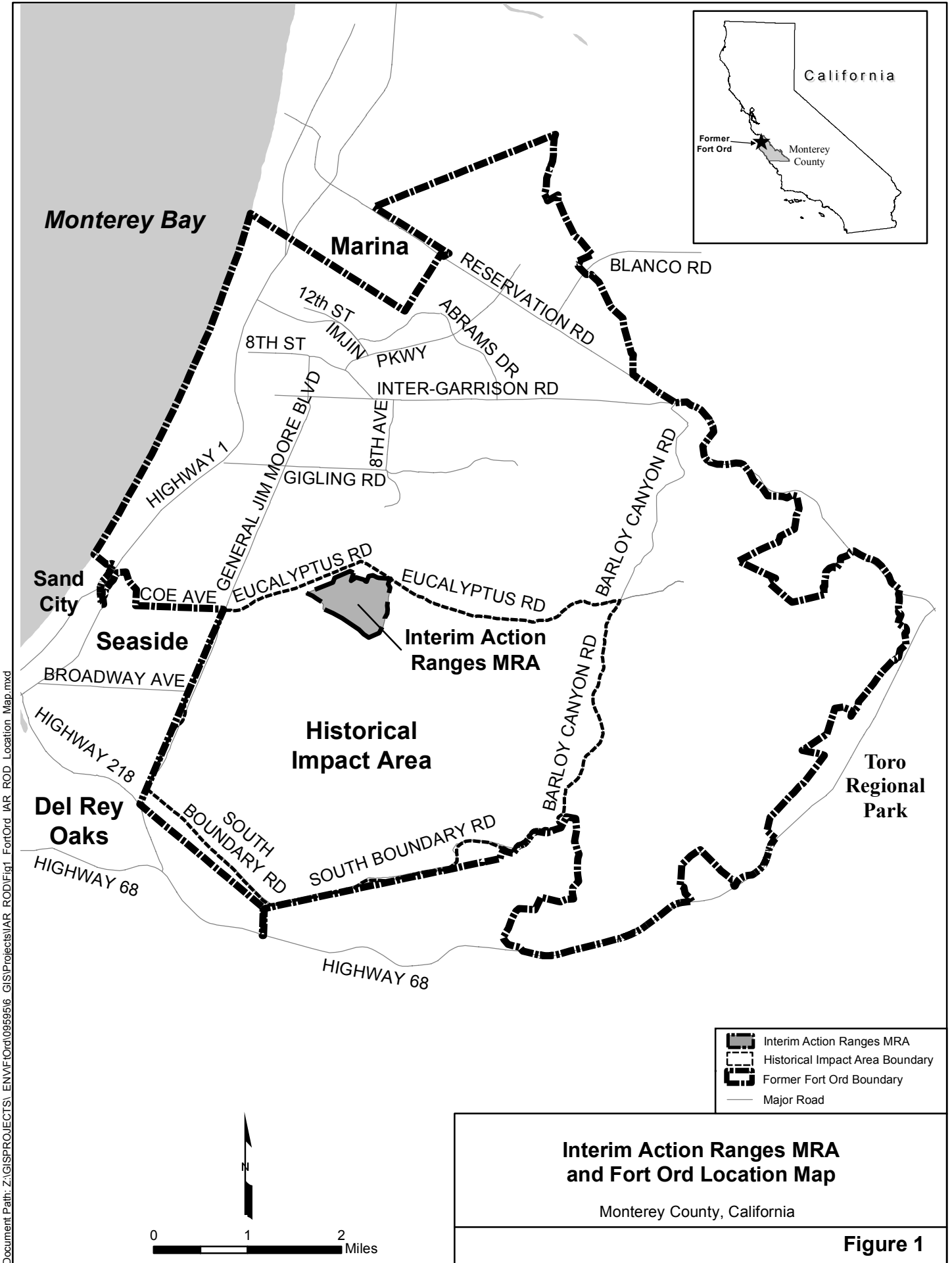
Acronyms

ARARs = applicable or relevant and appropriate requirements  
 CERCLA = Comprehensive Environmental Response, Compensation, and Liability Act  
 EPA = U.S. Environmental Protection Agency  
 LUC = Land Use Controls  
 MEC = munitions and explosives of concern  
 MRA = munitions response area

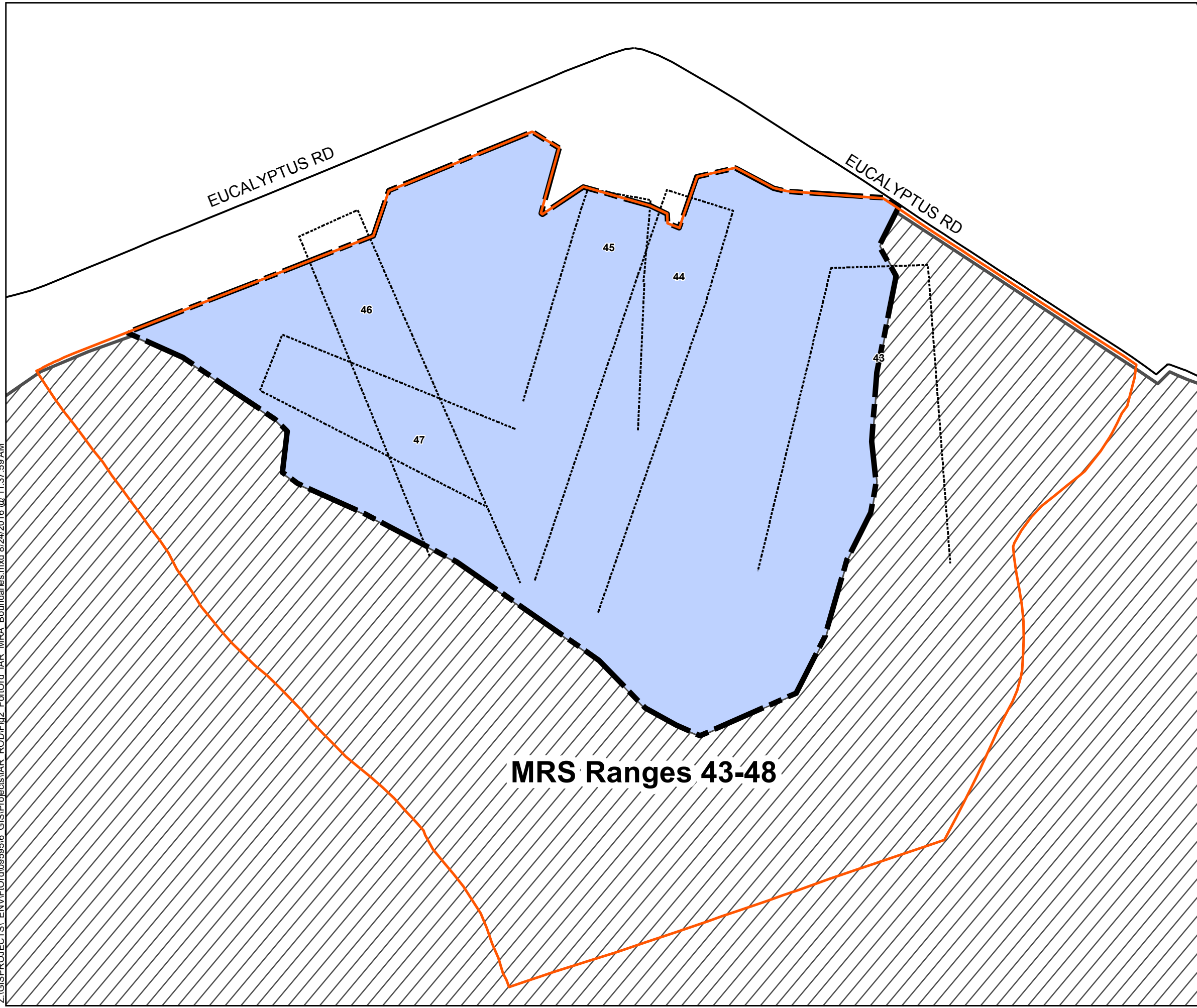
Footnotes

<sup>1</sup> = Completed MEC removal actions already provide for reduction of volume.  
<sup>2</sup> = Costs do not include long-term management costs for each alternative.



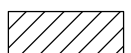



## FIGURES

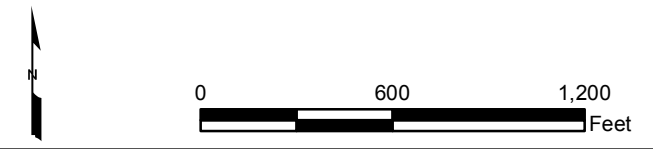
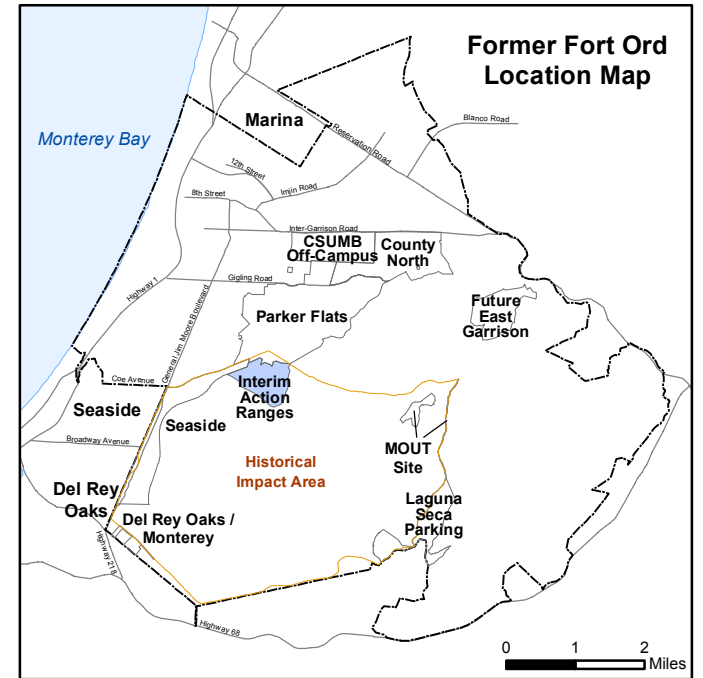


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### Legend

-  Munitions Response Area
-  Interim Action Ranges MRA
-  Impact Area MRA
-  Munitions Response Site
-  Firing Range
-  Major Road

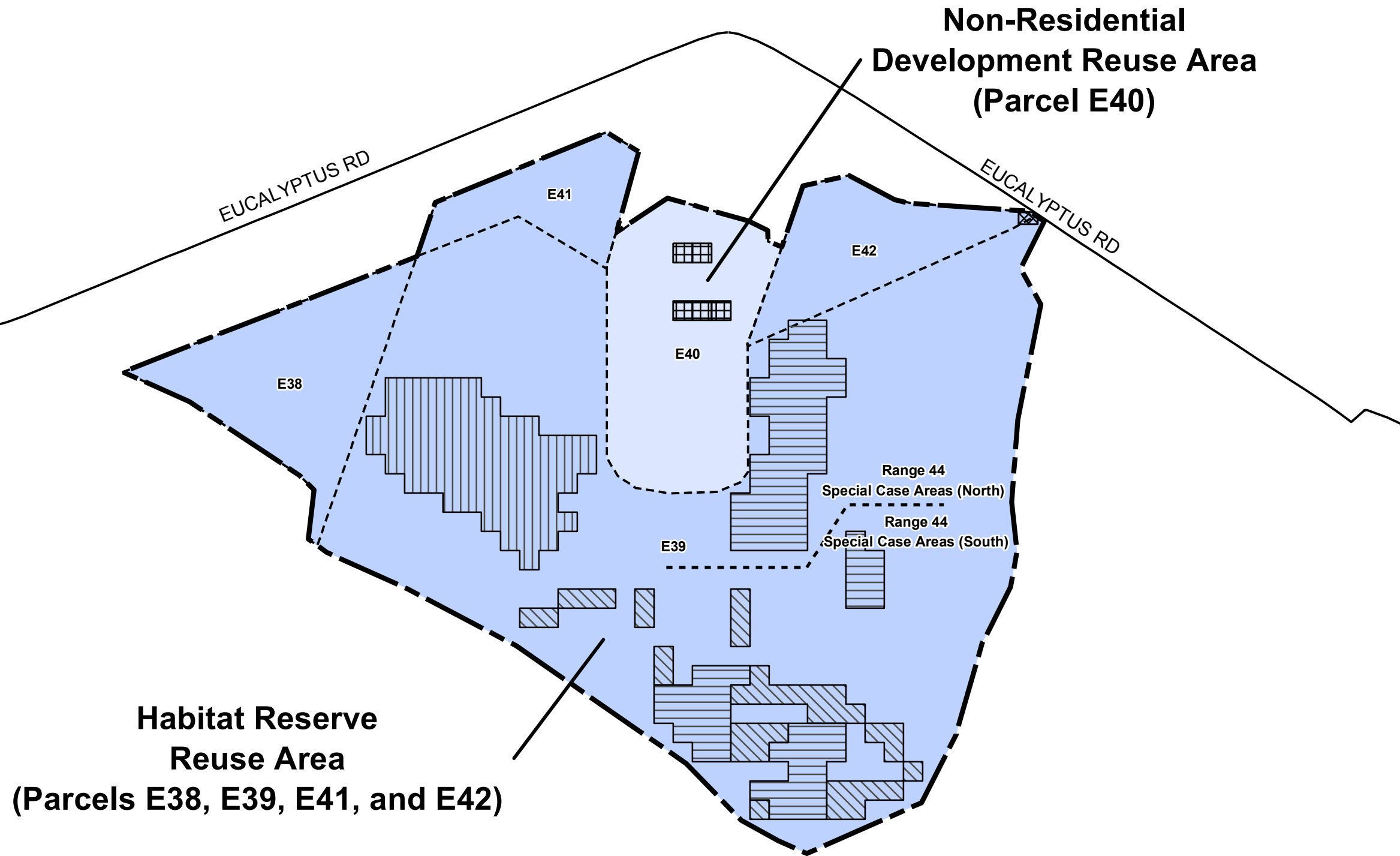


### Interim Action Ranges MRA





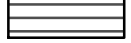





Monterey County, California

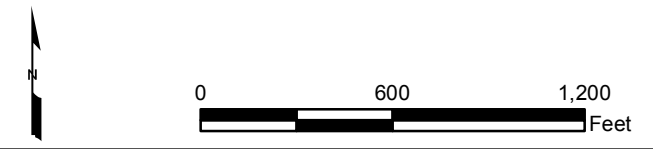
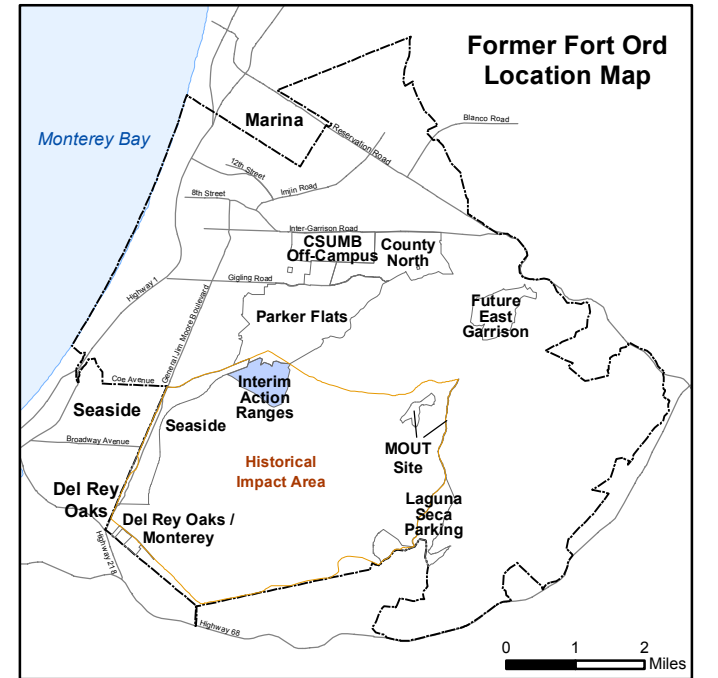
Figure 2

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### Legend

-  Habitat Reserve Reuse Area (area subject to Land Use Controls including MEC recognition and safety training, construction support, residential use restriction, and restrictions prohibiting inconsistent use)
-  Non-Residential Development Reuse Area (area subject to Land Use Controls including MEC recognition and safety training, construction support, and residential use restriction)
-  Interim Action Ranges MRA
-  Range 47 Special Case Areas
-  Range 44 Special Case Areas
-  Central Area Non-Completed Areas
-  USACE Parcel
-  Major Road
-  Fenceline Special Case Area
-  Trench Special Case Area



**Interim Action Ranges MRA  
Range 47 SCA, Range 44 SCA,  
and the Central Area NCAs**

Monterey County, California

**Figure 3**



APPENDIX A

GLOSSARY OF MILITARY MUNITIONS RESPONSE PROGRAM TERMS

## APPENDIX A

## Glossary of Military Munitions Response Program Terms

**Administrative Record** – A compilation of all documents relied upon to select a remedial action pertaining to the investigation and cleanup of the former Fort Ord. *Source:* (1).

**After Action Report (AAR)** – A report presenting the results of munitions and explosives of concern (MEC) investigation, sampling and/or removal actions conducted at a site pertaining to the investigation and cleanup of the former Fort Ord. *Source:* (1).

**Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, otherwise known as Superfund)** – CERCLA authorizes federal action to respond to the release or threatened release of hazardous substances into the environment or a release or threatened release of a pollutant or contaminant into the environment that may present an imminent or substantial danger to public health or welfare. *Source:* (1).

**Construction Support** – Assistance provided by the Department of Defense (DOD), explosive ordnance disposal (EOD) or unexploded ordnance (UXO)-qualified personnel and/or by personnel trained and qualified for operations involving chemical agents (CA), regardless of configuration, during intrusive construction activities on property known or suspected to contain UXO, other munitions that may have experienced abnormal environments (e.g., discarded military munitions [DMM]), munitions constituents in high enough concentrations to pose an explosive hazard, or CA, regardless of configuration, to ensure the safety of personnel or resources from any potential explosive or CA hazards. *Source:* (3).

**Discarded Military Munitions (DMM)** – Military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance (UXO), military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of consistent with applicable environmental laws and regulations. (10 U.S.C. 2710(e)(2)).

For the purposes of the basewide Military Munitions Response Program (MMRP) being conducted at the former Fort Ord, DMM does not include small arms ammunition (.50 caliber and below).

**Engineering Control (EC)** – A variety of engineered remedies to contain and/or reduce contamination, and/or physical barriers intended to limit access to property. Some examples of ECs include fences, signs, guards, landfill caps, soil covers, provision of potable water, slurry walls, sheet pile (vertical caps), pumping and treatment of groundwater, monitoring wells, and vapor extraction systems. *Source:* (5).

**Expended** – The state of munitions debris (MD) in which the main charge has been expended leaving the inert carrier. *Source:* (1).

**Feasibility Study (FS)** – An evaluation of potential remedial technologies and treatment options that can be used to clean up a site. *Source:* (1).

**Historical Impact Area** – The historical impact area consists of approximately 8,000 acres in the southwestern portion of former Fort Ord, bordered by Eucalyptus Road to the north, Barloy Canyon Road to the east, South Boundary Road to the south, and North-South Road (renamed General Jim Moore Boulevard) to the west. *Source:* (1).

**Institutional Control (IC)** – (a) Non-engineered instruments such as administrative and/or legal controls that minimize the potential for human exposure to contamination by limiting land or resource use; (b) are

generally to be used in conjunction with, rather than in lieu of, engineering measures such as waste treatment or containment; (c) can be used during all stages of the cleanup process to accomplish various cleanup-related objectives; and (d) should be “layered” (i.e., use multiple ICs) or implemented in a series to provide overlapping assurances of protection from contamination. *Source:* (6).

**Land Use Controls (LUCs)** – LUC are physical, legal, or administrative mechanisms that restrict the use of, or limit access to, real property, to manage risks to human health and the environment. Physical mechanisms encompass a variety of engineering remedies to contain or reduce contamination and/or physical barriers to limit access to real property, such as fences or signs. *Source:* (3).

**Magnetometer** – An instrument used to detect ferromagnetic (iron-containing) objects. Total field magnetometers measuring the strength of the earth’s natural magnetic field at the magnetic sensor location. Gradient magnetometers, sensitive to smaller near-surface metal objects, use two sensors to measure the difference in magnetic field strength between the two sensor locations. Vertical or horizontal gradients can be measured. *Source:* (4).

**Military Munitions** – Military munitions means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense (DOD), the Coast Guard, the Department of Energy, and the National Guard. The term includes confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of the above.

The term does not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components, other than non-nuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed. (10 U.S.C. 101(e)(4)(A through C)).

**Military Munitions Response Program (MMRP)** – Department of Defense (DOD)-established program to manage the environmental, health and safety issues presented by munitions and explosives of concern (MEC). *Source:* (1).

**Mortar** – Mortars typically range from approximately 1 inch to 11 inches in diameter or larger, and can be filled with explosives, toxic chemicals, white phosphorus or illumination flares. Mortars generally have thinner metal casing than projectiles but use the same types of fuzing and stabilization. *Source:* (2).

**Munitions Constituents (MC)** – Any materials originating from unexploded ordnance (UXO), discarded military munitions (DMM), or other military munitions, including explosive and non-explosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions (10 U.S.C. 2710 (e) (3)).

**Munitions Debris (MD)** – Remnants of munitions (e.g., fragments, penetrators, projectiles, shell casings, links, fins) remaining after munitions use, demilitarization, or disposal. *Source:* (3).

**Munitions and Explosives of Concern (MEC)** – Distinguishes specific categories of military munitions that may pose unique explosives safety risks, such as: (A) unexploded ordnance (UXO), as defined in 10 U.S.C. 101(e)(5)(A through C); (B) discarded military munitions (DMM), as defined in 10 U.S.C. 2710 (e) (2); or (C) munitions constituents (e.g., Trinitrotoluene [TNT], Cyclotrimethylene trinitramine

[RDX]), as defined in 10 U.S.C. 2710(e)(3), present in high enough concentrations to pose an explosive hazard. (32 CFR 179.3).

For the purposes of the basewide Military Munitions Response Program (MMRP) being conducted for the former Fort Ord, MEC does not include small arms ammunition (.50 caliber and below).

**Munitions Response Area (MRA)** – Any area on a defense site that is known or suspected to contain unexploded ordnance (UXO), discarded military munitions (DMM), or munitions constituents (MC). Examples are former ranges and munitions burial areas. A MRA comprises of one or more munitions response sites (MRSs). (32 CFR 179.3).

**Munitions Response Site (MRS)** – A discrete location within a Munitions Response Area (MRA) that is known to require a munitions response. (32 CFR 179.3).

**No Further Action** – Determination following a remedial investigation or action that a site does not pose a significant risk and so requires no further activity under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). *Source:* (1).

**Projectile** – An object projected by an applied force and continuing in motion by its own inertia, as a bullet, bomb, shell, or grenade. Also applied to rockets and to guided missiles. *Source:* (2).

**Proposed Plan** – A plan that identifies the preferred alternative for a site cleanup, and is made available to the public for comment. *Source:* (1).

**Record of Decision (ROD)** – A ROD is the document used to record the remedial action decision made at a National Priorities List property. The ROD will be maintained in the project Administrative Record and project file. *Source:* (1).

**Remedial Investigation (RI)** – The RI is intended to “adequately characterize the site for the purpose of developing and evaluating an effective remedial alternative” (NCP, 40 CFR 300.430[d]). In addition, the RI provides information to assess the risks to human health, safety, and the environment that were identified during risk screening in the site investigation. *Source:* (1).

**Superfund** – See Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) above.

**Unexploded Ordnance (UXO)** – Military munitions that: (A) have been primed, fuzed, armed, or otherwise prepared for action; (B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or materials; and (C) remain unexploded, whether by malfunction, design, or any other cause. (10 U.S.C. 101(e)(5)(A through C)).

For the purposes of the basewide Military Munitions Response Program (MMRP) being conducted for the former Fort Ord, UXO does not include small arms ammunition (.50 caliber and below).

**UXO-Qualified Personnel** – Personnel who have performed successfully in military explosives ordnance disposal (EOD) positions, or are qualified to perform in the following Department of Labor, Service Contract Act, Directory of Occupations, contractor positions: Unexploded Ordnance (UXO) Technician II, UXO Technician III, UXO Safety Officer, UXO Quality Control Specialist or Senior UXO Supervisor. *Source:* (3)

**Sources:**

(1) Non-standard definition developed to describe Fort Ord-specific items, conditions, procedures,

- principles, etc. as they apply to issues related to the munitions and explosives of concern (MEC) cleanup.
- (2) U.S. Department of Defense Environment, Safety and Occupational Health Network and Information Exchange. 1996. Unexploded Ordnance (UXO): An Overview. October.
  - (3) U.S. Department of Defense Manual Number 6055.09-M, Volume 8, SUBJECT: DoD Ammunition and Explosives Safety Standards: Glossary, Incorporating Change 1. March 12, 2012.
  - (4) Survey of Munitions Response Technologies, June 2006. ITRC with ESTCP (Environmental Security and Technology Certification Program) and SERDP (Strategic Environmental Research and Development Program).
  - (5) Compendium of Department of Defense Acronyms, Terms, and Definitions. The Interstate Technology and Regulatory Council (ITRC) Work Group (Unexploded Ordnance Work Team), December 2000.
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**APPENDIX B**

**Federal Deed**

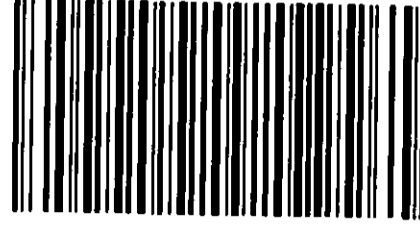
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COUNTY OF MONTEREY, CALIFORNIA  
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Documentary Transfer Tax \$0-government agency, exempt from DTT

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COUNTY OF MONTEREY, CALIFORNIA  
(Parcels E19a.5, E21b.3, E38, E39, E40, E41, E42, F1.7.2, and L23.2)**

**THIS QUITCLAIM DEED**, made and entered into between the **UNITED STATES OF AMERICA**, acting by and through the **SECRETARY OF THE ARMY** (the "**Grantor**"), under and pursuant to the power and authority contained in the Defense Base Closure and Realignment Act of 1990, as amended (Public Law No. 101-510, 10 U.S.C. § 2687) ("**DBCRA**"), and the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. § 101 *et seq.*); and the **FORT ORD REUSE AUTHORITY** ("**FORA**") (the "**Grantee**"), 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 Army Base, California, by the Office of Economic Adjustment on behalf of the Secretary of Defense.

**WITNESSETH THAT:**

**WHEREAS**, the Secretary of the Army may convey surplus property to a local redevelopment authority at a closing military installation for economic development purposes pursuant to the power and authority provided by DBCRA and the implementing regulations of the Department of Defense (32 CFR 174 and 176);



**WHEREAS**, Grantee, by application, requested an economic development conveyance of portions of the former Fort Ord, California, consistent with the redevelopment plan prepared by the Grantee;

**WHEREAS**, Section 334 of Public Law 104-201 allows, with the concurrence of the Governor of the State of California and the approval of the Administrator of the EPA, for the deferral of the requirement of 42 U.S.C. § 9620 (h)(3)(A)(ii)(I) prior to completion of all the necessary environmental remediation actions required under the CERCLA, which approval and concurrence have been received.

**WHEREAS**, the Grantor and the State of California Department of Toxic Substance Control have entered into a Munitions and Explosives of Concern ("MEC") Covenant to Restrict Use of Property, dated 4/21/09 2009 and recorded on May 8, 2009, *Series Number 2009028273* <sup>or</sup>

**NOW THEREFORE**, the GRANTOR, for good and valuable consideration, the receipt of all of which is hereby acknowledged, does hereby REMISE, RELEASE, AND FOREVER QUITCLAIM unto the GRANTEE, its successors and assigns, all its right, title, and interest in the property situated, lying and being in the County of Monterey, in the State of California, Parcels E19a.5, E21b.3, E38, E39, E40, E41, E42, F1.7.2, and L23.2 containing approximately 546.529 acres as shown on Exhibit A, attached hereto and made a part hereof (hereinafter referred to as the "Property").

**AND IT IS FURTHER AGREED AND UNDERSTOOD** by and between the parties hereto that the GRANTEE, by its acceptance of this Deed, agrees that, as part of the consideration for this Deed, the GRANTEE covenants and agrees for itself, its successors and assigns, forever, that this Deed is made and accepted upon each of the following covenants, which covenants shall be binding upon and enforceable against the GRANTEE, its successors and assigns, in perpetuity by the United States and other interested parties as allowed by federal, state or local law; that the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS set forth herein are a binding servitude on the Property herein conveyed and shall be deemed to run with the land in perpetuity; and that the failure to include the NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS in subsequent conveyances does not abrogate the status of these restrictions as binding upon the parties, their successors and assigns:

**I. PROPERTY DESCRIPTION:**

The Property includes:

1. All buildings, facilities, roadways, and other improvements, including the storm drainage systems and the telephone system infrastructure, and any other improvements thereon;

2. All appurtenant easements and other rights appurtenant thereto, permits, licenses, and privileges not otherwise excluded herein; and

3. All hereditaments and tenements therein and reversions, remainders, issues, profits, privileges and other rights belonging or related thereto.

## II. EXCLUSIONS AND RESERVATIONS

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

1. The Property is taken by the Grantee subject to any and all valid and existing recorded outstanding liens, leases, easements, and any other encumbrances made for the purpose of roads, streets, utility systems, rights-of-way, pipelines, and/or covenants, exceptions, interests, liens, reservations, and agreements of record; and any unrecorded easements and any other encumbrances made for the limited purpose of roads, streets, utility systems, and pipelines set forth in Exhibit G.

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

A. The Grantee is to comply with all applicable Federal law and lawful existing regulations;

B. The Grantor is to allow the occupancy and use by the Grantee, its successors, assigns, permittees, or lessees of any part of the easement areas not actually occupied or required for the purpose of the full and safe utilization thereof by the Grantor, so long as such occupancy and use does not compromise the ability of the Grantor to use the easements for their intended purposes, as set forth herein;

C. The easements previously granted or granted herein shall be for the specific use described and may not be construed to include the further right to authorize any other use within the easements unless approved in writing by the fee holder of the land subject to the easement;

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

E. Unless otherwise provided, no interest reserved shall give the Grantor any right to remove any material, earth, or stone for consideration or other purpose except as necessary in exercising its rights hereunder; and

F. The Grantor is to restore the area of any easement or right of access so far as it is reasonably possible to do so upon abandonment or release of any easement as provided herein, unless this requirement is waived in writing by the then owner of the Property.

3. Grantor reserves mineral rights that Grantor owns with the right of surface entry in a manner that does not unreasonably interfere with Grantee's development and quiet enjoyment of the Property.

**TO HAVE AND TO HOLD** the Property granted herein to the GRANTEE and its successors and assigns, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the GRANTOR, either in law or in equity and subject to the terms, reservations, restrictions, covenants, and conditions set forth in this Deed.

### III. CERCLA NOTICE, ASSURANCES, **WARRANTY**, AND ACCESS PROVISIONS

#### 1. CERCLA NOTICE

For the Property, the Grantor provides the following notice and description:

A. Pursuant to section 120(h)(3)(A)(i)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(I) and (II)), available information regarding the type, quantity, and location of hazardous substances and the time at which such substances were stored, released, or disposed of, as defined in section 120(h), is provided in Exhibit B, attached hereto and made a part hereof. Additional information regarding the storage, release, and disposal of hazardous substances on the Property has been provided to the Grantee in the Finding of Suitability for Early Transfer (FOSET) and the documents referenced therein, receipt of which the Grantee hereby acknowledges.

B. Pursuant to section 120(h)(3)(A)(i)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(i)(III)), a description of the remedial action taken, if any, on the Property is provided in Exhibit C, attached hereto and made a part hereof. Additional information regarding the remedial action taken, if any, has been provided to the Grantee in the Finding of Suitability for Early Transfer (FOSET) and the documents referenced therein, receipt of which the Grantee hereby acknowledges.

#### 2. CERCLA RESPONSE ACTION ASSURANCES

For the Property, the Grantor provides the following description and assurances:

A. Pursuant to section 120(h)(3)(C)(ii)(I) and (II) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.

§9620(h)(3)(C)(ii)(I) and (II)), the Environmental Protection Provisions located at Exhibit D, attached hereto and made a part hereof, provide the conditions, restrictions, and notifications necessary to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at the former Fort Ord.

B. Pursuant to section 120(h)(3)(C)(ii)(III) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(C)(ii)(III)), all corrective, remedial, or response actions necessary to protect human health and the environment will be taken with respect to any hazardous substance remaining on the Property as a result of storage, release, or disposal prior to the date of transfer, in accordance with the compliance schedule. The schedule will be developed in cooperation with the U.S. Environmental Protection Agency and the State of California. The schedules may be changed as provided by the Fort Ord Federal Facility Agreement (FFA), as amended, and the Administrative Order on Consent (AOC).

C. Any corrective, remedial, or response action found to be necessary after the date of transfer shall be conducted by the Grantor, except those actions conducted by the Grantee on behalf of the Grantor. This **warranty** shall not apply in any case in which the person or entity to whom the Property is transferred is a potentially responsible party with respect to such property. For purposes of this **warranty**, Grantee shall not be considered a potentially responsible party solely due to the presence of a hazardous substance remaining on the Property on the date of this instrument. Further, the Grantor shall not be relieved of any obligation under CERCLA to perform any remedial action found to be necessary after the date of this Deed with regard to any hazardous substances remaining on the Property as of the date of this Deed if the Grantee is subsequently determined to be a potentially responsible party with respect to hazardous substances placed on the Property after the date of this Deed.

D. Pursuant to section 120(h)(3)(C)(ii)(IV) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620(h)(3)(C)(ii)(IV)), the Grantor has submitted and will continue to submit through its established budget channels to the Director of the Office of Management and Budget a request for funds that adequately addresses schedules for investigation and completion of all response actions required. Expenditure of any federal funds for such investigations or response actions is subject to Congressional authorization and appropriation of funds for that purpose. The Grantor will submit its funding request for the projects needed to meet the schedule of necessary response actions.

### 3. RIGHT OF ACCESS

A. Pursuant to section 120(h)(3)(A)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9620(h)(3)(A)(iii)), the United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which a remedial or corrective action is found to be necessary on the part of the United States, without regard to whether such

remedial action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee, its successors and assigns, and shall run with the land.

B. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this covenant, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means, but without significant additional costs to the United States, to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. 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.

C. 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 or employee 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 clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act . In addition, the Grantee, its successors and assigns, shall not interfere with any response action or corrective action conducted by the Grantor on the Property.

#### IV. "AS IS"

A. The Grantee acknowledges that it has inspected or has had the opportunity to inspect the Property and accepts the condition and state of repair of the subject Property. Except as otherwise provided herein, the Grantee understands and agrees that the Property and any part thereof is offered "AS IS" without any representation, **warranty**, or guaranty by the Grantor as to quantity, quality, title, character, condition, size, or kind, or that the same is in condition or fit to be used for the purpose(s) intended by the Grantee, and no claim for allowance or deduction upon such grounds will be considered.

B. No warranties either express or implied are given with regard to the condition of the Property, including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property, including, without limitation, any asbestos or lead-based paint. The failure of the Grantee to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property offered will not constitute grounds for any claim or demand against the United States.

C. Nothing in this "As Is" provision will be construed to modify or negate the Grantor's obligation under law.

## V. **HOLD HARMLESS**

A. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the **NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS** in this Deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, and judgments arising out of, or in any manner predicated upon, exposure to asbestos or lead-based paint on any portion of the Property after the date of conveyance.

B. The Grantee, its successors and assigns, covenant and agree that the Grantor shall not be responsible for any costs associated with modification or termination of the **NOTICES, USE RESTRICTIONS, AND RESTRICTIVE COVENANTS** in this Deed, including without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

C. Nothing in this Hold Harmless provision will be construed to modify or negate the Grantor's obligation under law.

## VI. **POST-TRANSFER DISCOVERY OF CONTAMINATION**

Grantee, its successors and assigns, as consideration for the conveyance of the Property, agree to release Grantor from any liability or responsibility for any claims arising solely out of the release of any hazardous substance or petroleum product on the Property occurring after the date of the delivery and acceptance of this Deed, where such substance or product was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents or contractors, after the conveyance. This paragraph shall not affect the Grantor's responsibilities to conduct response actions or corrective actions that are required by applicable laws, rules and regulations, or the Grantor's indemnification obligations under applicable laws.

## **VII. ENVIRONMENTAL PROTECTION PROVISIONS**

The Environmental Protection Provisions are at Exhibit D, which is attached hereto and made a part hereof. These provisions are intended to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities at the former Fort Ord. The Grantee shall not transfer or lease the Property or any portion thereof, or grant any interest, privilege, or license whatsoever in connection with the Property, or any portion thereof, without the inclusion of the Environmental Protection Provisions contained herein to the extent applicable to the Property or a portion thereof, and shall require the inclusion of applicable Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license concerning the Property or the applicable portion thereof.

## **VIII. AIR NAVIGATION RESERVATION AND RESTRICTIONS**

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

## **IX. ENFORCEMENT AND NOTICE REQUIREMENT**

A. The provisions of this Deed benefit the governments of the United States of America, the State of California, acting on behalf of the public in general, the local governments, and the lands retained by the Grantor and, therefore, are enforceable, by resort to specific performance or legal process by the United States, the State of California, the local governments, and by the Grantor, and its successors and assigns. Enforcement of this Deed shall be at the discretion of the parties entitled to enforcement hereof, and any forbearance, delay or omission to exercise their rights under this Deed in the event of a breach of any term of this Deed, shall not be deemed to be a waiver by any such party of such term or of any subsequent breach of the same or any other terms, or of any of the rights of said parties under this Deed. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. The enforcement rights set forth in this Deed against the Grantee, or its successors and assigns, shall only apply with respect to the Property conveyed herein and held by such Grantee, its successors or assigns, and only with respect to matters occurring during the period of time such Grantee, its successors or assigns, owned or occupied such Property or any portion thereof.

## **X. NOTICE OF NON-DISCRIMINATION**

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

## **XI. ANTI-DEFICIENCY ACT STATEMENT**

The Grantor's obligation to pay or reimburse any money under this Deed is subject to the availability of appropriated funds to the Department of the Army, and nothing in this Deed shall be interpreted to require obligations or payments by the Grantor in violation of the Anti-Deficiency Act (Public Law 97-258, 31 U.S.C. § 1341).

## **XII. GENERAL PROVISIONS**

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

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

C. RIGHT TO PERFORM. Any right which is exercisable by the Grantee, and its successors and assigns, to perform under this Deed may also be performed, in the event of default by the Grantee, or its successors and assigns, by a lender of the Grantee and its successors and assigns.

## **XIII. OTHER CONDITIONS**

Should the Property be considered for the proposed acquisition and construction of school properties utilizing State funding, at any time in the future, a separate environmental review



process in compliance with the California Education Code Section 17210 *et seq.*, will need to be conducted and approved by DTSC.

#### **XIV. THE CONDITIONS, RESTRICTIONS, AND COVENANTS**

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

#### **XV. LIST OF EXHIBITS**

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

- Exhibit A: Legal Description of Property
- Exhibit B: FOSET Hazardous Substance, Storage, Release and Disposal Table
- Exhibit C: FOSET Description of Property Table
- Exhibit D: Environmental Protection Provisions
- Exhibit E: Notification of Munitions and Explosives of Concern (MEC)
- Exhibit F: Site maps depicting the locations of munitions response sites
- Exhibit G: Unrecorded Easements and Encumbrances

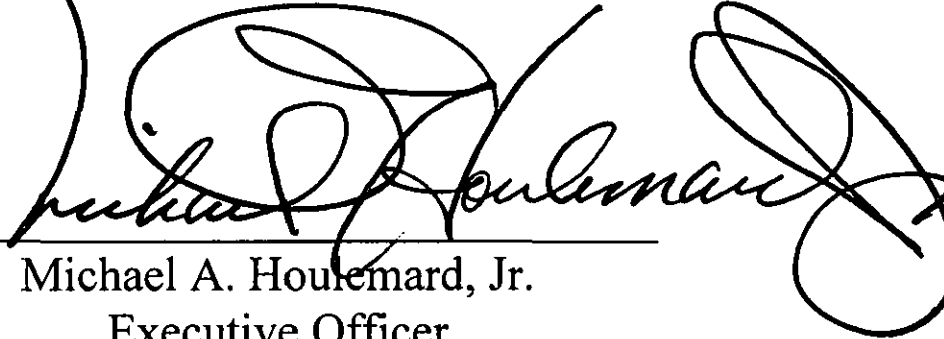
**[Signature Pages Follow]**



ACCEPTANCE:

In Testimony Whereof, witness the signature of the Fort Ord Reuse Authority ("Authority"), an organization organized and existing under the laws of the State of California under the Fort Ord Reuse Authority Act 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., this SEVENTEENTH day of MARCH 2009 hereby accepts and approves this Quitclaim Deed for itself, its successors and assigns, and agrees to all the conditions, reservations, restrictions, and terms contained therein.

FORT ORD REUSE AUTHORITY  
LOCAL REDEVELOPMENT AUTHORITY

By:   
Michael A. Houlemard, Jr.  
Executive Officer

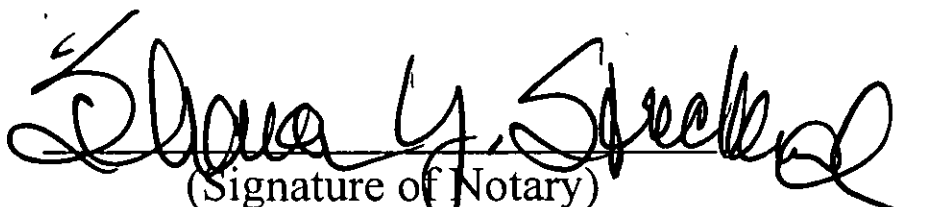
STATE OF CALIFORNIA

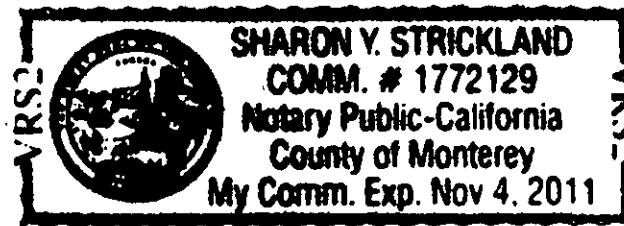
COUNTY OF MONTEREY

On 3-17-09 before me, Sharon Y. Strickland, (name of notary public) personally appeared Michael A. Houlemard Jr. 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.

  
(Signature of Notary)



EDC Parcel E19a.5  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

#### Legal Description

SITUATE in a portion of "Monterey County III (Parker Flats)," as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, 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 a point on the common boundary of said "Monterey County III" and Parcel 15, as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110, which bears North 71° 12' 11" East, 18.27 feet from a brass disk marked "BLM AP61D" at an angle point in said "Monterey County III", thence from said Point of Beginning, along the southerly boundary of said "Monterey County III"

1. North 71° 12' 11" East for a distance of 111.11 feet to a brass disk marked "BLM AP60D" at an angle point in said "Monterey County III"; thence continuing along the southerly boundary of said "Monterey County III"
2. North 59° 39' 37" East for a distance of 1,040.44 feet; thence leaving the southerly boundary of said "Monterey County III"
3. North 52° 52' 17" East for a distance of 1,103.36 feet to a 5/8" rebar with cap stamped LS 5321; thence
4. North 12° 53' 13" West for a distance of 90.03 feet to a 5/8" rebar with cap stamped LS 5321; thence
5. North 23° 03' 02" West for a distance of 1,755.77 feet to a 5/8" rebar with cap stamped LS 5321; thence
6. North 20° 08' 36" West for a distance of 268.73 feet to a 5/8" rebar with cap stamped LS 5321; thence
7. North 06° 42' 03" East for a distance of 153.53 feet to a 5/8" rebar with cap stamped LS 5321; thence
8. North 17° 38' 14" East for a distance of 226.03 to a 5/8" rebar with cap stamped LS 5321 feet; thence
9. North 48° 03' 46" West for a distance of 283.49 feet; thence

EDC Parcel E19a.5  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

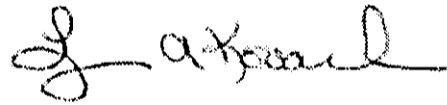
10. North 55° 11' 28" West for a distance of 278.91 feet to a 5/8" rebar with cap stamped LS 5321; thence
11. North 62° 41' 36" West for a distance of 227.15 feet to a 5/8" rebar with cap stamped LS 5321; thence
12. North 65° 01' 11" West for a distance of 250.60 feet; thence
13. North 71° 11' 51" West for a distance of 335.15 feet to a 5/8" rebar with cap stamped LS 5321; thence
14. North 79° 30' 16" West for a distance of 483.47 feet to a 5/8" rebar with cap stamped LS 5321; thence
15. North 84° 57' 11" West for a distance of 320.10 feet; thence
16. South 89° 14' 18" West for a distance of 321.74 feet to a 5/8" rebar with cap stamped LS 5321; thence
17. South 85° 32' 01" West for a distance of 169.80 feet; thence
18. South 04° 34' 26" East for a distance of 338.58 feet; thence
19. South 14° 47' 14" East for a distance of 1,369.35 feet; thence
20. South 20° 28' 20" West for a distance of 520.37 feet; thence
21. South 30° 46' 05" West for a distance of 753.57 feet; thence
22. South 25° 53' 24" West for a distance of 427.12 feet; thence
23. South 01° 39' 30" West for a distance of 156.63 feet to a nail and washer stamped LS 5321 on the northerly line of Eucalyptus Road, being Parcel 14, as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence along the northerly line of said Parcel 14
24. Along a non-tangent curve to the right, the center of which bears South 00° 33' 41" East, 280.00 feet, through a central angle of 17° 14' 41", having a radius of 280.00 feet, for a length of 84.27 feet, and whose long chord bears South 81° 56' 20" East for a distance of 83.96 feet to the beginning of a tangent compound curve; thence

EDC Parcel E19a.5  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

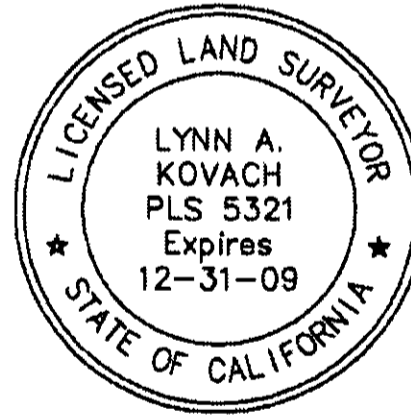
25. Along a curve to the right, through a central angle of  $12^{\circ} 08' 00''$ , having a radius of 830.00 feet, for a length of 175.77 feet, and whose long chord bears South  $67^{\circ} 15' 00''$  East for a distance of 175.44 feet to the beginning of a compound tangent curve; thence
26. Along a curve to the right, through a central angle of  $04^{\circ} 00' 00''$ , having a radius of 10,030.00 feet, for a length of 700.23 feet, and whose long chord bears South  $59^{\circ} 11' 00''$  East for a distance of 700.08 feet to a point of intersection with a tangent line; thence
27. South  $57^{\circ} 11' 00''$  East for a distance of 948.60 feet to the beginning of a tangent curve; thence
28. Along a curve to the right, through a central angle of  $00^{\circ} 18' 36''$ , having a radius of 5,030.00 feet, for a length of 27.21 feet, and whose long chord bears South  $57^{\circ} 01' 42''$  East for a distance of 27.22 feet to the common northerly corner of Parcels 14 and 15, as they are shown on that certain map recorded in Volume 20 of Surveys at Page 110, being also the beginning of a compound tangent curve; thence along the northerly boundary of said Parcel 15
29. Along a curve to the right, through a central angle of  $00^{\circ} 14' 47''$ , having a radius of 5,030.00 feet, for a length of 21.63 feet, and whose long chord bears South  $56^{\circ} 45' 01''$  East for a distance of 21.62 feet to the POINT OF BEGINNING.

Containing an area of 226.464 acres, more or less.

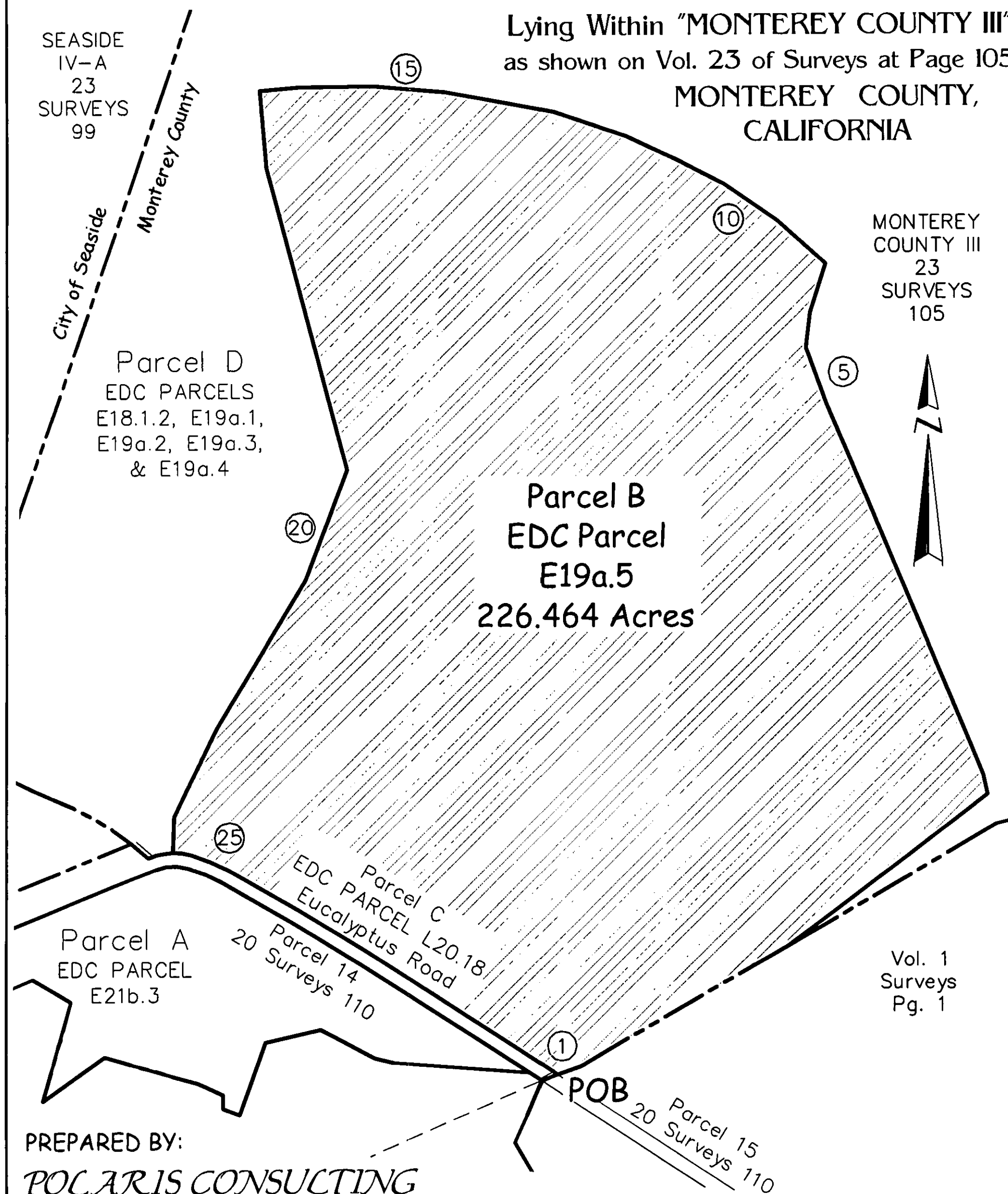
This legal description was prepared by



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



**EXHIBIT OF EDC Parcel E19a.5,  
Lying Within "MONTEREY COUNTY III"  
as shown on Vol. 23 of Surveys at Page 105  
MONTEREY COUNTY,  
CALIFORNIA**



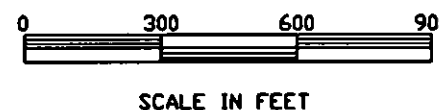
PREPARED BY:

**POCARIS CONSULTING**

P. O. BOX 1378  
CARMEL VALLEY, CA 93924

SCALE: 1" = 600' VIEW: E19.a5 DATE: 10-26-2007

FILE NAME: FORA FOSET 5 MPC2.DWG 26114



EDC Parcel E21.b3  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

#### Legal Description

SITUATE in a portion of "Monterey County III (Parker Flats)," as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, 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 a point on the common boundary of said "Monterey County III" and Parcel 1, "Seaside IV-A", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 99, which bears North 18° 59' 35" East (shown on said map as North 18° 59' 46" East), 298.42 feet from the common southerly corner of said "Monterey County III" and Parcel 1, "Seaside IV-A", thence from said Point of Beginning, along said common boundary

1. North 18° 59' 35" East for a distance of 325.58 feet to a point on the southerly boundary line of Eucalyptus Road, being Parcel 14, as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence along said southerly boundary line
2. North 67° 40' 00" East for a distance of 1,051.60 feet (shown on said map as 1028.50 feet) to the beginning of a tangent curve; thence
3. Along a curve to the right, through a central angle of 00° 58' 00", having a radius of 9,970.00 feet, for an arc length of 168.21 feet, and whose long chord bears North 68° 09' 00" East for a distance of 168.21 feet to a point of intersection with a tangent line; thence
4. North 68° 38' 00" East for a distance of 211.78 feet to the beginning of a tangent curve; thence
5. Along a curve to the right, through a central angle of 38° 03' 00", having a radius of 220.00 feet, for an arc length of 146.10 feet, and whose long chord bears North 87° 39' 30" East for a distance of 143.43 feet to the beginning of a tangent curve; thence
6. Along a compound curve to the right through a central angle of 12° 08' 00", having a radius of 770.00 feet, for an arc length of 163.06 feet, and whose long chord bears South 67° 15' 00" East for a distance of 162.76 feet to the beginning of a tangent curve; thence
7. Along a compound curve to the right, through a central angle of 04° 00' 00", having a radius of 9,970.00 feet, for an arc length of 696.04 feet, and whose long chord bears South 59° 11' 00" East for a distance of 695.90 feet to a point of intersection with a tangent line; thence

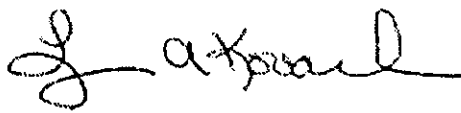


EDC Parcel E21.b3  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

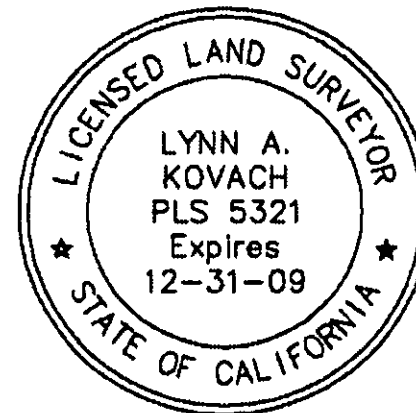
8. South 57° 11' 00" East for a distance of 889.89 feet to the northerly boundary of EDC Parcels E39, E40, E41, & E42; thence leaving said southerly boundary line and following along said northerly boundary line
9. North 85° 51' 38" West for a distance of 595.99 feet; thence
10. North 76° 37' 26" West for a distance of 86.38 feet; thence
11. North 61° 54' 12" West for a distance of 267.56 feet; thence
12. South 77° 05' 31" West for a distance of 246.21 feet; thence
13. South 19° 14' 23" West for a distance of 336.79 feet; thence
14. North 68° 47' 10" West for a distance of 77.24 feet; thence
15. North 01° 56' 56" West for a distance of 59.05 feet; thence
16. North 65° 07' 58" West for a distance of 118.98 feet; thence
17. North 74° 05' 58" West for a distance of 430.52 feet; thence
18. South 54° 47' 09" West for a distance of 332.90 feet; thence
19. North 15° 42' 12" East for a distance of 450.85 feet; thence
20. North 59° 15' 04" West for a distance of 195.50 feet; thence
21. South 67° 46' 14" West for a distance of 963.07 feet to the POINT OF BEGINNING.

Containing an area of 31.627 acres, more or less.

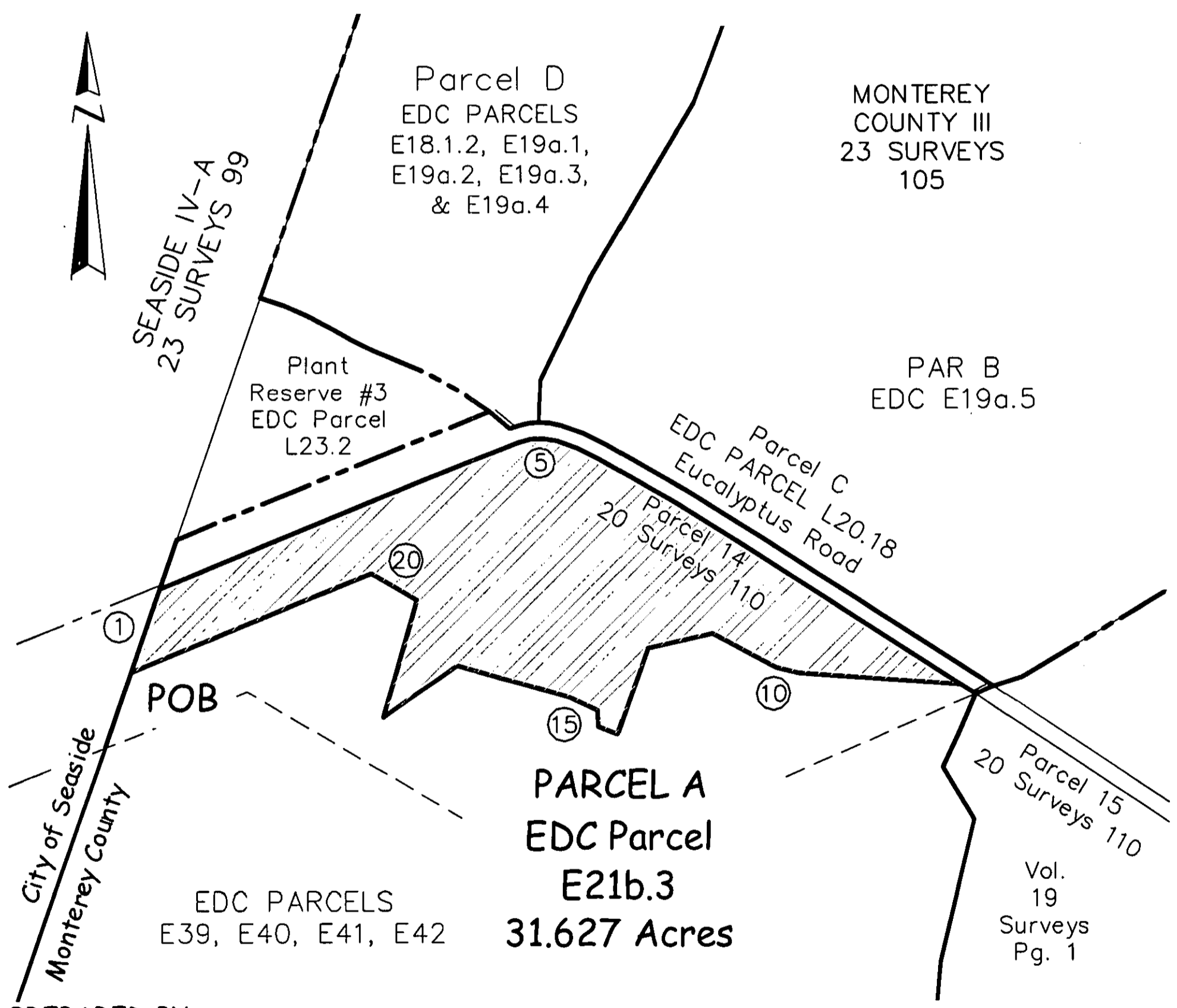
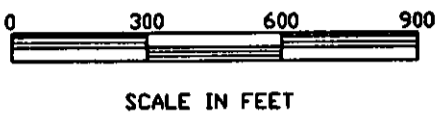
This legal description was prepared by



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



**EXHIBIT OF EDC Parcel E21b.3,  
Lying Within "MONTEREY COUNTY III"  
as shown on Vol. 23 of Surveys at Page 105  
MONTEREY COUNTY,  
CALIFORNIA**



PREPARED BY:  
**POLARIS CONSULTING**  
P. O. BOX 1378  
CARMEL VALLEY, CA 93924

SCALE: 1" = 600' VIEW: E21b.3 DATE: 10-26-2007  
FILE NAME: FORA FOSET 5 MPC2.DWG 26114

Parcel C  
EDC Parcel E38  
FOSET 5  
City of Seaside  
Fort Ord Military Reservation  
Monterey County, California

J.A.  
Cm  
L



Legal Description

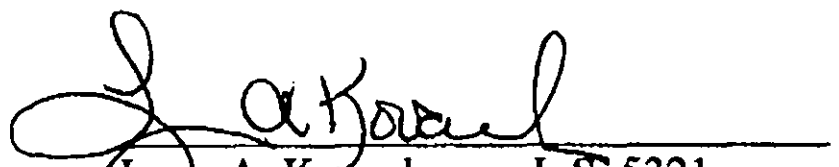
SITUATE within a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, County of Monterey, State of California; being more particularly described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

BEGINNING at the most southerly corner common to Parcel 1, "Seaside IV-A" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 99 and "Monterey County III", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, thence from said Point of Beginning along an extension southerly of the common boundary of said "Seaside IV-A" and "Monterey County III"

1. South 18° 59' 46" West a distance of 1549.04 feet; thence leaving said extended boundary
2. North 52° 57' 06" West for a distance of 20.33 feet; thence
3. North 05° 40' 08" East for a distance of 253.17 feet; thence
4. North 44° 56' 58" West for a distance of 103.26 feet; thence
5. North 56° 33' 32" West for a distance of 459.02 feet; thence
6. North 52° 21' 41" West for a distance of 226.05 feet; thence
7. North 66° 14' 49" West for a distance of 383.36 feet to a point on the southeasterly boundary of said "Seaside IV-A"; thence along said boundary
8. North 68° 33' 01" East for a distance of 1591.54 feet to the POINT OF BEGINNING.

Containing an area of 17.734 acres, more or less.

This legal description was prepared by

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

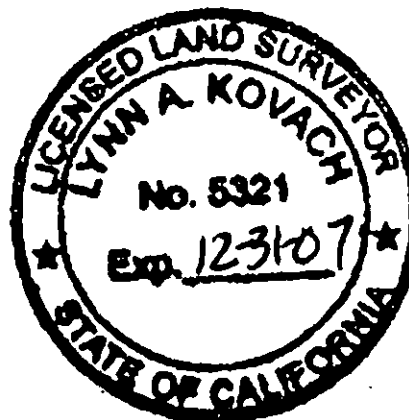
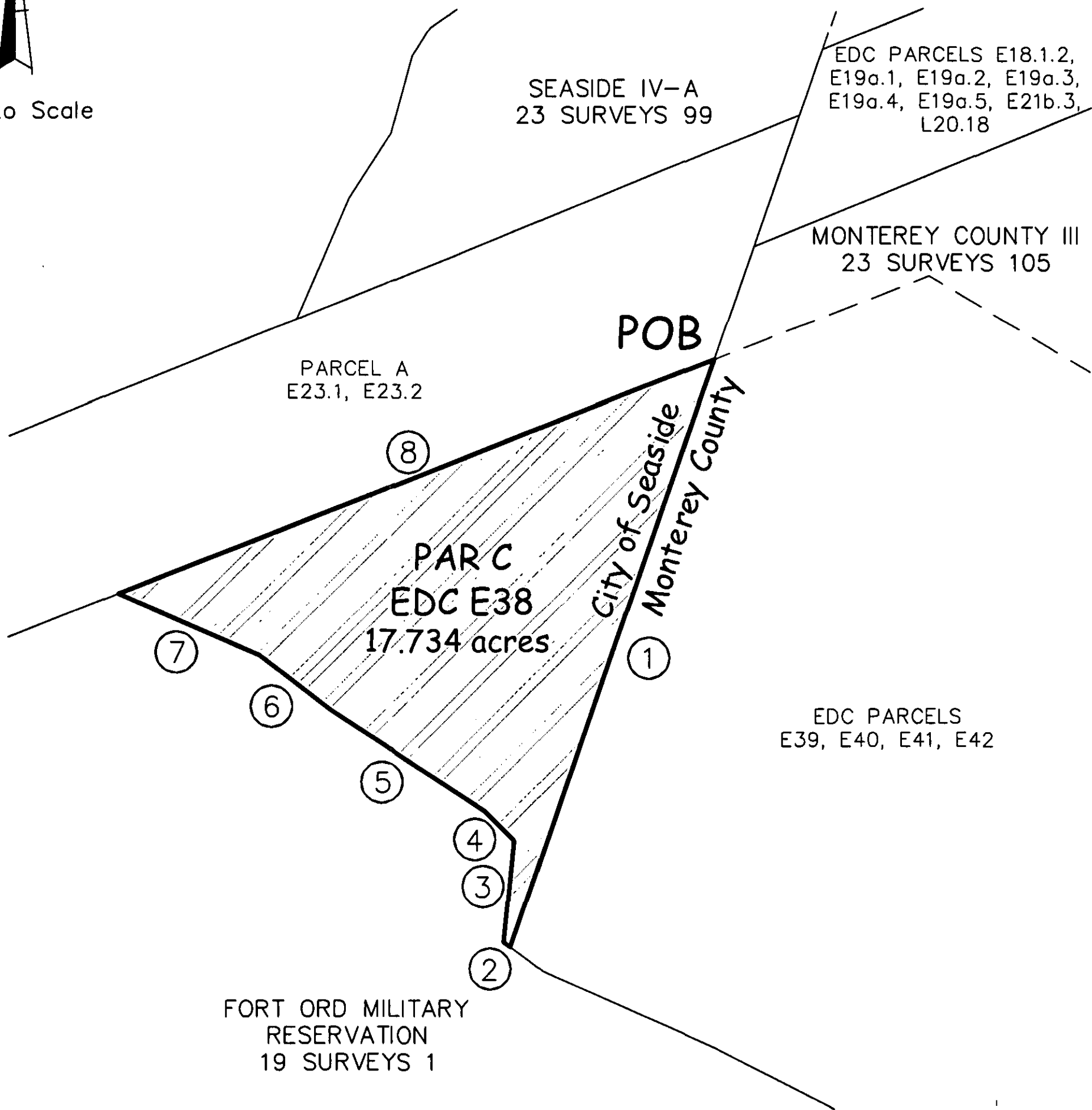


EXHIBIT  
of  
Parcel C  
EDC Parcel E38  
Fort Ord FOSET 5  
City of Seaside Jurisdiction  
Lying within the Fort Ord Military Reservation  
as shown on Vol. 19 of Surveys at Page 1  
Being also within Monterey City Lands Tract No. 1  
Monterey County, California



Not to Scale



Note: Course Numbers Refer to the  
Legal Description.

Parcel 1  
EDC Parcels E39, E40, E41 & E42  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

JA  
cm  
SC



Legal Description

SITUATE in a portion of "Monterey County III (Parker Flats)," as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, 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 a point on the common boundary of said "Monterey County III" and Parcel 1, "Seaside IV-A", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 99, which bears North 18° 59' 46" East, 298.43 feet from the common southerly corner of said "Monterey County III" and Parcel 1, "Seaside IV-A", thence from said Point of Beginning, leaving said common boundary

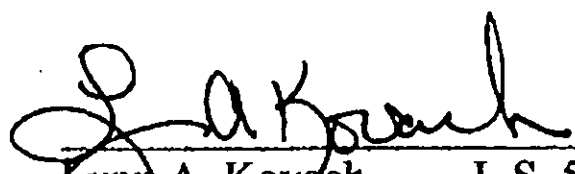
1. North 67° 46' 14" East for a distance of 963.05 feet; thence
2. South 59° 15' 04" East for a distance of 195.50 feet; thence
3. South 15° 42' 12" West for a distance of 450.85 feet; thence
4. North 54° 47' 09" East for a distance of 332.90 feet; thence
5. South 74° 05' 58" East for a distance of 430.52 feet; thence
6. South 65° 07' 58" East for a distance of 118.98 feet; thence
7. South 01° 56' 56" East for a distance of 59.05 feet; thence
8. South 68° 47' 10" East for a distance of 77.24 feet; thence
9. North 19° 14' 23" East for a distance of 336.79 feet; thence
10. North 77° 05' 31" East for a distance of 246.21 feet; thence
11. South 61° 54' 12" East for a distance of 267.56 feet; thence
12. South 76° 37' 26" East for a distance of 86.38 feet; thence
13. South 68° 31' 07" East for a distance of 630.78 feet; thence
14. South 24° 52' 08" West for a distance of 132.40 feet; thence

Parcel 1  
EDC Parcels E39, E40, E41 & E42  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

15. South 30° 53' 24" East for a distance of 225.90 feet; thence
16. South 13° 06' 23" West for a distance of 543.13 feet; thence
17. South 04° 07' 20" West for a distance of 483.32 feet; thence
18. South 06° 31' 33" East for a distance of 230.52 feet; thence
19. South 08° 45' 20" West for a distance of 241.64 feet; thence
20. South 29° 03' 59" West for a distance of 280.62 feet; thence
21. South 15° 38' 15" West for a distance of 515.65 feet; thence
22. South 26° 54' 57" West for a distance of 367.63 feet; thence
23. South 65° 46' 16" West for a distance of 641.08 feet; thence
24. North 60° 00' 53" West for a distance of 350.01 feet; thence
25. North 44° 43' 48" West for a distance of 368.70 feet; thence
26. North 55° 02' 55" West for a distance of 1130.89 feet; thence
27. North 62° 22' 55" West for a distance of 600.00 feet; thence
28. North 65° 56' 29" West for a distance of 467.91 feet; thence
29. North 52° 57' 06" West a distance of 102.50 feet to a point on the City of Seaside Corporate Boundary line; thence along said boundary line
30. North 18° 59' 46" East for a distance of 1847.47 feet to the POINT OF BEGINNING

Containing an area of 207.463 acres, more or less.

This legal description was prepared by

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

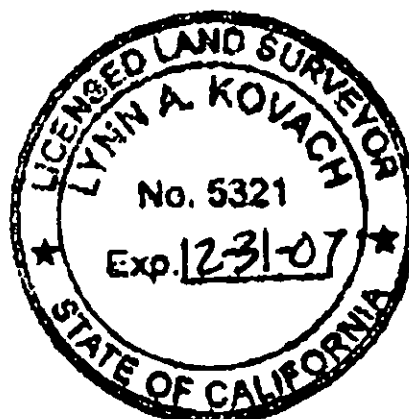
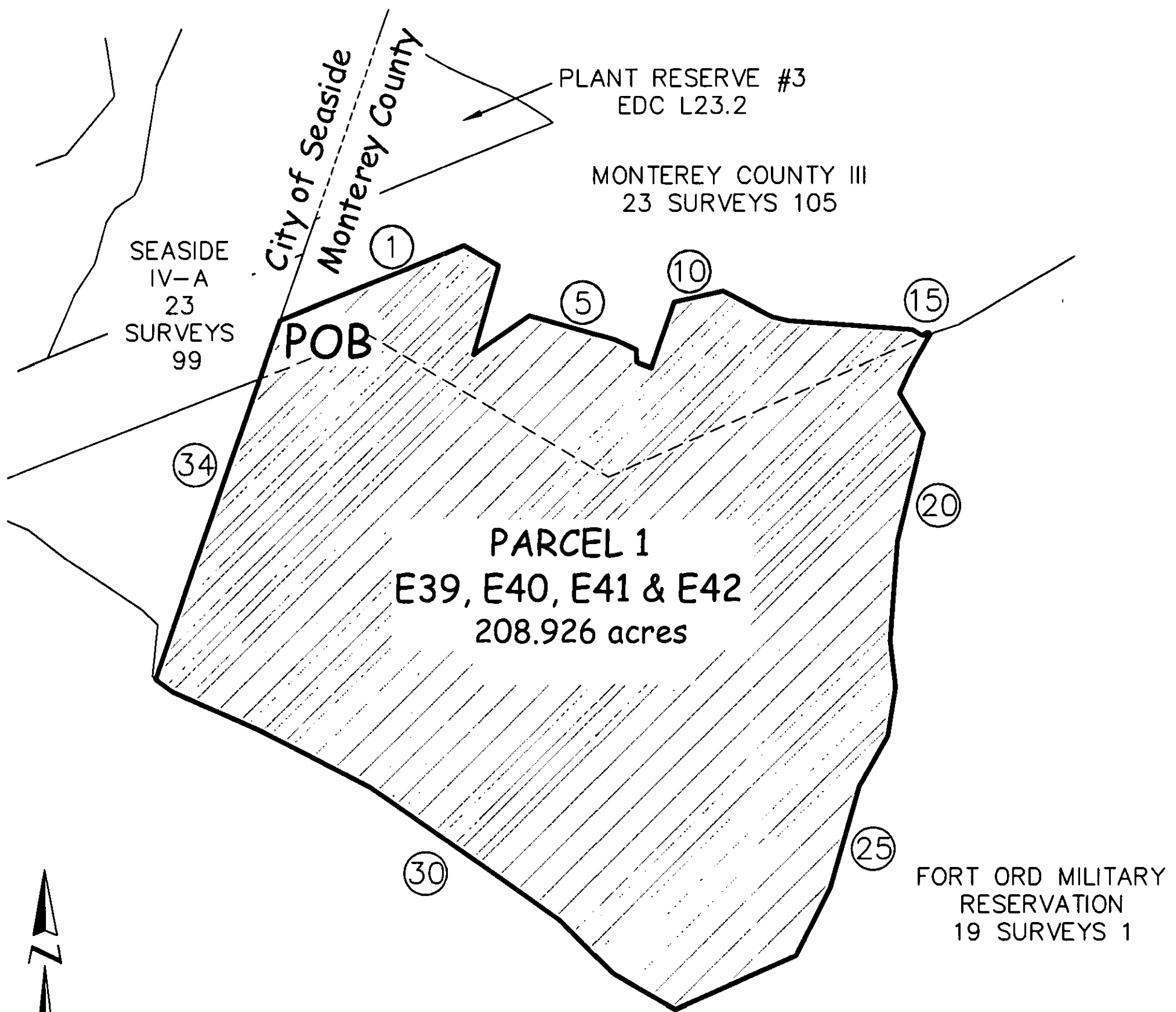
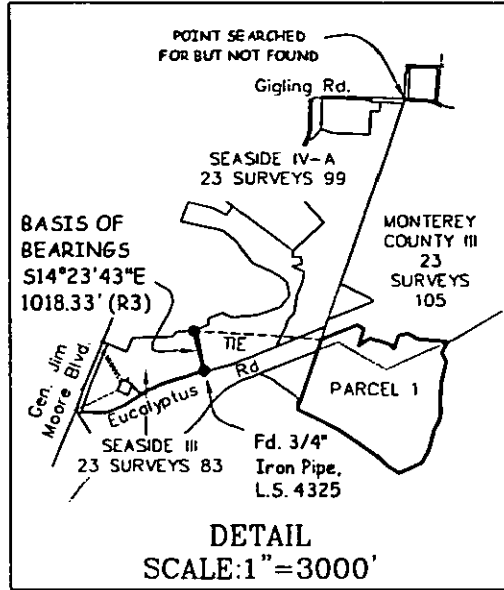


EXHIBIT  
of  
Parcel 1  
EDC Parcels E39, E40, E41, & E42  
Fort Ord FOSET 5  
Being a Portion of  
"Monterey County III (Parker Flats)" as shown on Vol. 23 of Surveys at Page 105 and  
Lying within the Fort Ord Military Reservation  
as shown on Vol. 19 of Surveys at Page 1  
Being also within Monterey City Lands Tract No. 1  
Monterey County, California



Not to Scale

Note: Course Numbers Refer to the  
Legal Description.



See Detail For Basis of Bearings

"SEASIDE IV-A" 23 SURVEYS 99

PARCEL C EDC PARCEL E38

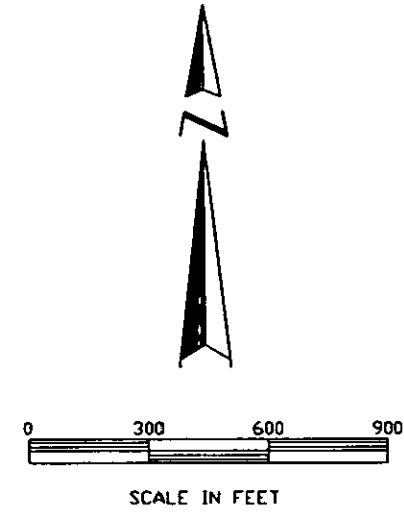
"MONTEREY COUNTY III" 23 SURVEYS 105

EDC PARCELS E18.1.2, E19a.1, E19a.2, E19a.3, E19a.4, E19a.5, E21b.3 & L20.18

Monterey County III Boundary

PARCEL 1 EDC PARCELS E39, E40, E41, & E42 208.926 Acres

FORT ORD MILITARY RESERVATION 19 SURVEYS 1



**BASIS OF BEARINGS**

THE BEARING OF S14°23'43"E ALONG THE WESTERLY BOUNDARY LINE OF PARCEL 1, "SEASIDE IV-A" AS SHOWN ON THE MAP RECORDED IN VOLUME 23 OF SURVEYS AT PAGE 99 AND THE EASTERLY BOUNDARY LINE OF "SEASIDE III" AS SHOWN ON THE MAP RECORDED IN VOLUME 23 OF SURVEYS AT PAGE 83, AS FOUND MONUMENTED, WAS TAKEN AS THE BASIS OF BEARINGS SHOWN UPON THIS MAP.

**NOTE**

DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

**LEGEND**

- SET 5/8" IRON ROD TAGGED L.S. 5321 UNLESS NOTED OTHERWISE
- FOUND 1" IRON PIPE TAGGED R.C.E. 15310 UNLESS NOTED OTHERWISE
- R1 RECORD DATA PER VOL. 23 -SURVEYS- PG. 105
- R2 RECORD DATA PER VOL. 23 -SURVEYS- PG. 99
- R3 RECORD DATA PER VOL. 23 -SURVEYS- PG. 83

**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 \_\_\_\_\_

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 SURVEYOR'S ACT THIS DAY OF \_\_\_\_\_ 2007.

BY \_\_\_\_\_  
RON LUNDQUIST COUNTY SURVEYOR 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 PARCEL 1 EDC PARCELS E39, E40, E41, & E42 LYING WITHIN A PORTION OF "MONTEREY COUNTY III (PARKER FLATS)" AS SHOWN ON VOL. 23 OF SURVEYS AT PAGE 105.

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. 1

MONTEREY COUNTY, CALIFORNIA

PREPARED FOR: FORT ORD REUSE AUTHORITY  
SURVEYED BY: *POCARIS CONSULTING*  
P. O. BOX 1378  
CARMEL VALLEY, CA 93924  
831-659-9564

SCALE: 1" = 300' VIEW: ROS PAR 1 DATE: APRIL 6, 2007  
FILE NAME: FORA F05ET 5 E39.DWG SHEET ONE OF ONE





Parcel F1.7.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

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, County of Monterey, State of California; being more particularly described as follows:

BEGINNING at a point from which Monument No. 1, a granite monument marked "NB4A", on the Perimeter Boundary of the former Fort Ord Military Reservation, as it is shown on that certain map recorded in Vol. 19 of Surveys at Page 1, bears North 81° 45' 31" West a distance of 17,968.22 feet; thence from said Point of Beginning

1. North 40° 13' 06" East for a distance of 287.87 feet; thence
2. North 43° 01' 43" East for a distance of 227.34 feet; thence
3. North 37° 15' 12" East for a distance of 267.60 feet; thence
4. North 41° 10' 12" East for a distance of 332.51 feet; thence
5. North 23° 20' 24" East for a distance of 275.58 feet to the beginning of a tangent curve; thence
6. Along a curve to the right, through a central angle of 64° 24' 10", having a radius of 419.00 feet, for an arc length of 470.97 feet, and whose long chord bears North 55° 32' 29" East for a distance of 446.57 feet to a point of intersection with a tangent line; thence
7. North 87° 44' 34" East for a distance of 14.60 feet; thence
8. North 89° 46' 29" East for a distance of 180.02 feet to the beginning of a tangent curve; thence
9. Along a curve to the left, through a central angle of 37° 50' 30", having a radius of 461.00 feet, for an arc length of 304.47 feet, and whose long chord bears North 70° 51' 14" East for a distance of 298.97 feet to a point of intersection with a tangent line; thence
10. North 51° 55' 59" East for a distance of 7.01 feet; thence
11. North 50° 32' 05" East for a distance of 326.64 feet; thence
12. North 54° 38' 14" East for a distance of 396.86 feet; thence
13. North 50° 59' 24" East for a distance of 196.40 feet; thence

Parcel F1.7.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

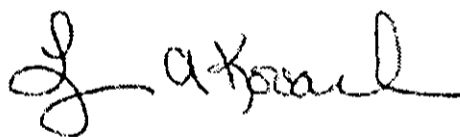
14. South 51° 23' 11" East for a distance of 331.15 feet; thence
15. South 06° 55' 36" East for a distance of 339.39 feet; thence
16. South 40° 05' 20" West for a distance of 166.04 feet; thence
17. South 15° 48' 13" East for a distance of 55.07 feet; thence
18. South 07° 42' 13" East for a distance of 81.71 feet; thence
19. South 26° 30' 43" West for a distance of 71.55 feet; thence
20. North 29° 46' 55" West for a distance of 64.55 feet; thence
21. South 46° 01' 07" West for a distance of 154.19 feet; thence
22. South 72° 19' 25" West for a distance of 52.51 feet; thence
23. North 79° 01' 05" West for a distance of 409.46 feet; thence
24. South 83° 05' 59" West for a distance of 208.51 feet; thence
25. North 43° 19' 16" West for a distance of 19.17 feet to the beginning of a tangent curve;  
thence
26. Along a curve to the left, through a central angle of 104° 56' 60", having a radius of 100.00 feet, for an arc length of 183.17 feet, and whose long chord bears South 84° 12' 14" West for a distance of 158.62 feet to a point of intersection with a tangent line; thence
27. South 31° 43' 44" West for a distance of 224.42 feet; thence
28. South 02° 31' 11" East for a distance of 385.38 feet; thence
29. South 19° 01' 30" West for a distance of 248.61 feet; thence
30. South 14° 39' 17" East for a distance of 229.41 feet; thence
31. South 23° 50' 00" West for a distance of 37.21 feet; thence
32. South 08° 29' 01" West for a distance of 230.50 feet; thence
33. South 18° 40' 02" West for a distance of 156.18 feet; thence

Parcel F1.7.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

34. South 24° 51' 08" West for a distance of 152.10 feet to the beginning of a tangent curve; thence
35. Along a curve to the right, through a central angle of 120° 15' 38", having a radius of 153.00 feet, for an arc length of 321.14 feet, and whose long chord bears South 84° 58' 57" West for a distance of 265.35 feet to a point of intersection with a tangent line; thence
36. North 34° 53' 14" West for a distance of 22.16 feet; thence
37. North 47° 09' 19" West for a distance of 130.89 feet; thence
38. North 06° 16' 21" West for a distance of 522.12 feet; thence
39. South 66° 30' 03" West for a distance of 544.15 feet; thence
40. South 46° 52' 48" West for a distance of 256.14 feet; thence
41. North 37° 32' 29" West for a distance of 201.82 feet; thence
42. North 52° 34' 51" West a distance of 123.44 feet to the POINT OF BEGINNING.

Containing an area of 51.206 acres, more or less.

This legal description was prepared by



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

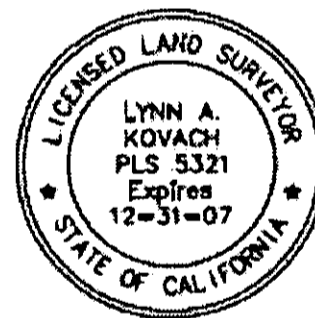
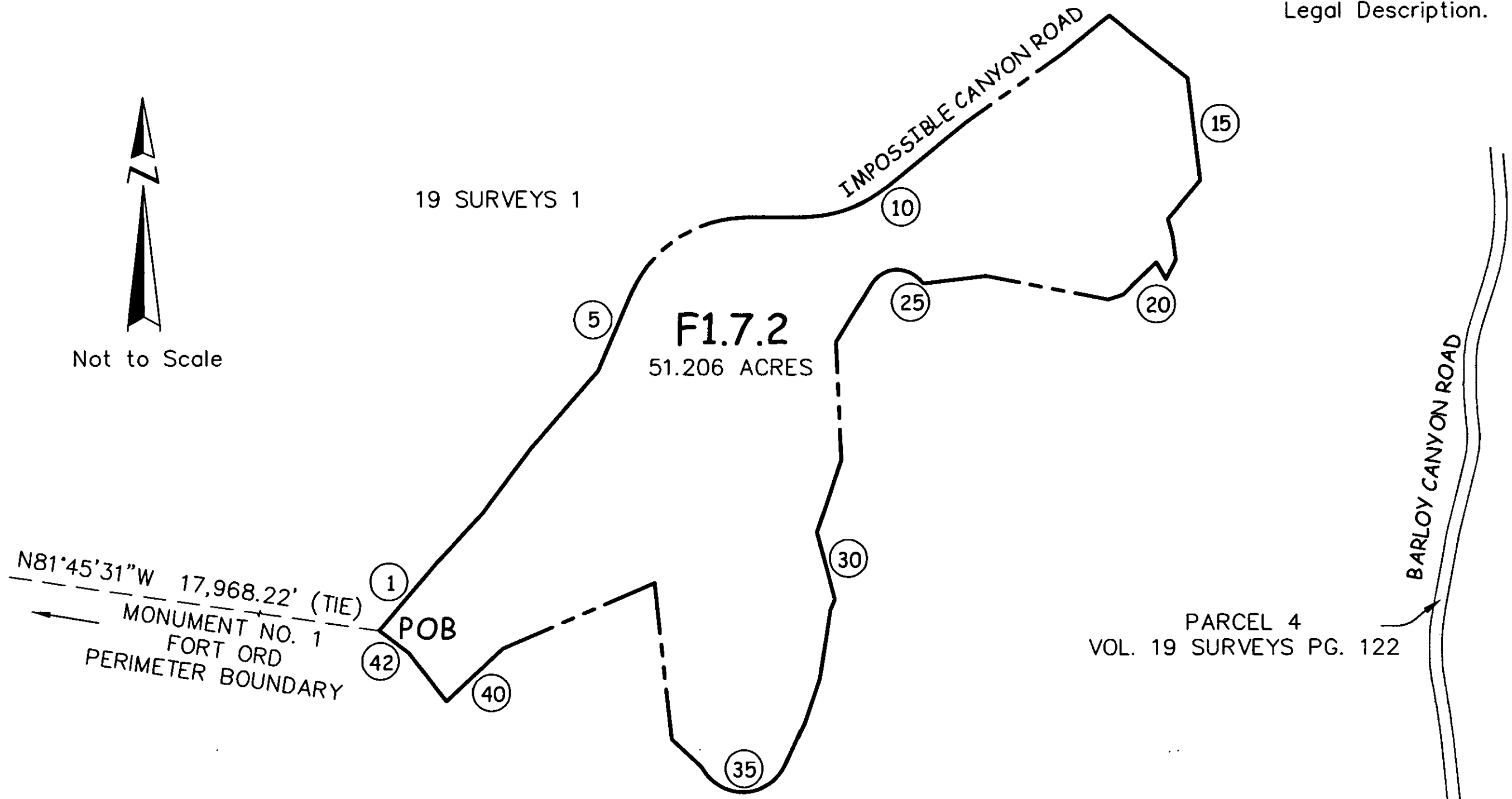


EXHIBIT  
of  
Parcel F1.7.2  
Fort Ord FOSET 5  
Lying within the Fort Ord Military Reservation  
as shown on Vol. 19 of Surveys at Page 1  
Being also within Monterey City Lands Tract No. 1  
Monterey County, California

Note: Course Numbers Refer to the  
Legal Description.



Not to Scale

19 SURVEYS 1

**F1.7.2**  
51.206 ACRES

IMPOSSIBLE CANYON ROAD

BARLOY CANYON ROAD

N81°45'31"W 17,968.22' (TIE)  
MONUMENT NO. 1  
FORT ORD  
PERIMETER BOUNDARY

PARCEL 4  
VOL. 19 SURVEYS PG. 122

**BASIS OF BEARINGS**

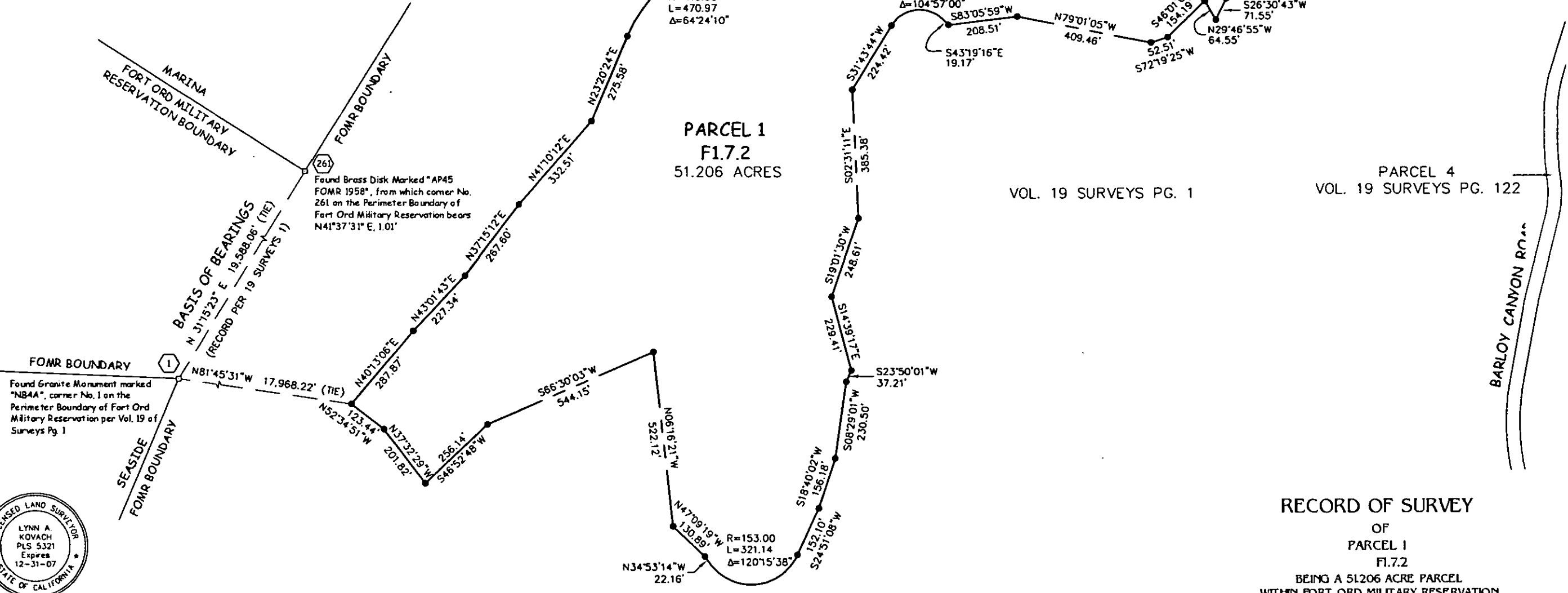
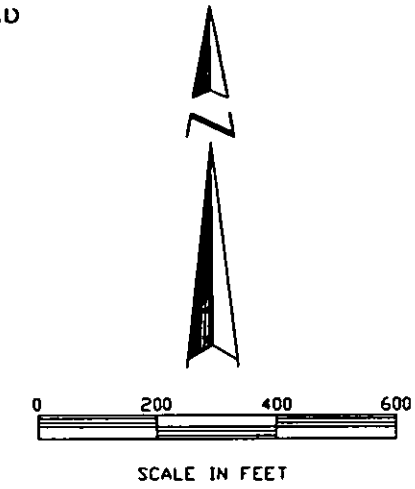
THE BEARING OF N31°15'23"E ALONG THE PERIMETER BOUNDARY OF FORT ORD MILITARY RESERVATION AS SHOWN ON THE MAP RECORDED IN VOLUME 19 OF SURVEYS AT PAGE 1, AS FOUND MONUMENTED, WAS TAKEN AS THE BASIS OF BEARINGS SHOWN UPON THIS MAP.

**NOTE**

DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

**LEGEND**

- SET 5/8" IRON ROD TAGGED L.S.5321 UNLESS NOTED OTHERWISE
- FOUND MONUMENT AS NOTED



**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 \_\_\_\_\_  
 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 SURVEYOR'S ACT THIS DAY OF \_\_\_\_\_ 2006.

BY \_\_\_\_\_  
 RON LUNDOQUIST COUNTY SURVEYOR      JERRY COMBS DEPUTY COUNTY SURVEYOR

**COUNTY RECORDER'S STATEMENT**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2006 AT \_\_\_\_\_, IN VOLUME \_\_\_\_\_ OF SURVEYS AT PAGE \_\_\_\_\_ AT THE REQUEST OF LYNN A. KOVACH.

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

**RECORD OF SURVEY**

OF  
 PARCEL 1  
 F1.7.2  
 BEING A 51.206 ACRE PARCEL  
 WITHIN 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

PREPARED FOR: FORT ORD REUSE AUTHORITY  
 SURVEYED BY: POLARIS CONSULTING  
 P. O. BOX 1378  
 CARMEL VALLEY, CA 93924  
 831-659-9564

SCALE: 1" = 200' VIEW: ROS 200 DATE: DECEMBER 12, 2006  
 FILE NAME: FORA FOSET 5 F1-7-2.DWG SHEET ONE OF ONE

EDC Parcel L23.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

Legal Description

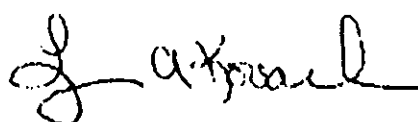
SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, County of Monterey, State of California; being more particularly described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

BEGINNING at an angle point on the westerly boundary of "Monterey County III" as shown on that certain map recorded in Volume 23 of Surveys at Page 105, from which the most southerly corner common to said "Monterey County III" and "Seaside IV-A" as it is shown on Volume 23 of Surveys at Page 99 bears South 18° 59' 46" West a distance of 817.41 feet; thence from said Point of Beginning leaving said westerly boundary

1. North 18° 59' 46" East for a distance of 949.84 feet to the beginning of a non-tangential curve, point also being an angle point on said westerly boundary of "Monterey County III"; thence following said westerly boundary
2. Along a curve to the right, the center of which bears South 15° 06' 21" West for a distance of 970.00 feet, through a central angle of 16° 42' 29", having a radius of 970.00 feet, for an arc length of 262.86 feet and whose long chord bears South 66° 32' 24" East for a distance of 281.86 feet to the beginning of a tangent reverse curve; thence
3. Along a curve to the left, the center of which bears North 31° 48' 50" East for a distance of 1430.00 feet, through a central angle of 10° 50' 30", having a radius of 1430.00 feet, for an arc length of 270.59 feet and whose long chord bears South 63° 36' 25" East for a distance of 270.19 feet to the beginning of a tangent reverse curve; thence
4. Along a curve to the right, the center of which bears South 20° 58' 20" West for a distance of 1370.00 feet through a central angle of 16° 36' 37", having a radius of 1370.00 feet, for an arc length of 397.17 feet, and whose long chord bears South 60° 43' 22" East for a distance of 395.78 feet to a point of intersection with a non-tangential line; thence
5. South 67° 45' 41" West a distance of 1247.79 feet to the POINT OF BEGINNING.

Containing an area of 10.572 acres, more or less.

This legal description was prepared by



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

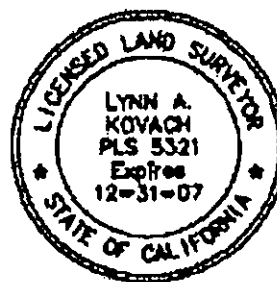
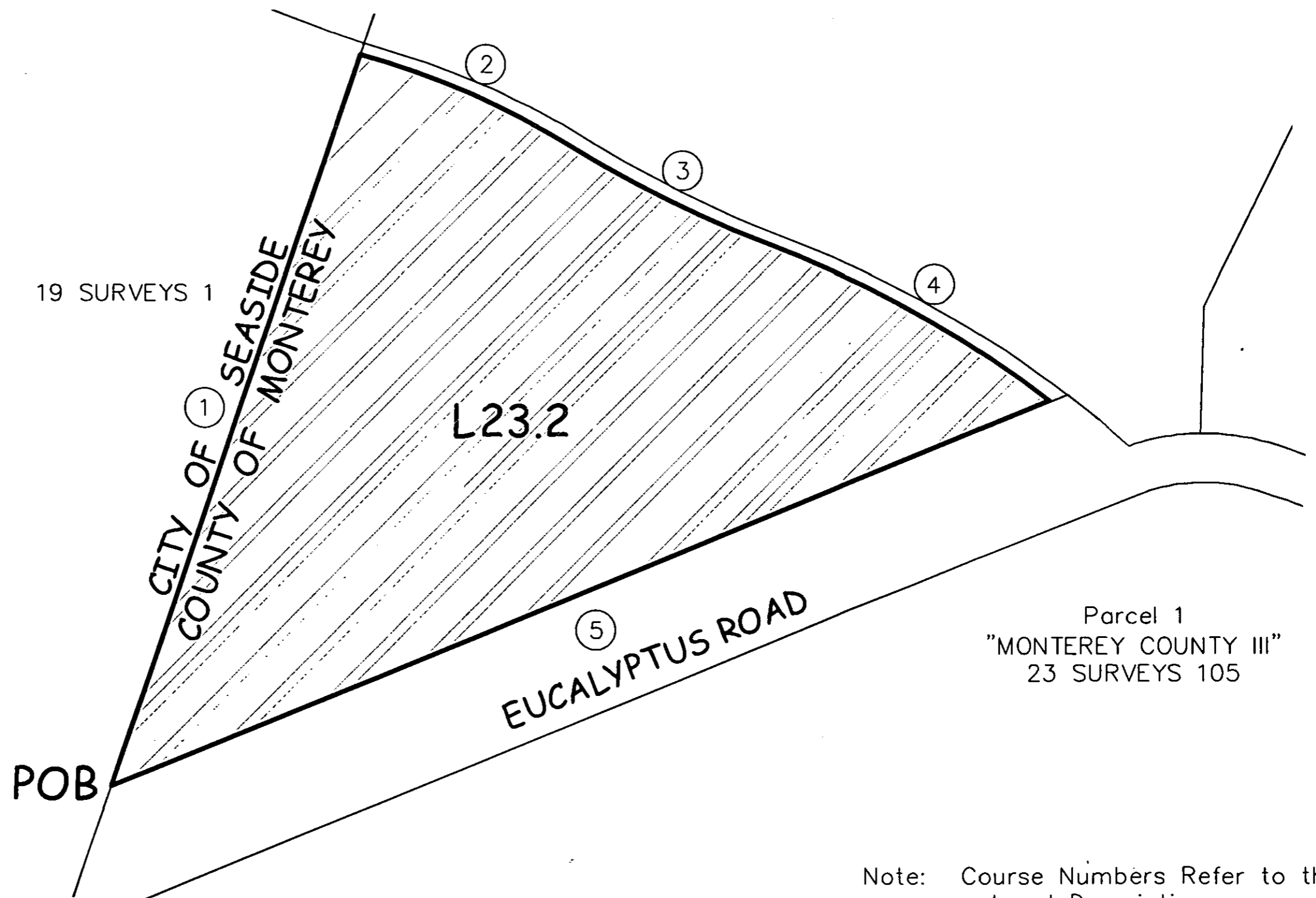
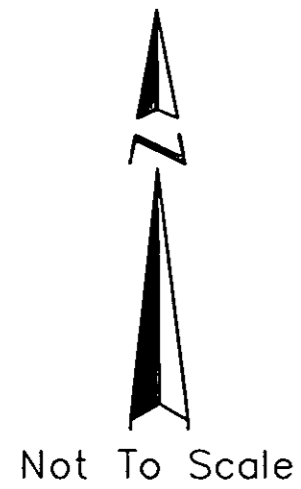


EXHIBIT  
of  
EDC Parcel L23.2  
Fort Ord FOSET 5  
Lying within the Fort Ord Military Reservation  
as shown on Vol. 19 of Surveys at Page 1  
Being also within Monterey City Lands Tract No. 1  
Monterey County, California



Note: Course Numbers Refer to the  
Legal Description.

**Exhibit B – Notification of Hazardous Substance Storage,  
Release, or Disposal**

Location	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
<b>County of Monterey</b>			
Parcel F1.7.2 – HA-35A	Lead (7439921); copper (7440508); antimony (7440360)	1975 to Present	Release of lead, copper and antimony associated with small arms ammunition use at the Combat Pistol Range (HA-35A). Because this range is still active, no action related to MC is recommended for HA-35A.
Parcel E4.7.2 – OUCTP	Carbon tetrachloride (56235)	Unknown	Migration of groundwater plume containing predominantly carbon tetrachloride at concentrations exceeding the MCL. The Army has completed an RI/FS for the OUCTP study area and selected a remedial alternative. Remediation of the OUCTP will commence after regulatory approval of the remedial alternative ( <i>Army, 2006b</i> ).
Parcel E11b.7.1.1 – IRP Site 41	Toluene (108883); pentachlorophenol (87865); dioxins; arsenic (7440382); beryllium (7440417); cadmium (7440439); total chromium (7440473); copper (7440508); lead (7439921); nickel (744020); selenium (7782492); silver (7440224); thallium (7440280); zinc (7440666)	Possibly the 1940s and 1950s	The interim action (IA) at IRP Site 41 (Crescent Bluff Fire Drill Area) included the excavation and removal of approximately 76 cubic yards of soil from three former burn pits. Results of the confirmation sampling indicated that soil with chemical concentrations above the target cleanup concentrations were removed. Results of the confirmation sampling and subsequent risk evaluation indicated that no further threat to human health, the environment, or groundwater was anticipated and no further investigation or remediation was recommended ( <i>HLA, 1997a</i> ). The USEPA and the DTSC concurred that no further remedial action was necessary at IRP Site 41 in letters dated April 14, 1997 and March 10, 2006, respectively.
Parcel E19a.4 – IRP Site 8	Diesel; hydrocarbons	Unknown	The IA at IRP Site 8 (Range 49) included the excavation and removal of approximately 102 cubic yards of soil and debris from the former Molotov Cocktail Range. Results of the confirmation sampling indicated that soil with TPH concentrations above the target cleanup concentration of 500 mg/kg was removed. Results of the confirmation sampling and subsequent risk evaluation indicated that no further threat to human health, the environment, or groundwater was anticipated and no further investigation or remediation was recommended ( <i>HLA, 1996c</i> ). The USEPA and the DTSC concurred that no further remedial action was necessary at Site 8 in letters dated April 14, 1997 and October 20, 2006.
<b>City of Marina</b>			
Parcel	Benzene (71432); Carbon	1956-2002	Release of VOCs from OU2 Fort Ord Landfills; SWMU FTO-002. Migration of groundwater plume containing VOCs at



**Exhibit B – Notification of Hazardous Substance Storage,  
Release, or Disposal**

Location	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
E4.3.2.2	tetrachloride (56235); Chloroform (67663); 1,1-dichlorethane (75343); 1,2-dichlorethane (107062); cis-1,2-dichlorethane (156605); 1,2-dichlorpropene (78875); dichloromethane (75092); tetrachloroethene (127184); trichloroethene (79016); vinyl chloride (75014)		concentrations exceeding MCLs from the Fort Ord Landfills. Groundwater remediation system in place. USEPA concurrence that OU2 groundwater treatment system is operating properly and successfully 1/4/96.
Parcels E4.3.2.2, E4.7.1, E5a.1, L5.10.1	Carbon tetrachloride (56235)	Unknown	Migration of groundwater plume containing predominantly carbon tetrachloride at concentrations exceeding the MCL. The Army has completed an RI/FS for the OUCTP study area and selected a remedial alternative. Remediation of the OUCTP will commence after regulatory approval of the preferred remedial alternative ( <i>Army, 2006b</i> ).
<b>City of Seaside</b>			
Parcel E23.1	Lead (7439921); copper (7440508); antimony (7440360)	1960 to 1993	Remediation at IRP Site 39, Range 18 (HA-18D), was conducted to remove lead, copper, and antimony in soil from spent small arms ammunition. The remedial action included the removal of approximately 24,900 cubic yards of impacted soil. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed.
Parcel E23.2	Lead (7439921); copper (7440508); antimony (7440360)	Early 1960s to 1993	Remediation at IRP Site 39, Ranges 18 and 46 (HA-18D and HA-46D), was conducted to remove lead, copper, and antimony in soil from spent small arms ammunition. The remedial action at Range 18 included the removal of approximately 24,900 cubic yards of impacted soil. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed.  The remedial action at Range 46 included the removal of approximately 3,900 cubic yards of impacted soil. The average lead concentration of soil remaining in place following remedial activities at Range 46 was 26 mg/kg. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed.
Parcel E24	Lead (7439921); copper	1968 to	Remediation at IRP Site 39, Range 21 (HA-21D), was conducted to remove lead, copper, and antimony in soil from spent

**Exhibit B – Notification of Hazardous Substance Storage,  
Release, or Disposal**

Location	Name of Hazardous Substance(s)	Date of Storage, Release, or Disposal	Remedial Actions
	(7440508); antimony (7440360)	1993	small arms ammunition. The remedial action included the removal of approximately 9,600 cubic yards of impacted soil. The average lead concentration of soil remaining in place following remedial activities at Range 21 was 35 mg/kg. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed.
Parcel E34	Lead (7439921); copper (7440508); antimony (7440360)	1950s to 1993	Remediation at IRP Site Range 19 (HA-19D) was conducted to remove lead, copper, and antimony in soil from spent small arms ammunition. The remedial action included the removal of approximately 1,400 cubic yards of impacted soil. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed.
<b>California State University, Monterey Bay</b>			
Parcel S1.3.2 – IRP Site 39B	Benzo(a)anthracene (56553); 1,4-dichlorobenzene (106467); total petroleum hydrocarbons	1950s to 1993	The IA at IRP Site 39B (Inter-Garrison Site) included the excavation and removal of approximately 164 cubic yards of soil mixed with debris from two locations. The soil contained semi-volatile organic compounds exceeding health based screening levels and total petroleum hydrocarbons exceeding the preliminary remediation goals. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed. Results of the confirmation sampling and subsequent risk evaluation indicated that no further threat to human health or the environment is expected and no further investigation or remediation was recommended ( <i>HLA, 1997b</i> ). The USEPA and the DTSC concurred that no further remedial action was necessary at Site 39B in letters dated January 13, 1998 and October 20, 2006, respectively.

\* The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or ‘Superfund’) 42 U.S.C. §9620(h). This table provides information on the storage of hazardous substances for one year or more in quantities greater than or equal to 1,000 kilograms or the hazardous substance’s CERCLA reportable quantity (which ever is greater). In addition, it provides information on the known release of hazardous substances in quantities greater than or equal to the substances CERCLA reportable quantity. See 40 CFR Part 373.

### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
<b>Monterey Peninsula College</b> <b>ESCA acreage – 547 (approximately)</b> <b>Non-ESCA acreage – 0</b>				
<p>ESCA Parcel E19a.5 – 226.564-acre development parcel that borders the NRMA interface. The unoccupied buildings and structures on the parcel include air transportation mock-ups (3949, 3949A, and 3949B), field latrines (4A22, 4A29, 4A30, 4A35, 4A64, and 4B50), and an observation tower (3953B). This parcel contains all or portions of several MRSs that were identified during the archives search, including MRS-27G, MRS-50, MRS-50EXP, MRS-53, and MRS-53EXP.</p>	<p>Excavation Restriction</p> <p>Residential Use Restriction</p>	<p>The evaluation of HA-139 (MRS-27G) included a literature search and reconnaissance of the site. An expended signal flare was found within the portion of HA-139 that lies within the parcel. One fighting position was also observed. No targets, spent ammunition or range features were observed. Because no evidence of a range or stained soil was observed, no further action related to MC was recommended for HA-139 under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p> <p>The evaluation of HA-180 (MRS-50 and MRS-50EXP) included a literature search, review of the information gathered during the munitions response, site reconnaissance, and site investigation sampling. Surface soil samples were collected to evaluate whether explosive residue was present in an area where high numbers of military munitions were found. Because no explosive related compounds were detected and metals concentrations were below Fort Ord background levels, no further action related to MC was recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p> <p>The evaluation of HA-183 (MRS-53 and MRS-53EXP) included a literature search, review of the information gathered during the munitions response, site reconnaissance, and site investigation sampling. Soil sample results indicated that low levels of metals, motor oil, and diesel were detected. No explosive compounds were detected. Because sample results were below cleanup levels, no further action was recommended for HA-183 under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p>	<p>Small portions of MRS-50 and MRS-50 EXP lie within Parcel E19a.5 (Plate 6). Please refer to the property description for Parcel E18.1.2 for a discussion of these sites.</p> <p>Parcel E19a.5 lies predominantly within MRS-53 and MRS-53 EXP (Plate 6). According to the ASR, MRS-53 was a Shoulder Launched Projectile Target Area from the 1940s through the 1960s. The hill between the two flats was a target area for rifle grenades and shoulder-launched projectiles. Rifle grenades and shoulder-launched projectiles were shot from the southeast at the hill. The hill south of the large flat at Parker Flats was a target area for rifle grenades and ground/tube launched projectiles. A munitions response (site walk) was conducted by a USACE UXO Safety Specialist as part of a PA/SI (<i>USAEDH, 1997</i>). During the munitions response, a 3-inch stokes mortar round was found and additional investigation was recommended. During a second munitions response (sampling investigation), a 75mm shrapnel projectile, two more 3-inch Stokes mortars and projectile fragments were found. Based on the sampling results, a 4-foot removal was conducted. Munitions responses (removals) resulted in discovery of MEC and live small arms ammunition. MRS-53 is included in the Parker Flats MRA. The Parker Flats MRA underwent a munitions response (removal) to a depth of 4 feet using digital geophysical equipment. According to the MMRP database, 465 MEC items and 5,163 munitions debris</p>	<p>MRS-53BLM lies adjacent to Parcel E19a.5 (Plate 6). Please refer to the property description for Parcel E19a.4 for a discussion of this site.</p>

### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
			<p>items were removed from MRS-53. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-53 and no further munitions response was recommended (<i>MACTEC, 2006</i>). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.</p> <p>MRS-53EXP was identified as a MRS due to the expansion of the removal area associated with MRS-53. Please refer to the property description for Parcel E19a.1 for a discussion of this site.</p>	
<p>ESCA Parcel E21b.3 – 31.553-acre development parcel that borders the NRMA interface. This parcel lies within the former Fort Ord Impact Area and includes an unoccupied a covered training area (3991) and a field latrine (R9441). This parcel includes MRS-15 MOCO 02.</p>	<p>Excavation Restriction Residential Use Restriction Access Restriction</p>	<p>The evaluation of HA-117 (MRS-15 MOCO 02) included a literature search, review of the information gathered during the munitions response at the site and a site reconnaissance. No suspect areas outside of the previously identified overlapping HAs were identified during the reconnaissance of the site and no further action related to MC was recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p>	<p>The boundary of MRS-15 MOCO 02 was developed to support the transfer of Parcel E21b.3 and not on evidence of munitions use. MRS-15 MOCO 02 lies within the boundary of the former Fort Ord Impact Area and contains the firing lines for Ranges 44 and 45. Range 44 was used for firing of antitank weapons and Range 45 was a 40mm grenade range. Munitions response (investigation) at the site was performed in 1999 and approximately 100 military munitions-related items (MEC and munitions debris) were found (<i>USA, 2001g</i>). To address the threat to human health associated with MEC at MRS-15 MOCO 02, a non-time critical removal action (NTCRA) to a depth of 4 feet was completed across the northern portion of the site. According to the MMRP database 663 MEC items and 3,964 munitions debris items were removed from the site. All accessible areas within the northern portion of MRS-15 MOCO 02 were investigated to a depth of 4 feet. Based on the results of the NTCRA the threat to the public posed by the presence of MEC at the site has been mitigated (<i>Parsons,</i></p>	<p>MRS-44, MRS53EXP, MRS-Ranges 43-48, and MRS-15 SEA 04 lie adjacent to Parcel E21b.3 (Plate 6). Please refer to the property description for Parcel E18.1.2 for a discussion of MRS-44, and Parcel E19a.1 for a discussion of MRS-53EXP.</p> <p>MRS-Ranges 43-48 includes all or portions of six former firing ranges that were part of the Impact Area. To address threats to public safety associated with MEC potentially remaining at MRS-Ranges 43-48, several munitions responses have been performed. The munitions responses included grid sampling, a surface time-critical removal action (TCRA) over accessible areas, and an Interim Action that included additional surface and subsurface MEC removal conducted throughout the parcels to a depth of 4 feet. MRS-Ranges 43-48 were investigated to a depth of 4 feet. Inaccessible areas (Special Case Areas [SCAs]) and pending areas underwent a surface removal only (Plate 7). The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed (<i>Parsons, 2007</i>). According to the MMRP database 11,955 MEC items and 28,840 munitions debris items were removed from the site. MEC is not expected to remain at MRS-Ranges 43-48. MRS-Ranges 43-48 (including the SCAs) will be evaluated through the</p>

### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
			<p>2006c). MRS-15 MOCO 02 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p>	<p>RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p> <p>The boundary of MRS-15 SEA 04 was developed to support the transfer of Parcel E23.2 and not on evidence of munitions use. MRS-15 SEA 04 included the firing points and some of the targets associated with two small arms ranges (Ranges 18 and 46), and the firing points for a mortar and antitank weapons range (Range 48). Several munitions responses were conducted on MRS-15 SEA 04, including grid sampling, removals within the small arms ranges and fuel breaks, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15 SEA 04 not covered by the NTCRA. According to the MMRP database, 189 MEC items and 380 munitions debris items were removed from the site. All munitions responses within the accessible areas of MRS-15 SEA 04 were conducted to a depth of 4 feet. Inaccessible SCAs underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed (<i>Parsons, 2006a</i>). Inaccessible SCAs will be addressed in a follow-up investigation. MEC is not expected to remain at MRS-15 SEA 04. MRS-15 SEA 04 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p>
<p>ESCA Parcel E38 – 17.734-acre habitat reserve parcel. This parcel lies within the former Fort Ord Impact Area and lies within MRS-Ranges 43-48. The parcel includes portions of Ranges 46 and 47. No buildings are located on this parcel.</p>	<p>Excavation Restriction Residential Use Restriction Access Restriction</p>	<p>Remediation at IRP Site 39, Range 46 (HA-46D), was conducted to remove lead, copper, and antimony in soil from spent small arms ammunition. The remedial action at Range 46 included the removal of approximately 3,900 cubic yards of impacted soil. The average lead concentration of soil remaining in place following remedial activities at Range 46 was 26 mg/kg. Results of the confirmation sampling indicated that soil with chemical concentrations above target cleanup concentrations were removed. No further action related to MC was recommended for HA-46D under the Fort Ord BRA</p>	<p>MRS-Ranges 43-48 includes all or portions of six former firing ranges that were part of the Impact Area. To address threats to public safety associated with MEC potentially remaining at MRS-Range 43-48, several munitions responses were performed. The munitions responses included grid sampling, a surface time-critical removal action (TCRA) over accessible areas, and an Interim Action that included additional surface and</p>	<p>Parcel E38 lies adjacent to MRS-15 SEA 04 and MRS-15 BLM (Plate 7). Please refer to the property description for Parcel E23.2 for a discussion of these sites.</p>

### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
		<p><i>(MACTEC/Shaw, 2006).</i></p> <p>The evaluation of HA-46H (Range 46) included a literature search, site reconnaissance, and investigation sampling for MC. Surface soil samples were collected to evaluate whether explosive residue or metals were present in areas where high numbers of military munitions or small arms ammunition were found. Because no explosive residues or elevated metals concentrations were found, no further action related to MC was recommended under the BRA <i>(MACTEC/Shaw, 2006).</i></p> <p>The evaluation of HA-47 (Range 47) included a literature search, review of the information gathered during the munitions response at MRS-Ranges 43-48 and sampling for MC. Surface soil samples were collected to evaluate whether explosive residue or metals were present in areas where high numbers of military munitions or small arms ammunition were found. Because no explosive residues or elevated metals concentrations were found, no further action related to MC was recommended under the BRA <i>(MACTEC/Shaw, 2006).</i></p>	<p>subsurface MEC removal conducted throughout the parcels to a depth of 4 feet. Inaccessible SCAs and pending areas underwent a surface removal only. No SCAs were located within Parcel E38 (Plate 7). The immediate threat posed to the public by the SCAs in adjacent parcels has been significantly mitigated because the MEC on the ground surface was removed <i>(Parsons, 2007)</i>. According to the MMRP database 11,955 MEC items and 28,840 munitions debris items were removed from the site. MRS-Ranges 43-48 (including the SCAs) will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p>	
<p>ESCA Parcel E39 – 166.152- acre habitat reserve parcel. This parcel lies within the former Fort Ord Impact Area and includes MRS-Ranges 43-48. The parcel includes portions of Ranges 43, 44, 45, 46 and 47. No buildings or structures are located within this parcel.</p>	<p>Excavation Restriction</p> <p>Residential Use Restriction</p> <p>Access Restriction</p>	<p>The evaluation of HA-43 (Range 43) included a literature search, review of the information gathered during the munitions response at the site, site reconnaissance and investigation sampling. Sampling results identified lead above ecological risk screening levels. Based on the presence of lead in soil it was recommended in the BRA that an evaluation of remedial alternatives be conducted in the Site 39 Feasibility Study Addendum <i>(MACTEC/Shaw, 2006)</i>.</p> <p>MC were detected at HA-44 (Range 44) during sampling conducted as part of the basewide RI/FS. Site reconnaissance and investigation sampling were performed under the BRA. Elevated concentrations of cadmium, lead and the explosive compound HMX, were detected during BRA sampling. Based on the presence of these compounds in soil it was recommended in the BRA that HA-44 be further evaluated <i>(MACTEC/Shaw, 2006)</i>.</p> <p>The evaluation of HA-45 (Range 45) included a literature search, and sampling conducted during the basewide RI/FS.</p>	<p>MRS-Ranges 43-48 includes all or portions of six former firing ranges that were part of the Impact Area. To address threats to public safety associated with MEC potentially remaining at MRS-Range 43-48, several munitions responses were performed. The munitions responses included grid sampling, a surface time-critical removal action (TCRA) over accessible areas, and an Interim Action that included additional surface and subsurface MEC removal conducted throughout the parcels to a depth of 4 feet. Inaccessible SCAs (Plate 7) and pending areas underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed <i>(Parsons, 2007)</i>. According to the MMRP database 11,955 MEC items and 28,840 munitions debris</p>	<p>MRS-15 MOCO 02 and MRS-15 BLM lie adjacent to Parcel E39 (Plate 7). Please refer to the property description for Parcel E21b.3 for a discussion of MRS-15 MOCO 02 and refer to the property description for Parcel E19.4 for a discussion of MRS-15 BLM.</p> <p>Parcel E39 lies adjacent to portions of the former Fort Ord Impact Area (MRS-15 BLM) that have not been cleared of MEC. MRS-15 BLM is currently being evaluated under the ongoing former Fort Ord MMRP and is included in the Track 3 Impact Area MR RI/FS. The presence of the former Fort Ord Impact Area on adjacent property does not present an unacceptable risk to human health and the environment because security fencing will be erected between Parcel E39 and the MRS-15 BLM to prevent unauthorized access to the adjacent Impact Area until it is deemed safe for public use.</p>

### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
		<p>Site reconnaissance and investigation sampling were performed under the BRA. Because no explosive residues or elevated metals concentrations were found, no further action related to MC at HA-45 was recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p> <p>The evaluation of HA-46H (Range 46) included a literature search, site reconnaissance, and investigation sampling. Surface soil samples were collected to evaluate whether explosive residue or metals were present in areas where high numbers of military munitions or small arms ammunition were found. Because no explosive residues or elevated metals concentrations were found, no further action related to MC was recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p> <p>The evaluation of HA-47 (Range 47) included a literature search and review of the information gathered during the munitions response (MEC removal) at MRS-Ranges 43-48. Surface soil samples were collected to evaluate whether explosive residue or metals were present in areas where high numbers of military munitions or small arms ammunition were found. Because no explosive residues or elevated metals concentrations were found, no further action related to MC was recommended under the BRA (<i>MACTEC/Shaw, 2006</i>).</p>	<p>items were removed from the site. MRS-Ranges 43-48 (including the SCAs) will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p>	
<p>ESCA Parcel E40 – 25.32-acre development parcel that borders the NRMA interface parcel. The parcel contains three unoccupied buildings and structures, Building 2A41, Observation Tower 3917, and a field latrine (R9451). This parcel lies within the former Fort Ord Impact Area and includes MRS-Ranges 43-48. The parcel includes portions of Ranges 44 and 45.</p>	<p>Excavation Restriction Residential Use Restriction Access Restriction</p>	<p>MC were detected at HA-44 (Range 44) during sampling conducted as part of the basewide RI/FS. Site reconnaissance and investigation sampling were performed under the BRA. Elevated concentrations of cadmium, lead and the explosive compound HMX, were detected during BRA sampling. Based on the presence of these compounds in soil it was recommended in the BRA that HA-44 be further evaluated (<i>MACTEC/Shaw, 2006</i>).</p> <p>The evaluation of HA-45 (Range 45) included a literature search, and sampling conducted during the basewide RI/FS. Site reconnaissance and investigation sampling were performed under the BRA. Because no explosive residues or elevated metals concentrations were found, no further action related to MC at HA-45 was recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p>	<p>MRS-Ranges 43-48 lie within Parcel E40 (Plate 7). Please refer to the property description for Parcel E39 for a discussion of this site.</p>	<p>MRS-15 MOCO 02 lies adjacent to Parcel E40 (Plate 7). Please refer to the property description for Parcel E21b.3 for a discussion of this site.</p>

### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
<p>ESCA Parcel E41 – 9.14-acre habitat reserve parcel. This parcel lies within the former Fort Ord Impact Area and includes MRS-Ranges 43-48. The parcel includes a portion of Range 45. No buildings or structures are located within this parcel.</p>	<p>Excavation Restriction Residential Use Restriction Access Restriction</p>	<p>The evaluation of HA-45 (Range 45) included a literature search, and sampling conducted during the basewide RI/FS. Site reconnaissance and investigation sampling were performed under the BRA. Because no explosive residues or elevated metals concentrations were found, no further action related to MC at HA-45 was recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p>	<p>MRS-Ranges 43-48 lie within Parcel E41 (Plate 7). MRS-Ranges 43-48 includes all or portions of six former firing ranges that were part of the Impact Area. To address threats to public safety associated with MEC potentially remaining at MRS-Range 43-48, several munitions responses were performed. The munitions responses included grid sampling, a surface time-critical removal action (TCRA) over accessible areas, and an Interim Action that included additional surface and subsurface MEC removal conducted throughout the parcels to a depth of 4 feet. Inaccessible SCAs and pending areas underwent a surface removal only (Plate 7). The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed (<i>Parsons, 2006a</i>). According to the MMRP database 2,329 MEC items and 138 munitions debris items were removed from the site. MRS-Ranges 43-48 (including the SCAs) will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p>	<p>MRS-15 MOCO 02 and MRS-15 SEA 04 lie adjacent to Parcel E41 (Plate 7). Please refer to the property description for Parcel E21b.3 for a discussion of this site.</p> <p>The boundary of MRS-15 SEA 04 was developed to support the transfer of Parcel E23.2 and not on evidence of munitions use. MRS-15 SEA 04 included the firing points and some of the targets associated with two small arms ranges (Ranges 18 and 46), and the firing points for a mortar and antitank weapons range (Range 48). Several munitions responses were conducted on MRS-15 SEA 04, including grid sampling, removals within the small arms ranges and fuel breaks, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15 SEA 04 not covered by the NTCRA. According to the MMRP database, 189 MEC items and 380 munitions debris items were removed from the site. All munitions responses within the accessible areas of MRS-15 SEA 04 were conducted to a depth of 4 feet. Inaccessible SCAs (Plate 7) underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed (<i>Parsons, 2006a</i>). Inaccessible SCAs will be addressed in a follow-up investigation. MEC is not expected to remain at MRS-15 MOCO 02. MRS-15 SEA 04 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.</p>
<p>ESCA Parcel E42 – 12.786-acre habitat reserve parcel. This parcel lies within the former Fort Ord Impact Area and includes MRS-Ranges 43-48. The parcel includes a portion of Range 44. No buildings or structures</p>	<p>Excavation Restriction Residential Use Restriction Access Restriction</p>	<p>MC were detected at HA-44 (Range 44) during sampling conducted as part of the basewide RI/FS. Site reconnaissance and investigation sampling were performed under the BRA. Elevated concentrations of cadmium, lead and the explosive compound HMX, were detected during BRA sampling. Based on the presence of these compounds in soil it was recommended in the BRA that HA-44 be further evaluated (<i>MACTEC/Shaw, 2006</i>).</p>	<p>MRS-Ranges 43-48 lie within Parcel E42 (Plate 7). Please refer to the property description for Parcel E39 for a discussion of this site.</p>	<p>MRS-15 MOCO 02 lies adjacent to Parcel E42 (Plate 7). Please refer to the property description for Parcel E21b.3 for a discussion of this site.</p>



### Exhibit C – Description of Property

Property Description	Property Restrictions	Remedial Actions	Munitions Response Actions	Adjacent Property Conditions
are located within this parcel.				
ESCA Parcel F1.7.2 – 51.206-acre development parcel that contains the Military Operations on Urbanized Terrain (MOUT) training area (MRS-28) which is still active. The MOUT complex includes 42 unoccupied buildings and structures and a pistol range (Range 35A).	Excavation Restriction Residential Use Restriction Access Restriction	<p>The evaluation of HA-158 (MRS-28) included a literature search and reconnaissance of the site. Small arms ammunition including live blanks and expended blank casings were found. Additionally, MEC and munitions debris were observed. This site is still active as a training area for tactical training of military, federal, and local law enforcement agencies. Because this site is still active, no further investigation for MC is recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p> <p>The evaluation of HA-35A (Combat Pistol Range) included a literature search and reconnaissance of the site. Because this range is still active, no further action related to MC is recommended under the Fort Ord BRA (<i>MACTEC/Shaw, 2006</i>).</p>	MRS-28 includes Impossible City, a mock city training area that is currently used for tactical training of military, federal, and local law enforcement agencies. MRS-28 was investigated during two separate munitions responses. Additionally, a visual surface TCRA was performed following an accidental fire in the area (Eucalyptus Fire Area). According to the MMRP database, 118 MEC items and 293 munitions debris items were removed during the investigations and the TCRA. MEC is not expected to remain on the surface at MRS-28. MRS-28 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.	Parcel F1.7.2 lies within the former Fort Ord Impact Area (MRS-15 BLM). Firing ranges established within the Impact Area were used for live fire exercises using a variety of military weapons. In general, the firing points for the ranges were established around the perimeter and the direction of fire was toward the center of the Impact Area. MRS-15 BLM is currently being evaluated under the ongoing former Fort Ord MMRP and is included in the Track 3 Impact Area MR RI/FS. The presence of the former Fort Ord Impact Area on adjacent property does not present an unacceptable risk to human health and the environment because security fencing will be erected between Parcel F1.7.2 and the MRS-15 BLM to prevent unauthorized access to the adjacent Impact Area until it is deemed safe for public use.
ESCA Parcel L23.2 – 10.572-acre development parcel. This parcel is overlapped by a portion of MRS-44PBC. No buildings are located on this parcel.	Excavation Restriction Residential Use Restriction	The evaluation of HA-174 (MRS-44PBC and MRS-44EDC) included a literature search, review of the information gathered during the munitions response, site reconnaissance and sampling for MC. Several blank small arms ammunition casings and one expended 75mm projectile casing were found. Surface soil samples were collected to evaluate whether MC were present in areas where high numbers of military munitions were found. Because no explosive related compounds were detected and metals concentrations were below Fort Ord background levels, no further action related to MC was recommended under the Fort Ord BRA ( <i>MACTEC/Shaw, 2006</i> ).	A portion of MRS-44PBC lies within Parcel L23.2 (Plate 6). Please refer to the property description for Parcel E18.1.2 for a discussion of this site. MRS-44PBC will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.	NA

<sup>1</sup> Resolution of anomalies detected below the depth specified in a project scope of work was at the discretion of the project managers and determined on a case-by-case basis considering, among other things, the likelihood that the anomaly was MEC or other material. At munitions response sites where 4-foot removal or removal-to-depth was conducted since June 1996, all detected anomalies were investigated or resolved (e.g. Parker Flats Munitions Response Area), or unresolved anomalies were recorded (e.g., special-case areas in MRS-15 SEA 01-4). For 1-foot and 3-foot removals, and 4-foot removals conducted prior to June 1996, after-action reports do not provide information about any detected but unresolved anomalies; further evaluation of site-specific information would be required to conclusively state that there were no such anomalies.

## 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 (FFA), as amended, entered into by the United States Environmental Protection Agency (USEPA) Region 9, the State of California Department of Toxic Substances Control (DTSC) and the State of California Regional Water Quality Control, Central Coast Region (RWQCB), and the Department of the Army (Army), effective on November 19, 1990, and will provide the Grantee with a copy of the First Amendment to the Federal Facility Agreement and any further 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, as amended. In addition, should any conflict arise between the FFA, as amended, and the deed provisions, the FFA provisions, as amended, will take precedence. The Grantor assumes no liability to the Grantee, its successors and assigns, should implementation of the FFA, as amended, interfere with their use of the Property.

#### 2. LAND USE RESTRICTIONS

A. The 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.

**Applicable to Monterey Peninsula College Parcels E19a.5, E21b.3, E39, E40, E41, E42, F1.7.2, and L23.2:**

**B. Excavation Restriction.** The Grantee, its successors and assigns, shall comply with Monterey County Code Chapter 16.10 when conducting or permitting others to conduct any ground disturbing or intrusive activities (e.g. digging, drilling, etc.). The Grantee, its successors and assigns, or any approved contractor, shall not construct, make, or permit any alterations, additions, or improvements to the Property in any way that may violate this restriction.

**Applicable to Monterey Peninsula College Parcel E38:**

**C. Excavation Restriction.** The Grantee, its successors and assigns, shall comply with City of Seaside Municipal Code Chapter 15.34 when conducting or permitting others to conduct any ground disturbing or intrusive activities (e.g. digging, drilling, etc.). The Grantee, its successors and assigns, or any approved contractor, shall not construct, make, or permit any

alterations, additions, or improvements to the Property in any way that may violate this restriction.

**Applicable to Monterey Peninsula College Parcels E19a.5, E21b.3, E38, E39, E40, E41, E42, F1.7.2, and L23.2:**

**D. Residential Use Restriction.** The Grantee, its successors and assigns, shall not use the Property for residential purposes. The Army has agreed to enter into a Covenant to Restrict Use of Property (CRUP), which will include a Residential Use Restriction, with the DTSC pursuant to California Health and Safety Code sections 25222.1 and 215355.5 and Civil Code Section 1471. The USEPA also believes any proposals for the residential reuse of the Property should be subject to regulatory review. The CRUP will place additional use restrictions on all of the transferring Property and will be signed prior to transfer. The Army and the DTSC agree that the use of the Property will be restricted as set forth in the CRUP. For purposes of this provision, residential use includes, but is not limited to: single family or multi-family residences; child care facilities; nursing home or assisted living facilities; and any type of educational purpose for children/young adults in grades kindergarten through 12.

**Applicable to Monterey Peninsula College Parcels E19a.5, E21b.3, and L23.2:**

**E. Access Restriction.** Except as provided below, the Property shall not be used for any purposes other than activities associated with the investigation and remediation of MEC and installation of utilities and roadways until the USEPA, in consultation with the DTSC, has certified the completion of remedial action. This Access Restriction is not intended to limit use of existing public access roadways within the Property, including the limited use(s) associated with special events; provided that the use of roadways may be limited or restricted, as necessary, to provide the required minimum separation distance employed during intrusive MEC response actions, and in connection with prescribed burns that may be necessary for the purpose of MEC removal in adjacent areas.

**Applicable to Monterey Peninsula College Parcel F1.7.2:**

**F. Access Restriction.** The Property shall not be used for any purposes other than activities associated with the investigation and remediation of MEC, a facility for law enforcement tactical training (Military Operations on Urbanized Terrain (MOUT) training area), and installation of utilities and roadways until the USEPA, in consultation with the DTSC, has certified the completion of remedial action. The Property lies within the historical boundaries of the Impact Area of the former Fort Ord. The Grantor has performed munitions responses on the Property; however, these munitions responses are not complete. The Grantee, its successors and assigns shall not allow access to the Property by unauthorized personnel, and will ensure that personnel authorized to access the Property are provided MEC recognition training, a briefing on the potential explosive hazards present, and coordinate with the Grantee's designated UXO-Qualified Personnel during activities on the Property. The Grantor has not completed munitions responses in the portions of the Impact Area Munitions Response Area (MRA) adjacent to the

Property. The Grantee, its successors and assigns, shall not allow access to the Impact Area MRA adjacent to the Property, except as agreed to in writing with the Grantor.

**Applicable to Monterey Peninsula College Parcels E38, E40, E41, and E42:**

**G. Access Restriction.** The Property shall not be used for any purposes other than activities associated with the investigation and remediation of MEC and installation of utilities and roadways until the USEPA, in consultation with the DTSC, has certified the completion of remedial action. The Property lies within the historical boundaries of the Impact Area of the former Fort Ord. The Grantor has performed munitions responses on the Property; however, these munitions responses are not complete. The Grantee, its successors and assigns shall not allow access to the Property by unauthorized personnel, and will ensure that personnel authorized to access the Property are provided MEC recognition training, a briefing on the potential explosive hazards present, and coordinate with the Grantee's designated UXO-Qualified Personnel during activities on the Property. The Grantor has not completed munitions responses in the portions of the Impact Area Munitions Response Area (MRA) adjacent to the Property. The Grantee, its successors and assigns, shall not allow access to the Impact Area MRA adjacent to the Property.

**Applicable to Monterey Peninsula College Parcel E39:**

**H. Access Restriction.** The Property shall not be used for any purposes other than activities associated with the investigation and remediation of MEC and installation of utilities and roadways until the USEPA, in consultation with the DTSC, has certified the completion of remedial action. The Property lies within the historical boundaries of the Impact Area of the former Fort Ord. The Grantor has performed munitions responses on the Property; however, these munitions responses are not complete. The Grantee, its successors and assigns shall not allow access to the Property by unauthorized personnel, and will ensure that personnel authorized to access the Property are provided MEC recognition training, a briefing on the potential explosive hazards present, are either UXO qualified personnel or escorted by such personnel or by EOD personnel, and coordinate with the Grantee's designated UXO-Qualified Personnel during activities on the Property. The Grantor has not completed munitions responses in the portions of the Impact Area Munitions Response Area (MRA) adjacent to the Property. The Grantee, its successors and assigns, shall not allow access to the Impact Area MRA adjacent to the Property.

**I. 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 this EPP and the provisions of all applicable CRUP(s). 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.

**J. Submissions.** The Grantee, its successors and assigns, shall submit any requests for modifications to the above restrictions to the Grantor, the USEPA, and the DTSC, in accordance with the provisions of the applicable 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 9  
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

### **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, the Property 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 this EPP, MEC does not include small arms ammunition (i.e. ammunition with projectiles that do not contain explosives, other than tracers, that is .50 caliber or smaller, or for shotguns).

B. The Property was previously used for a variety of munitions-related and other military related purposes, including operational ranges for live-fire training; demolitions training; chemical, biological and radiological training; engineering 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 (blown in place (BIP)) or in a consolidated shot, or destroyed using contained detonation technology. 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. After response actions are completed, 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 (EOD) personnel can be dispatched to address such MEC as required under applicable laws and regulations and at no expense to the Grantee. The Grantee hereby acknowledges receipt of the "Ordnance and Explosives Safety Alert" pamphlet.

D. 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 munitions response action (e.g. investigation, sampling, testing, test-pitting, surface and subsurface removal) 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 this 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 or employee 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.

E. The Grantee acknowledges receipt of the Track 2 Munitions Response Remedial Investigation/Feasibility Study (Track 2 MR RI/FS) (August 2006).

#### **4. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT**

##### **Applicable to Monterey Peninsula College Parcels E19a.5, E38, and E40:**

A. The Grantee is hereby informed and does acknowledge that non-friable asbestos or asbestos-containing material (ACM) has been found on the Property. The Property may contain improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground, that contain 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. The Grantee agrees to be responsible for any remediation or abatement of asbestos found to be necessary on the Property to include ACM in or on buried pipelines that may be required under applicable law or regulation.

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 Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property with respect to any asbestos or ACM hazards or concerns.

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

##### **Applicable to Monterey Peninsula College Parcels E19a.5, E21b.3, E40, and F1.7.2:**

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 Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property with respect to any lead-based paint hazards or concerns.

## **6. NOTICE OF RARE, THREATENED AND ENDANGERED SPECIES MANAGEMENT**

### **Applicable to Monterey Peninsula College Parcels F1.7.2 and L23.2:**

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 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 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; however, CERCLA remedial actions undertaken by the Grantee will be conducted in accordance with the Army's requirements identified in Chapter 3 of the HMP and in existing Biological Opinions. Reuse activities not involving CERCLA may require the Grantee to obtain 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); comply with prohibitions against take of listed animals under ESA Section 9; comply with prohibitions against the removal of listed plants occurring on federal land or the destruction of listed plants in violation of any state laws; comply 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 comply 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 except for those lands undergoing a CERCLA remedial action. 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 Monterey Peninsula College Parcels E19a.5, E21b.3, E38, E39, E40, E41, and E42:**

G. 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, and 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.

H. 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.

I. 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: E38, E39, E41, and E42;
- 2) Borderland Development Areas along Natural Resources Management Area (NRMA) Interface Parcels numbered: E19a.5, E21b.3, and E40.

J. Any boundary modifications to the Development with Reserve Areas or Development with Restrictions parcels or 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.

K. 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 Chapters 3 and 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, 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 6.I. 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 back 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 6 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 6 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 except while conducting CERCLA remedial actions consistent with Chapter 3 of the HMP and in accordance with the existing biological opinions. Authorization to incidentally take any target HMP wildlife species as a result of reuse activities 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.

### Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\*

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
MRS-3 Old Demolition Training Area, Range 49 (Parcel E19a.4)	Munitions Debris (MD) Munitions and Explosives of Concern (MEC)	Unknown	As noted in the Archives Search Report (ASR), the site served as a land mine warfare, anti-armor, Molotov Cocktail training and demolition area with a ¼ - pound explosive limit. Site is adjacent to MRS-37, MRS-53EXP and MRS-54. A munitions response (sampling investigation) at this site resulted in discovery of 153 inert 81mm practice mortars, 34 inert antitank (AT) training mines and miscellaneous firing devices, including two MEC items (a blasting cap and mine fuze). A munitions response (removal) to a depth of 4 feet <sup>1</sup> was performed. According to the MMRP database 44 MEC items (firing devices, signals and practice grenades) and 794 munitions debris items were removed. Review of military munitions clearance grid records identified several ammunition burn pits and empty and burned 55-gallon drums. MRS-3 is included in the Parker Flats Munitions Response Area (MRA; Plate 6). The Parker Flats MRA was evaluated in the Track 2 Munitions Response Remedial Investigation/Feasibility Study (Parker Flats MR RI/FS). No MEC is expected to remain at MRS-3 and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-4A Chemical, Biological, and Radiological (CBR) Training Area (Parcels E18.1.3, E18.4 and E19a.1)	MD MEC	At least from 1957 to 1964	According to the ASR, the CBR Training Areas appear on the 1957 and 1958 Fort Ord Training Areas and Facilities Training maps. Three munitions responses were conducted on MRS-4A, including two phases of grid investigation and a removal over the entire site. All grid investigations and the removal were to a depth of 4 feet. According to the MMRP database 72 MEC items (mostly grenade fuzes) and 13 munitions debris items (mostly practice hand grenades) were removed. One MEC item was found in Parcel E18.1.3 and no MEC were found in Parcel E18.4. Three munitions debris items were found in Parcel E18.4 and no munitions debris was found in Parcel E18.1.3. No MEC is expected to remain at MRS-4A and no further munitions response was recommended ( <i>USA, 2000a</i> ). MRS-4A will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-4B CBR Training Area (Parcel E19a.3)	MD MEC	At least from 1958	A CBR Training Area (MRS-4B) is shown on the 1958 Fort Ord Training Areas & Facilities map. The ASR noted classroom training using chemical agents similar to tear gas. A munitions response (sampling investigation) in 1993 found one MEC item (40mm practice cartridge), two munitions debris items and small arms ammunition. Additional sampling conducted in 1997 found three MEC items (smoke grenades) and munitions debris. In 1998, USA Environmental, Inc. performed a munitions response (removal) and found 293 MEC items, primarily blasting caps, simulators, smoke signals, and fuzes. The USA After Action Report notes nine burial pits, ranging in depth from 6 inches to 42 inches, containing grenades, grenade fuzes, simulators, pyrotechnics and blasting caps. Trash, including tires and wire, was found in one pit. A battery was found in a second pit. MRS-4B is included in the Parker Flats MRA. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-4B and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
MRS-11 Demolition Training Area (Parcel E11b.7.1.1)	MD MEC	At least from 1946 to 1957	As noted in the ASR, MRS-11 was identified as an old EOD range. The 1946 Historic Map Master Plan Fort Ord shows a live hand grenade training range. Additionally, the 1957 Fort Ord Training Areas & Facilities map shows a Frag Zone and Engineer Training Area "C". MRS-11 underwent a munitions response (removal) to a depth of 1 foot in the southern half of the site using geophysical equipment. Twenty MEC items, including nine MKII fragmentation hand grenades, and 2,316 munitions debris items (mostly hand grenade fuzes) were found and removed during the 1-foot removal. The northern half of MRS-11 was investigated (sampled) using SiteStats/GridStats (SS/GS) methodology. No MEC was found during SS/GS investigation. Based on the results of the munitions responses, additional munitions response (investigation) was recommended within MRS-11 and to the east of the site ( <i>USA, 2001e</i> ). MRS-11 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-13B Practice Mortar Range (Parcels E19a.2 and E19a.3)	CWM MD MEC	1950s	MRS-13B is labeled as Sinkhole Training Area and Sinkhole Practice Mortar on 1950s training maps. A munitions response (sampling) was conducted in 57 grids in 1993 and 1994. Based on the results of the investigation, MRS-13B underwent removal actions to a depth of 4 feet from August 1995 to April 1998 using geophysical equipment. According to the MMRP database, a total of 343 MEC items and 2,014 munitions debris items were found during investigation and removal actions. Numerous trash pits containing range-related debris were also observed at MRS-13B. Two chemical agent identification sets (CAIS) were found in a burial pit. The CAIS, chemical warfare materiel (CWM), were used to train soldiers to recognize and protect themselves from chemical agents. The CAIS contain dilute solutions of chemical agents in small (1-ounce) hermetically sealed glass containers. All glass containers were found to be intact and were removed by the Army's Technical Escort Unit from Dugway Proving Ground, Utah ( <i>Army, 1997b</i> ). No MEC items or trash pits were found in the portion of MRS-13B within Parcel E19a.2. MRS-13B is included in the Parker Flats MRA. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-13B and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-13C CSU Footprint – Wedge (Parcel S1.3.2)	MD MEC	1940s through 1950s	MRS-13C is comprised of a wedge shaped strip of land lying between MRS-31 to the north and MRS-13B to the south. MRS-13C is located within a larger area identified as a Tactical Training Area on historical training maps. A portion of a mortar square (non-firing area) was also identified on historical training maps in the site vicinity. Based on the results of munitions responses (investigation) conducted in adjacent sites in 1994, a munitions response (removal) to a depth of 4 feet was conducted over all of MRS-13C in 1997 and all MEC and munitions debris found was removed. According to the Fort Ord MMRP database, 59 MEC items and 203 munitions debris items were recovered during the removal. No MEC is expected to remain at MRS-13C and no further munitions response was recommended ( <i>USA, 2000c</i> ). MRS-13C will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-14A Lookout Ridge II (LOR2) (Parcel L20.5.1 and	MD MEC	At least since 1957	This site is part of MRS-14, which is divided into five areas, 14A through 14E. This site was believed to be an impact location for 7-inch to 8-inch naval gun projectiles that overshot the Impact Area. As mentioned in the ASR, a 1957 Fort Ord Training Areas & Facilities map shows a mortar position in this area. MRS-14A has undergone munitions responses (one investigation and two removals). MEC found during investigation included 22mm sub-caliber cartridges, pyrotechnic signals, rifle-fired smoke grenades, and practice projectiles. To support the use of a portion of the parcel as a parking area for the Laguna Seca Raceway, a munitions response (removal) to a depth of 3 feet using geophysical equipment was performed over a portion of the parcel in 1994.

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
L20.5.2)			All MEC detected was removed. Follow-up munitions responses (removals) to depths of 1 foot and 4 feet were performed in June 1997 through April 1998. The 1-foot removal was conducted in habitat reserve areas. A 4-foot removal was conducted in development areas (parking). The area where the 4-foot removal was performed included the area previously cleared to 3 feet. All MEC detected was removed. No high explosive MEC was encountered and no further munitions response was recommended (USA, 2001b). It was also recommended that grids not investigated due to vegetation and terrain constraints be investigated in a future munitions response. According to the MMRP database, 66 MEC items and 577 munitions debris items were recovered during the munitions responses. No evidence of 7-inch or 8-inch projectiles was found at MRS-14A. MEC is not expected to remain at MRS-14A. MRS-14A will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-23 (Parcel E11b.7.1.1)	MEC MD		MRS-23 was formerly an Engineer Training Area and Field Expedient Area. A munitions response (removal) to a depth of 4 feet was completed in 1997. One MEC item (½ pound of TNT) and one munitions debris item (practice antitank mine) were found during the munitions response. Based on the results of the munitions response, no further munitions response was recommended within MRS-23 (USA, 2001d). MEC is not expected to remain at MRS-23. MRS-23 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-27A Training Site 1 (Parcels E19a.2 and E19a.3)	MD MEC	1970s through facility closure	MRS-27A is one of 25 training sites identified from a 1984 Fort Ord training facilities map in the 1994 supplement to the ASR (USAEDH, 1994). As described in the Fort Ord Range Regulations, a training site is a facility located within a training area and used as an overnight bivouac area. The USACE conducted a munitions response (site walk) of MRS-27A in 1996 as part of a PA/SI (USADEH, 1997). The USACE UXO Safety Specialist found only spent blank small arms ammunition and pyrotechnics at MRS-27A. To address the hazard associated with surface MEC potentially present in areas accessible to the public, a munitions response (visual surface removal) of accessible areas was performed by munitions response contractors under the direction of the USACE in late 2001 to early 2002. One MEC item (hand grenade fuze) was found and removed (Parsons, 2002a). The southern portion of MRS-27A overlaps Parcel E19a.3, is outside of Parcel E19a.2, and lies within the Parker Flats MRA, partially overlapping MRS-53EXP and MRS-55. As part of the Parker Flats MRA, the southern portion of MRS-27A underwent a munitions response (removal) to a depth of 4 feet. According to the former Fort Ord MMRP database, munitions debris and MEC were found within the portion of MRS-27A that overlaps the Parker Flats MRA. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-27A and no further munitions response was recommended (MACTEC, 2006). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006. The remainder of MRS-27A will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-27B Training Site 2 (Parcels E19a.2, E19a.3 and	MD MEC	1970s through facility closure	MRS-27B was one of 25 training sites identified from a 1984 Fort Ord training facilities map in the 1994 supplement to the ASR (USAEDH, 1994). As described in the Fort Ord Range Regulations, a training site is a facility located within a training area and used as an overnight bivouac area. The ASR also notes this site is located northeast of Parker Flats Training Area. The USACE conducted a munitions response (site walk) of MRS-27B in 1996 as part of a PA/SI (USADEH, 1997). The USACE UXO Safety Specialist found only spent blank small arms ammunition and pyrotechnics at MRS-27B. To address the hazard associated with surface MEC potentially present in areas accessible to the public, a munitions response (visual surface removal) was performed by



**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
E19a.4)			munitions response contractors under the direction of the USACE in 2001 and 2002. No MEC items were found at MRS-27B during the visual surface removal ( <i>Parsons, 2002a</i> ). According to the MMRP database, one munitions debris item (a smoke grenade) was detected in a latrine within the site boundaries. Miscellaneous pyrotechnic items have also been discovered within the site boundaries. No MEC or munitions debris were found during the visual surface removal conducted within MRS-27B. The southern portion of MRS-27B overlaps Parcel E19a.3, is outside of Parcel E19a.2, and lies within the Parker Flats MRA, partially overlapping MRS-53EXP and MRS-55. As part of the Parker Flats MRA, the southern portion of MRS-27B underwent a munitions response (removal) to a depth of 4 feet. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-27B and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006. The remainder of MRS-27B will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-27C Training Site 3 (Parcel E19a.4)	MD	1970s through facility closure	The ASR states that MRS-27C is located northeast of TS-2 (MRS-27B) and south of the Tactical Training Area (MRS-45; Plate 4). This area was used from the 1970s as an overnight bivouac area. Munitions responses (investigations) conducted within Parcel E19a.4 included a site walk of MRS-27C completed by the USACE in 1996 during the Archives Search ( <i>USADEH, 1997</i> ). Only spent blank small arms ammunition and expended pyrotechnics (munitions debris) were found at MRS-27C. To address the hazard associated with surface MEC potentially present in areas accessible to the public, a munitions response (visual surface removal) was performed by munitions response contractors under the direction of the USACE in late 2001 to early 2002. No MEC items were found at MRS-27C ( <i>Parsons, 2002a</i> ). A reconnaissance of MRS-27C was also completed as part of the Basewide Range Assessment. No targets or range features were observed. Several fighting positions were mapped. An expended smoke grenade (munitions debris) was found in one of the fighting positions. No MEC is expected to be present at MRS-27C. MRS-27C will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-27E Training Site 5 (Parcel L20.2.1)	MD	1970s through facility closure	This area was used since the 1970s as an overnight bivouac area. A USACE UXO Safety Specialist conducted a munitions response (site walk) that included MRS-27E as part of a PA/SI ( <i>USADEH, 1997</i> ). Munitions debris including expended flares and illumination signals were found. No evidence of other types of training or use as an impact area was observed. No MEC is expected to be present at MRS-27E. MRS-27E will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-27F Training Site 6 (Parcel L20.2.1)	MEC MD	1970s through facility closure	This site is located in the northern portion of MRS-59. This area was used as an overnight bivouac area since the 1970s. A USACE UXO Safety Specialist conducted a munitions response (site walk) that included MRS-27F and MRS-59 as part of a PA/SI ( <i>USADEH, 1997</i> ). Munitions debris (expended pyrotechnics) were found; however, the specific location of these items was not documented. No evidence of the use of 2.36-inch rockets, reportedly used at MRS-59, was observed. Additionally, a review of Range Control files included the incomplete entry for an item reportedly located within Training Site 6. No other information in the entry was provided. MRS-27F was evaluated for MEC in the Groups 1 – 5 Track 1 Plug-In Approval Memorandum and determined to be a Track 1 site. MEC is not expected to be found at MRS-27F and no further action related to MEC was

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			recommended for the site ( <i>Army, 2006b</i> ). The USEPA and the DTSC concurred in letters dated July 21 and July 26, 2006, respectively.
MRS-27G Training Site 7 (Parcel E19a.5)	MD MEC	1970s through facility closure	This area was incorporated into Site MRS-53. See MRS-53.
MRS-27O Training Site 15 (Parcel L20.8)	MD MEC	1964 through facility closure	The northern portion of Barloy Canyon Road passes through MRS-27O (Plate 10). MRS-27O is identified as a former training site in the 1994 supplement to the ASR and was used as a bivouac area since at least 1964. In support of the ASR, a UXO Safety Specialist performed a munitions response (site walk) in March 1996 and found expended small arms blanks and expended pyrotechnic items ( <i>USADEH, 1997</i> ). A follow-up munitions response was performed by a munitions response contractor. This munitions response was completed in October 1999 and included a surface investigation conducted over a large portion of Barloy Canyon Road. No MEC or munitions debris were found on the parcel. Two MEC items (pyrotechnics) and munitions debris (expended grenade fuze) were found on a trail that parallels Parcel L20.8, south of MRS-27O. Additionally, a visual surface Time-Critical Removal Action (TCRA) was performed that included MRS-27O following an accidental fire in the area (Eucalyptus Fire Area). One MEC item (pyrotechnic signal) was found within MRS-27O ( <i>Shaw, 2005b</i> ). MEC is not expected to be present on Parcel L20.8. MRS-27O and the surrounding area will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-28 Military Operations on Urbanized Terrain (MOUT) Site (Parcel F1.7.2)	MD MEC	Ongoing	This site includes Impossible City, a mock city training area that is currently used for tactical training of military, federal, and local law enforcement agencies. MRS-28 was investigated during two separate munitions responses. Additionally, a visual surface TCRA was performed following an accidental fire in the area (Eucalyptus Fire Area). According to the MMRP database, 118 MEC items and 293 munitions debris items were removed during the investigations and the TCRA. MEC is not expected to remain on the surface at MRS-28. MRS-28 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-29 Laguna Seca Bus Turn Around (Parcels L20.5.2 and L20.5.3)	MEC MD	Unknown	This area was believed to be an impact location for 7-inch to 8-inch naval gun projectiles. A munitions response (sampling investigation) that included over 50% of MRS-29 was conducted in 1995 ( <i>HFA, 1995</i> ). Following investigation, a munitions response (removal) to a depth of 4 feet using geophysical equipment was completed. According to the MMRP database, one MEC item (smoke grenade) and 208 munitions debris items were discovered during these munitions responses. No evidence of 7-inch or 8-inch projectiles was found at MRS-29 or in adjacent MRS-14A. Based on the results of the munitions responses, no further munitions responses were recommended within MRS-29 ( <i>USA, 2000d</i> ). MEC is not expected to remain at MRS-29. MRS-29 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			MMRP.
MRS-30 Laguna Seca Turn 11 (Parcels L20.3.1, L20.3.2 and L20.5.4)	MD MEC	At least since 1945	The December 1956 Training Areas map shows the area as a training site. The ASR notes this site is considered a military munitions site because it lies within the boundaries of the Impact Area and is adjacent to the Wolf Hill Training Area (Plate 11). A munitions response (removal) to a depth of 4 feet was conducted using geophysical equipment. According to the MMRP database, two MEC items and eight munitions debris items were removed. Based on the results of the munitions response, no further munitions response was recommended within MRS-30 ( <i>UXB, 1995b</i> ). Upon completion of the munitions response, approximately 30 feet to 40 feet of fill material was placed over most of MRS-30 in support of construction activities associated with the expansion of Turn 11 of Laguna Seca Raceway. MEC is not expected to be found at MRS-30. MRS-30 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-31 CSU Footprint (Parcel S1.3.2)	MD MEC	1940s through 1990s	MRS-31 encompasses MRS-4C, MRS-7, MRS-8, and MRS-18 (Plate 4). The boundary of MRS-31 was established to correspond to the boundary of transfer Parcel S1.3.2 and to include each of the MRSs. Initial munitions response (investigation) at MRS-31 was conducted in 1994. Based on the results, 3-foot and 4-foot removals were conducted throughout the site. According to the MMRP database, 1,831 MEC items and 2,485 munitions debris items were found during munitions responses at MRS-4C, MRS-7, MRS-8, MRS-18, and MRS-31. MEC is not expected to remain at MRS-31 and no further munitions response was recommended ( <i>UXB, 1995c</i> ). MRS-31, as well as the MRSs within MRS-31, will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-37 Parker Flats Practice Mortar Range (Parcel E19a.3 and E19a.4)	MD MEC	Unknown	According to the ASR, this site appeared on an undated map from the Fort Ord Fire Department. This area was most likely used for firing practice mortars or in non-firing drills (dry-fire). A munitions response (sampling investigations) were performed in March and June of 1998. All munitions responses were to a depth of 4 feet. According to the MMRP database, 58 MEC items and 994 munitions debris items were found and removed during munitions responses. MRS-37 is included in the Parker Flats MRA (Plate 6). The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-37 and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-40 Parker Flats Gas House (Parcel E18.1.2)	MD MEC	Unknown	MRS-40 is identified as the Parker Flats Gas House and included a facility to train troops in the use of gas masks. According to the ASR, this site has the same characteristics as Sites MRS-4A and MRS-4B. Tear gas agents (CS and CN) may have been used in the gas chambers. Based on a review of a 1983 U.S. Chemical Systems Laboratory document, classroom training occurred in Building 2820 on this site, and part of the training involved use of minute quantities of mustard gas. SiteStats/GridStats sampling investigation was performed at this site in October 1997. No MEC was found. Three munitions debris items (unknown fragments) were found. MRS-40 is included in the Parker Flats MRA and the entire site underwent a munitions response (removal) to a depth

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			of 4 feet using geophysical equipment. The data associated with the removal at MRS-40 was included with the data for adjacent MRS-50 and MRS-50EXP (Plate 6). The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-40 and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-42/MRS-42EXP Demolition Area-Rifle Grenade Area (Parcels E11b.7.1.1, E11b.8 and L20.19.1.1)	MD MEC	1940s	MRS-42 was formerly the Fort Ord Ammunition Supply Point (ASP) Rifle Grenade Area, as identified on a 1946 training map. This area includes the northern portion of the ASP (Plate 5). MRS-42 underwent a munitions response (removal) to a depth of 4 feet using geophysical equipment. Due to the presence of MEC and munitions debris at the edge of the site the munitions response extended beyond the original boundary of MRS-42. The extended area is identified as MRS-42EXP. According to the former Fort Ord MMRP database, 61 MEC items (primarily M9 series antitank rifle grenades) and 27 munitions debris items (mostly MKII hand grenade fragments and practice antitank rifle grenades) were removed. It was recommended additional investigation be conducted within MRS-42 ( <i>USA, 2001f</i> ). MRS-42 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-43 South Boundary Area (Parcels E29.1, L6.2, L20.13.1.2 and L20.13.3.1)	MD MEC	1942 to 1944	According to the former Fort Ord Fire Chief, a portion of the ridge in this site was used as a backstop for rifle grenades and shoulder launched projectiles from 1942-1944. During a munitions response (investigation) by an UXO Safety Specialist, a 37mm fragment was discovered at the northwest end of the site. In 1999, nineteen 100-foot by 200-foot grids were investigated using SS/GS and 100% grid sampling, and 19 munitions debris items were recovered. Based on the sampling results a munitions response (removal) to a depth of 4 feet was conducted at the northwest end of MRS-43 (Parcels E29.1 and L6.2). Upon completion of the removal, the removal area was investigated using digital geophysical equipment. The digital geophysical investigation of MRS-43 included the unpaved shoulder of South Boundary Road (Parcels L20.13.1.2 and L20.13.3.1; Plate 9). All munitions responses were conducted to a depth of 4 feet. According to the MMRP database 28 MEC items and 36 munitions debris items were removed during the munitions responses. Five of the 28 MEC items removed from MRS-43 were found in Parcels L20.13.3.1 and L6.2 and only one MEC item was found in Parcel E29.1. No MEC items were found within Parcel L23.13.1.2. Based on the results of the munitions responses, no further munitions response was recommended within the Del Rey Oaks (DRO) Group, which includes MRS-43 ( <i>USA, 2001c</i> ). No MEC is expected to remain at MRS-43. MRS-43 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP. Also see MRS-15 DRO 01.

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
MRS-44EDC (Parcels E18.1.1, E18.1.2 and E20c.2)	MD MEC	Unknown	MRS-44 was established based on the presence of fragmentation from 37mm LE projectiles found during a munitions response (site walk) conducted by a USACE UXO Safety Specialist as part of the PA/SI (USAEDH, 1997). To facilitate the transfer of property, MRS-44 was subdivided into MRS-44EDC and MRS-44PBC. Two munitions responses (sampling investigations) were conducted at the site. The sampling investigations were completed to a depth of 4 feet. According to the MMRP database, 11 MEC items and 53 munitions debris items were removed during investigation. It was recommended that a munitions response (removal) to 4 feet be conducted at MRS-44EDC (USA, 2001i). MRS-44EDC will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-44PBC (Parcels L20.18 and L23.2)	MD MEC	Unknown	MRS-44 was established based on the presence of fragmentation from 37mm LE projectiles found during a munitions response (site walk) conducted by a USACE UXO Safety Specialist as part of a PA/SI (USAEDH, 1997). To facilitate the transfer of property, MRS-44 was subdivided into MRS-44EDC and MRS-44PBC. Two munitions responses (sampling investigation and a removal action) were conducted at MRS-44PBC. All munitions responses were to a depth of 4 feet. According to the MMRP database, 16 MEC items and 73 munitions debris items were removed during munitions responses. MRS-44PBC will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-45 Tactical Training Area-TTA (Parcels L20.2.1, L5.7, E19a.3, and E19a.4)	MD MEC	Unknown	A portion of MRS-45 lies within Parcel L20.2.1 (Plate 4). Munitions response (sampling investigation) of MRS-45 was conducted in 1997. According to the MMRP database, a total of 5 MEC items (all pyrotechnic or practice/training-related items) and 224 munitions debris items were found during the sampling investigation in MRS-45. To address the hazard associated with surface MEC potentially present in areas accessible to the public, a munitions response (visual surface removal) of accessible areas, including the eastern portion of MRS-45, was performed by a munitions response contractor under the direction of the USACE. Three MEC items (pyrotechnic signals) and small arms ammunition were found and removed. None of these items were found in the portion of MRS-45 that lies within Parcel L20.2.1 (Parsons, 2002b). Sampling and a visual surface removal conducted at this site identified evidence of past training involving only the use of practice and pyrotechnic items that are not designed to cause injury. MEC is not expected to remain at MRS-45. MRS-45 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-47 Wolf Hill (Parcels L20.3.1 and L20.3.2)	MD MEC	1950s	MRS-47 was identified on a 1957 training map as the Wolf Hill Training Area. MRS-47 has undergone munitions responses (two sampling investigations and a removal). During investigation, evidence that the site was used as an impact area was found. The MEC items found included high explosive mortars and projectiles. A removal to a depth of 4 feet using geophysical equipment was performed. According to the MMRP database, 261 MEC items and 127 munitions debris items were removed from MRS-47. Seventy of the MEC items were rifle-fired smoke grenades found intentionally buried in a pit at a depth of 3 feet. MEC is not expected to remain at MRS-47. No further military munitions investigation was recommended (USA, 2000b). MRS-47 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
MRS-48 Former Dummy Grenade Range (Parcel L20.19.1.1)	MD MEC	1940s through 1950s	MRS-48 lies is located on the west side of Barloy Canyon Road (Plate 5). The eastern boundary of MRS-48 overlaps portions of the right-of-way associated with Barloy Canyon Road. MRS-48 was identified on a 1946 Fort Ord Master Plan as a “Dummy Grenade Range.” During a munitions response (investigation) by a UXO Safety Specialist, fragments from 4.2-inch mortars and other debris were discovered. A munitions response (grid sampling) was completed at the site in 1988. According to the MMRP database, 3 MEC items (practice hand grenade fuze, a rifle-fired signal, and a screening smoke pot) and 22 munitions debris items were removed. Additionally, over 100 pounds of fragments, mostly from 4.2-inch smoke mortars and smoke grenades, were removed. No sampling occurred within Parcel L20.19.1.1. It was concluded that a grenade and 4.2-inch mortar impact area existed within or near the site and that additional munitions responses be conducted within, to the north and to the south of the site ( <i>USA, 2001h</i> ). MRS-48 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-50 Artillery Hill (Parcels E18.1.1 and E18.1.2)	MD MEC	1940s through 1960s	This area was identified during interviews conducted as part of the ASR. Artillery Hill was reportedly used as a target area for rifle grenades and shoulder launched projectiles in the 1940s, 1950s and 1960s. A munitions response (site walk) was conducted by a USACE UXO Safety Specialist as part of a PA/SI. During the munitions response, fragments from 37mm projectiles and 75mm high explosive (HE) projectiles were discovered. A munitions response (removal) to a depth of 4 feet was completed over all of the Parker Flats MRA, including MRS-50, using digital geophysical equipment. According to the MMRP database, 442 MEC items and 724 munitions debris items were removed from the site. MRS-50 is part of the Parker Flats MRA (Plate 6). The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-50 and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-50EXP (Parcels E18.1.1, E18.1.2 and E19a.1)	MD MEC	1940s through 1960s	MRS-50EXP was identified as a MRS due to the expansion of the removal area associated with MRS-50. MEC and munitions debris were found at the boundary of MRS-50, which warranted an expansion of the investigation area in all directions. The investigation of MRS-50 and its expansion areas included a munitions response (removal) conducted over the entire site to a depth of 4 feet using digital geophysical equipment. According to the MMRP database, 430 MEC items and 1,186 munitions debris items were found and removed from MRS-50EXP. MRS-50EXP is part of the Parker Flats MRA (Plate 6). The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-50EXP and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-52 Rifle Grenade and Projectile Target Area (Parcel E19a.3 and E19a.4)	MD MEC	1950s	This site was identified during interviews conducted as part of the ASR and a 1958 map of Fort Ord Training Areas & Facilities shows a Rifle Grenade and Projectile Target Area. During a site inspection, a 37mm fragment and an AT mine (inert) were discovered. Because of the expansion of the removal area associated with adjacent MRS-53, MRS-52 is now part of MRS-53 and included in the Parker Flats MRA (Plate 6). The Parker Flats MRA underwent a munitions response (removal) to a depth of 4 feet using digital geophysical equipment. The munitions data for MRS-52 is reported with the MRS-53 data. The items found included both MEC and munitions debris. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-52 and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
MRS-53 Shoulder-Launched Projectile Area (Parcel E19a.5)	MD MEC	1940s through 1960s	Parcel E19a.5 lies predominantly within MRS-53 and MRS-53 EXP (Plate 6). According to the ASR, MRS-53 was a Shoulder Launched Projectile Target Area from the 1940s through the 1960s. The hill between the two flats was a target area for rifle grenades and shoulder-launched projectiles. Rifle grenades and shoulder-launched projectiles were shot from the southeast at the hill. The hill south of the large flat at Parker Flats was a target area for rifle grenades and ground/tube launched projectiles. A munitions response (site walk) was conducted by a USACE UXO Safety Specialist as part of a PA/SI (USAEDH, 1997). During the munitions response, a 3-inch stokes mortar round was found and additional investigation was recommended. During a second munitions response (sampling investigation), a 75mm shrapnel projectile, two more 3-inch Stokes mortars and projectile fragments were found. Based on the sampling results, a 4-foot removal was conducted. Munitions responses (removals) resulted in discovery of MEC and live small arms ammunition. MRS-53 is included in the Parker Flats MRA. The Parker Flats MRA underwent a munitions response (removal) to a depth of 4 feet using digital geophysical equipment. According to the MMRP database, 465 MEC items and 5,163 munitions debris items were removed from MRS-53. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-53 and no further munitions response was recommended (MACTEC, 2006). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-53EXP (Parcels E19a.1, E19a.3, E19a.4, and E19a.5)	MD MEC	1940s - 1960s	MRS-53EXP was identified as a MRS due to the expansion of the removal area associated with MRS-53. MEC and munitions debris were found at the boundary of MRS-53, which warranted an expansion of the investigation area in all directions. MRS-53EXP and the adjacent sites now comprise the Parker Flats MRA (Plate 6). The munitions response at MRS-53 and its expansion areas included a removal conducted over the entire site to a depth of 4 feet below ground surface. According to the MMRP database, 803 MEC items and 4,500 munitions debris items were removed from MRS-53EXP. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-53EXP and no further munitions response was recommended (MACTEC, 2006). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-54EDC Canyon Target Area (Parcel E19a.4)	MD MEC	Unknown	MRS-54EDC is the portion of MRS-54 within Parcel E19a.4, which is slated for development. MRS-54 (Canyon Target Area) was identified during interviews conducted during the PA/SI Phase of the Archives Search. The area was reportedly used for flamethrowers, but was also a firing point and range for hand grenades (unknown type), rifle grenades (unknown type), and shoulder-launched projectiles (unknown type). During a munitions response (investigation) conducted in 1996 by a USACE UXO Safety Specialist, munitions debris was discovered, including a 2.36-inch practice rocket, two 75mm shrapnel projectiles, and three 81mm practice mortars. A munitions response (removal) to a depth of 4 feet over the entire site using digital geophysical equipment was performed in 1999. According to the MMRP database, 18 MEC items and 192 munitions debris items were removed from MRS-54EDC. MRS-54EDC is part of the Parker Flats MRA. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-54EDC and no further munitions response was recommended (MACTEC, 2006). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-55 Parker Flats (Parcels	MD MEC	Unknown	This area was identified during interviews conducted as part of the ASR and was reportedly a firing point and range for hand grenades, rifle grenades, shoulder-launched projectiles, and artillery. This site includes portions of MRS-27A and MRS-27B. During a munitions response (investigation) in 1996, an expended 75mm shrapnel projectile, and two fragments from 37mm

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
E19a.3 and E19a.4)			practice projectiles, and one mine fuze were discovered. SS/GS sampling investigation was conducted in March 1998. Following the investigation, a removal over the entire site using digital geophysical equipment was performed. All munitions responses were to a depth of 4 feet. According to the MMRP database, 144 MEC items and 1,608 munitions debris items were removed from MRS-55. Items removed include simulators, smoke pots, and grenades. MRS-55 is included in the Parker Flats MRA. The Parker Flats MRA was evaluated in the Track 2 Parker Flats MR RI/FS. No MEC is expected to remain at MRS-55 and no further munitions response was recommended ( <i>MACTEC, 2006</i> ). The Final Track 2 Parker Flats MR RI/FS was submitted to the USEPA and the DTSC on August 31, 2006.
MRS-57 Unnamed (Parcel L20.2.1)	MD MEC	1940's – 1960's	MRS-57 was identified during interviews conducted as part of the ASR (Plate 4). This area was reportedly used in the 1940s, 1950s, and 1960s. The intersection of Hennekens Ranch Road and Watkins Gate Road was reportedly a firing point for machine guns, M-1, rifle grenades, smoke grenades, and shoulder-launched projectiles. Rifle grenades and bazooka rounds were reportedly found on the hill at Watkins Gate Road and Parker Flats Road intersection. This area was often burned to detonate the UXO. A munitions response (site walk) that included MRS-57 was conducted in January 1996 by a USACE UXO Safety Specialist as part of a PA/SI. Military munitions found included an expended 75mm shrapnel projectile, a smoke grenade, and illumination signals. The data was insufficient to determine if the smoke grenade and the illumination signals were MEC or munitions debris. Additionally, 4 expended smoke grenades were found on a dirt road adjacent to MRS-57 during a munitions response (investigation) completed in October 1999. To address the hazard associated with surface MEC potentially present in areas accessible to the public, a munitions response (visual surface removal) was performed by munitions response contractors under the direction of the USACE in 2001 and 2002. The visual surface removal included MRS-57. No MEC items were found at MRS-57 ( <i>Parsons, 2002b</i> ). Historical research and field investigations identified past training involving only the use of practice and pyrotechnic items that are not designed to cause injury. No evidence of other types of training or use as an impact area was observed. MEC is not expected to be found at MRS-57. MRS-57 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-59 Unnamed (Parcel L20.2.1)	MD	Unknown	A small portion of MRS-59 overlaps Parcel L20.2.1 (Plate 4). MRS-59 was identified during interviews conducted as part of the ASR and was reported to have included a 2.36-inch rocket range in the early 1940s. A munitions response (investigation) that included MRS-59 and MRS-27F was conducted by a USACE UXO Safety Specialist as part of a PA/SI ( <i>USADEH, 1997</i> ). Munitions debris (expended pyrotechnics) and two fragments from the incomplete detonation of a 60mm mortar were found; however, the specific location of these items was not documented. No evidence of the use of 2.36-inch rockets, reportedly used at MRS-59, was observed. MEC is not expected to be present within MRS-59. MRS-59 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-15 DRO 01 (Parcels L20.13.1.2 and L20.13.3.1)	MD MEC	Unknown	MRS-15 DRO 01 and Parcel L6.1 lie adjacent to Parcel L6.2 (Plate 9). Sites MRS-15 DRO 01, MRS-15 DRO 02, and MRS-43 are collectively called the DRO Group (Plate 9). The initial munitions responses (investigations) conducted at MRS-15 DRO 01 included random grid sampling, a removal to a depth of 4 feet along a fuel break on the east side of MRS-15 DRO 01, a removal to a depth of 4 feet on the roads and trails within the site, SS/GS sampling at MRS-15 DRO 01 and MRS-43, and removal of spent small arms ammunition in Ranges 24, 25 and 26 (HA-24, HA-25 and HA-26). MEC and munitions debris were identified within the eastern portion of MRS-15 DRO 01 and the area was subjected to a munitions response (removal) to a depth of 4 feet. Upon



**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

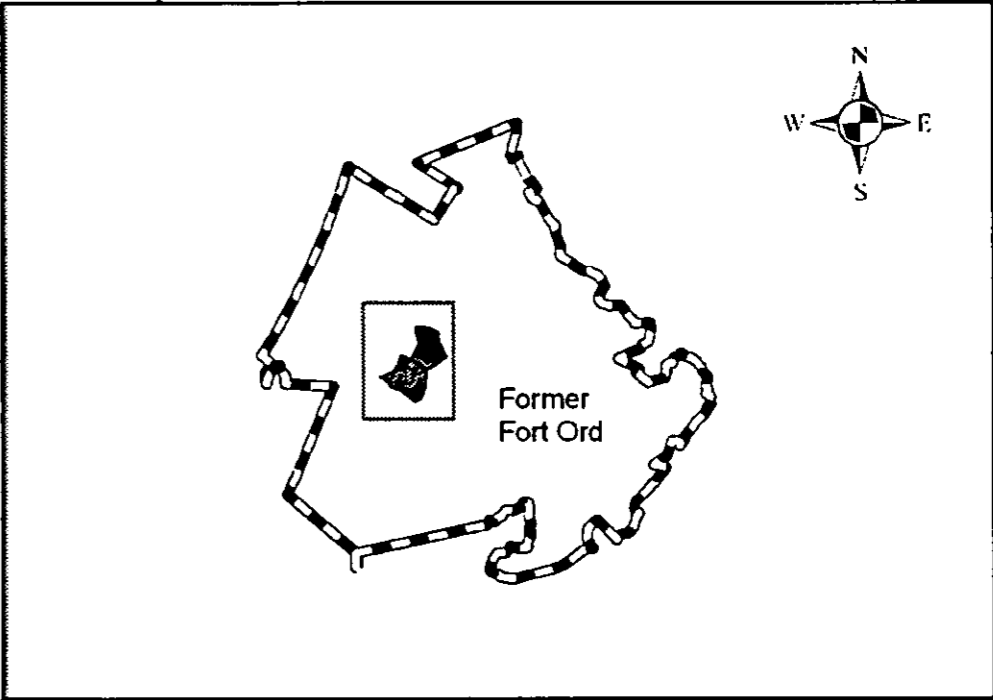
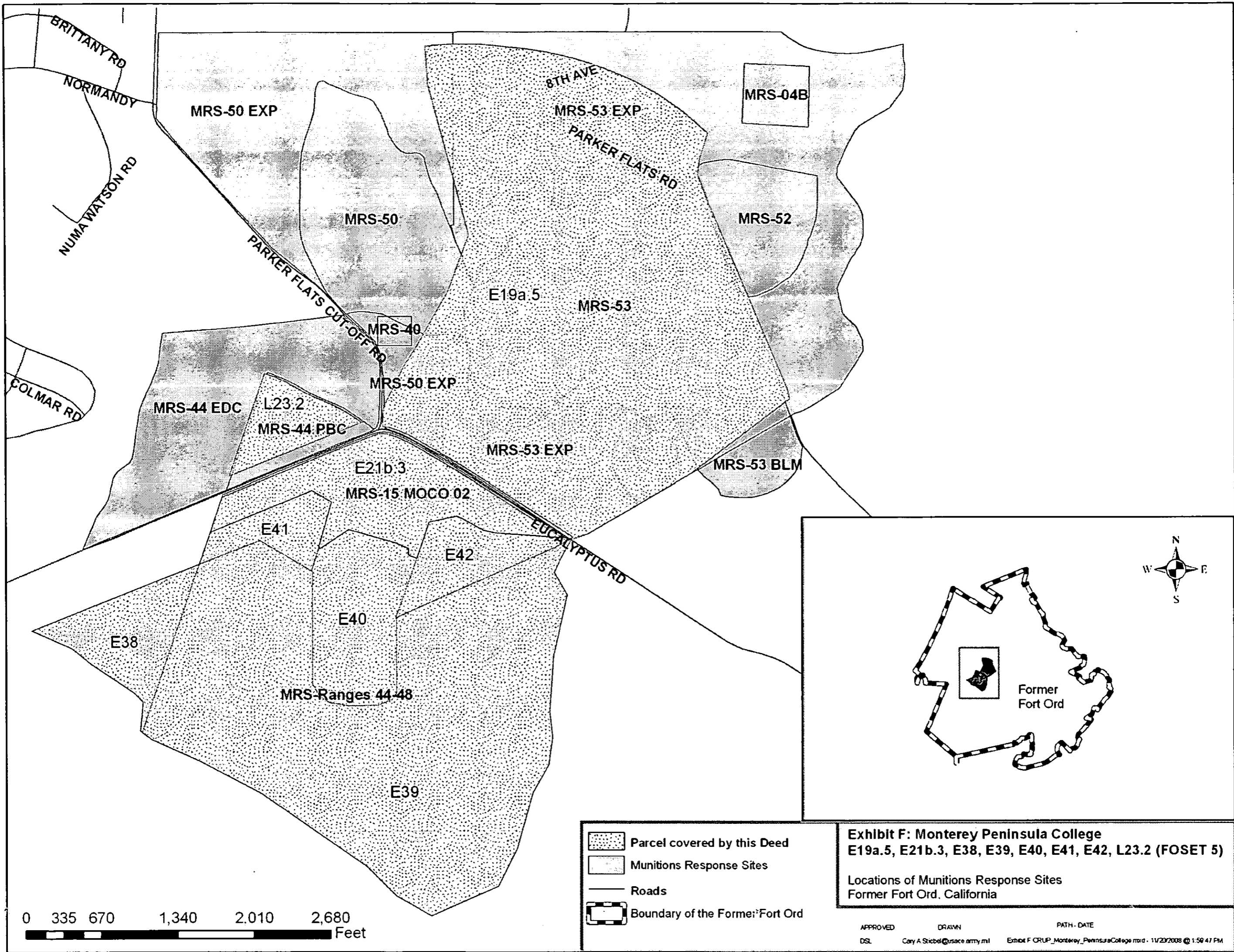
Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
and adjacent to Parcel L6.2)			completion of the removal, the removal area and the rest of MRS-15 DRO 01 were resurveyed using digital geophysical equipment. The digital geophysical survey on the southern margin of MRS-15 DRO 01 included investigation up to the fence-line running parallel to South Boundary Road (Parcels L20.13.3.1 and L20.13.1.2). According to the MMRP database 168 MEC items and 15,300 munitions debris items were removed from MRS-15 DRO 01. The removal at MRS-15 DRO 01 is complete and no MEC is expected to remain in the portions of MRS-15 DRO 01 overlapping Parcels L20.13.1.2 and L20.13.3.1. MRS-15 DRO 01 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-15 MOCO 02 (Parcel E21b.3)	MD MEC	Unknown	The boundary of MRS-15 MOCO 02 was developed to support the transfer of Parcel E21b.3 and not on evidence of munitions use. MRS-15 MOCO 02 lies within the boundary of the former Fort Ord Impact Area and contains the firing lines for Ranges 44 and 45. Range 44 was used for firing of antitank weapons and Range 45 was a 40mm grenade range. Munitions response (investigation) at the site was performed in 1999 and approximately 100 military munitions-related items (MEC and munitions debris) were found ( <i>USA, 2001g</i> ). To address the threat to human health associated with MEC at MRS-15 MOCO 02, a non-time critical removal action (NTCRA) to a depth of 4 feet was completed across the northern portion of the site. According to the MMRP database 663 MEC items and 3,964 munitions debris items were removed from the site. All accessible areas within the northern portion of MRS-15 MOCO 02 were investigated to a depth of 4 feet. Based on the results of the NTCRA the threat to the public posed by the presence of MEC at the site has been mitigated ( <i>Parsons, 2006c</i> ). MRS-15 MOCO 02 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-Ranges 43-48 (Parcels E38, E39, E40, E41, and E42)	MD MEC	1940s through 1990s	MRS-Ranges 43-48 includes all or portions of six former firing ranges that were part of the Impact Area. To address threats to public safety associated with MEC potentially remaining at MRS-Range 43-48, several munitions responses were performed. The munitions responses included grid sampling, a surface time-critical removal action (TCRA) over accessible areas, and an Interim Action that included additional surface and subsurface MEC removal conducted throughout the parcels to a depth of 4 feet. Inaccessible SCAs <sup>2</sup> (Plate 7, Attachment 1) and pending areas underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed ( <i>Parsons, 2007</i> ). According to the MMRP database 11,955 MEC items and 28,840 munitions debris items were removed from the site. MRS-Ranges 43-48 (including the SCAs) will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-15 SEA 01 (Parcel E24)	MD MEC	Unknown	The boundary of MRS-15 SEA 01 was developed to support the transfer of Parcel E24 and not on evidence of munitions use. MRS-15 SEA 01 included the firing points and some of the targets associated with three small arms ranges (Ranges 21, 22, and 23) and a non-firing target detection range. Several munitions responses were conducted on MRS-15 SEA 01, including an investigation of field latrines, road clearances, grid sampling, removals within the small arms ranges and fuel breaks, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15 SEA 01 not covered by the NTCRA. According to the MMRP database, 203 MEC items and 17,845 munitions debris items were removed from the site. All munitions responses within the accessible areas of MRS-15 SEA 01 have been conducted to a depth of 4 feet. Inaccessible SCAs <sup>3</sup> (Plate 8, Attachment 1) underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed ( <i>Parsons, 2006a</i> ). Inaccessible SCAs will be





**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
			addressed in a follow-up investigation. MRS-15 SEA 01 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-15 SEA 02 (Parcel E34)	MD MEC	Unknown	The boundary of MRS-15 SEA 02 was developed to support the transfer of Parcel E34 and not on evidence of munitions use. MRS-15 SEA 02 included the firing points and some of the targets associated with two small arms ranges (Ranges 19 and 20). Several munitions responses were conducted on MRS-15 SEA 02, including grid sampling, removals within the small arms ranges and fuel breaks, a surface TCRA, NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15 SEA 02 not covered by the NTCRA. According to the MMRP database, 12 MEC items and 1,390 munitions debris items were removed from the site. All munitions responses within the accessible areas of MRS-15 SEA 02 were conducted to a depth of 4 feet. Inaccessible SCAs (Plate 8, Attachment 1) underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed ( <i>Parsons, 2006a</i> ). Inaccessible SCAs will be addressed in a follow-up investigation. MRS-15 SEA 02 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-15 SEA 03 (Parcel E23.1)	MD MEC	Unknown	The boundary of MRS-15 SEA 03 was developed to support the transfer of Parcel E23.1 and not on evidence of munitions use. MRS-15 SEA 03 includes a portion of Range 18, a former small arms range. Features associated with Range 18 that lie within Parcel E23.1 include some of the firing points and some of the targets. Several munitions responses were conducted on MRS-15 SEA 03, including grid sampling, removals within the small arms range, roads and fuel breaks, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15 SEA 03 not covered by the NTCRA. According to the MMRP database, 124 MEC items and 220 munitions debris items were removed from the site. All munitions responses within the accessible areas of MRS-15 SEA 03 were conducted to a depth of 4 feet. Inaccessible SCAs (Plate 7, Attachment 1) underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed ( <i>Parsons, 2006a</i> ). Inaccessible SCAs will be addressed in a follow-up investigation. MRS-15 SEA 03 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.
MRS-15 SEA 04 (Parcel E23.2)	MD MEC	Unknown	The boundary of MRS-15 SEA 04 was developed to support the transfer of Parcel E23.2 and not on evidence of munitions use. MRS-15 SEA 04 included the firing points and some of the targets associated with two small arms ranges (Ranges 18 and 46), and the firing points for a mortar and antitank weapons range (Range 48). Several munitions responses were conducted on MRS-15 SEA 04, including grid sampling, removals within the small arms ranges and fuel breaks, a surface TCRA, a NTCRA, and a 100% digital geophysical survey on all remaining portions of MRS-15 SEA 04 not covered by the NTCRA. According to the MMRP database, 189 MEC items and 380 munitions debris items were removed from the site. All munitions responses within the accessible areas of MRS-15 SEA 04 were conducted to a depth of 4 feet. Inaccessible SCAs (Plate 7, Attachment 1) underwent a surface removal only. The immediate threat posed to the public by the SCAs has been significantly mitigated because the MEC on the ground surface was removed ( <i>Parsons, 2006a</i> ). Inaccessible SCAs will be addressed in a follow-up investigation. MRS-15 SEA 04 will be evaluated through the RI/FS process per the provisions of the FFA, as amended, and as part of the ongoing former Fort Ord MMRP.

**Exhibit E – Notification of Munitions and Explosives of Concern (MEC)\***

Munitions Response Site	Type of Military Munitions	Date of Military Munitions Use	Munitions Response Actions
<p>*<u>Munitions and Explosives of Concern (MEC)</u>U. This term, which distinguishes specific categories of military munitions that may pose unique explosives safety risks, means: (A) Unexploded Ordnance (UXO), as defined in 10 U.S.C. 101(e)(5); (B) Discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (C) 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.</p> <p><sup>1</sup> Resolution of anomalies detected below the depth specified in a project scope of work was at the discretion of the project managers and determined on a case-by-case basis considering, among other things, the likelihood that the anomaly was MEC or other material. At munitions response sites where 4-foot removal or removal-to-depth was conducted since June 1996, all detected anomalies were investigated or resolved (e.g. Parker Flats Munitions Response Area), or unresolved anomalies were recorded (e.g. special-case areas in MRS-15 SEA 01-4). For 1-foot and 3-foot removals, and 4-foot removals conducted prior to June 1996, after-action reports do not provide information about any detected but unresolved anomalies; further evaluation of site-specific information would be required to conclusively state that there were no such anomalies.</p> <p><sup>2</sup> SCA is an area in the MRS in which MEC removal cannot be completed within the scope of work due to metallic clutter or obstructions that compromise instrument performance or technician safety or because the removal process would cause a serious adverse impact to the habitat. The specific types of SCAs at MRS-Ranges 43-48 are high density munitions debris and range-related debris areas (Ranges 44 and 48); high density MEC and range-related debris (Range 47); target box trench (Range 45); non-completed areas; steel-reinforced concrete observation bunker; and metallic fence. See the <i>Final MRS-Ranges 43-48 Interim Action Technical Information Paper, Former Fort Ord, Monterey, California, Military Munitions Response Program</i>, January 26, 2007, for additional information.</p> <p><sup>3</sup> SCA is an area in the MRS in which MEC removal cannot be completed within the scope of work due to metallic clutter or obstructions that compromise instrument performance or technician safety or because the removal process would cause a serious adverse impact to the habitat. The specific types of SCAs at MRS-15 SEA 01-4 are metallic fence; asphalt and concrete paved areas; non-completed backhoe excavation areas; heavy equipment excavation areas (concrete bunkers, fighting positions, flag poles, target boxes, tie downs, utility poles and wood stairs); berms (wood retaining walls with metal connectors); structures and latrines; former remote automated weather station (Range 46); and debris piles. See the <i>Final Technical Information Paper MRS-15 SEA 01-4, Time-Critical Removal Action and Geophysical Operations (Phase I), Former Fort Ord, Monterey, Military Munitions Response Program</i>, February 11, 2006, for additional information.</p>			



-  Parcel covered by this Deed
-  Munitions Response Sites
-  Roads
-  Boundary of the Former Fort Ord

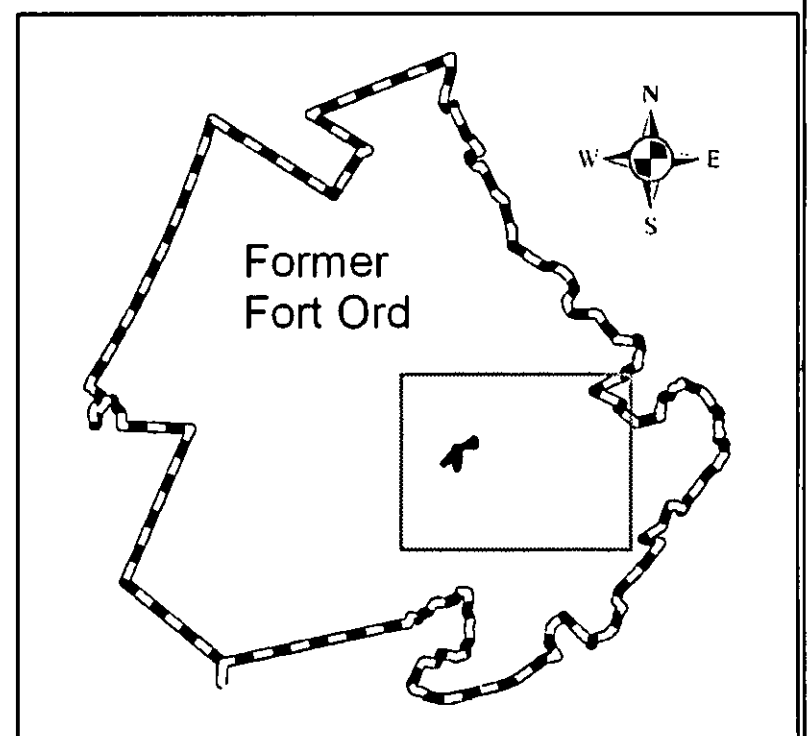
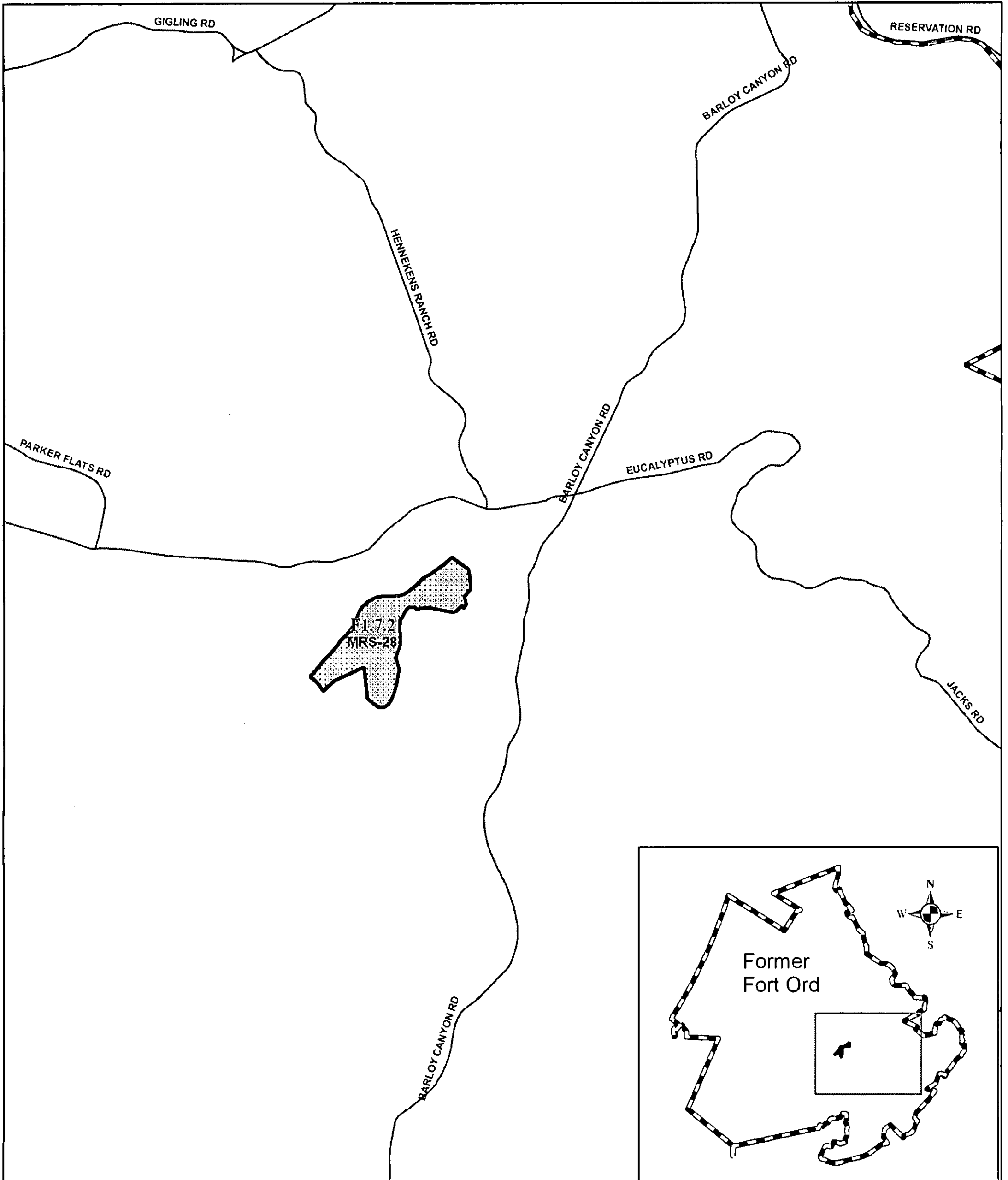
**Exhibit F: Monterey Peninsula College**  
**E19a.5, E21b.3, E38, E39, E40, E41, E42, L23.2 (FOSET 5)**





Locations of Munitions Response Sites  
 Former Fort Ord, California

0 335 670 1,340 2,010 2,680  
 Feet

APPROVED: \_\_\_\_\_ DRAWN: \_\_\_\_\_ PATH-DATE: \_\_\_\_\_  
 DSL: Cary A Sicbel@usace.army.mil Exhibit F CRUP\_Monterey\_PeninsulaCollege.mxd - 11/29/2008 @ 1:50:47 PM

EXHIBIT "F"



-  Parcel covered by this Deed
-  Munitions Response Sites
-  Roads
-  Boundary of the Former Fort Ord

**Exhibit F: Monterey Peninsula College Parcel F1.7.2 (FOSET 5)**  
 Locations of Munitions Response Sites  
 Former Fort Ord, California

0 1 2 4 Miles

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S BOUNDARY ROAD

## **EXHIBIT G**

### **UNRECORDED EASEMENTS AND ENCUMBRANCES**

Existing utilities, if any, along Impossible Canyon Road.

Existing utilities, if any, along paved roads within these parcels including Normandy Road, Parker Flats Road, Parker Flats Cut-Off and Eucalyptus Road, which may currently service U.S. Department of the Interior, Bureau of Land Management (BLM) facilities.

**END OF DOCUMENT**

## APPENDIX C

### Fort Ord Military Munitions 3Rs Explosives Safety Guide

## HISTORY

As an active U.S. Army post, Fort Ord's mission was to train soldiers to protect the interests of the United States. An important part of the mission was infantry and artillery training. As a result of this training, unexploded ordnance may remain on portions of the former Fort Ord.

After reviewing the records of past training activities, the Army identified areas where ordnance may still remain and began conducting investigations and removing ordnance from those areas. Cleanup of all identified areas will not be completed for many years.



**Examples of Military Munitions at former Fort Ord**

## Military Munitions 3Rs Explosives Safety Guide



If you find an object (or even a piece of one) resembling those shown in this safety guide —

**Don't Touch It  
Mark the Location  
Call 911 to Report the Item**

Si descubre cualquier objeto que se asemeje a los que se muestran en este photographia —

**¡NO LO TOQUE!  
MARQUE LA UBICACIÓN  
LLAME A LA POLICÍA AL 911!**





# Fort Ord Military Munitions 3Rs Explosives Safety Guide

## DANGER

Areas where unexploded ordnance may be present are posted with DANGER signs. Do not enter areas where you see signs like the one below. Off-road vehicular traffic is prohibited on the former Fort Ord.



## Additional Munitions Safety Resources

The Fort Ord Reuse Authority offers free munitions recognition and safety training through an easy to access eLearning tool. This training is recommended for anyone conducting ground-disturbing activities on former Fort Ord and required for all personnel as a condition for excavation permits.

Munitions recognition and safety training eLearning may be accessed at: [www.fortordsafety.com](http://www.fortordsafety.com).

More information about munitions safety at the former Fort Ord, contact the Fort Ord Reuse Authority by calling 831-883-3672 or the Fort Ord Base Realignment and Closure Field Office by calling 831-242-7919.

For information about munitions cleanup at the Former Fort Ord, visit [www.fortordcleanup.com](http://www.fortordcleanup.com).



Produced by the **Fort Ord Reuse Authority**  
920 2nd Ave. Suite A, Marina, CA 93933  
tel: 831-883-3672 Email: [info@fora.org](mailto:info@fora.org)  
[www.fora.org](http://www.fora.org)

## The 3Rs of Explosives Safety

**Recognize** — Recognizing when you may have encountered a munition is key to reducing the risk of injury or death. If you encounter or suspect you may have encountered a munition, consider it extremely dangerous. Remember, munitions are sometimes hard to identify.

**Retreat** — If you encounter or suspect you may have encountered a munition, do not touch, move or disturb it. Immediately and carefully - do not run - leave the area following the same path on which you entered. If you can, mark the general area, not the munition, in some manner (e.g., with a hat, piece of cloth, or tying a piece of plastic to a tree branch).

**Report** — When you think you may have encountered a munition, notify your local law enforcement — call 911.

## DON'T FORGET

Munitions are dangerous and may not be easily recognizable. Never touch, move or disturb a munition or suspected munition.

## Learn and follow the 3Rs Of explosives safety



## Introduction

The purpose of this pamphlet is to inform you of the military training activities that took place at the former Fort Ord and to raise awareness of the explosive hazards that may exist at the former fort.

As a result of the Army's use of military munitions on the former Fort Ord, unexploded ordnance (UXO) may be encountered during ground disturbing activity on former Fort Ord property.

Users of the former Fort Ord should be aware of the potential for unexploded ordnance to remain after cleanup and be aware of the potential hazards munitions pose. To protect yourself, your family and your neighbors, you should learn and follow the 3Rs of Explosive Safety.

## Before You Dig

Any activity within former military munitions areas at former Fort Ord that involves the disturbance of ten (10) cubic-yards or more of soil requires an Excavation Permit from the County or City building department.

The County and Cities have each adopted digging and excavation ordinances that specify special standards and procedures for ground disturbing activities on the former Fort Ord ("digging and excavation ordinances"; Monterey County Code Chapter 16.10, City of Del Rey Oaks Chapter 15.48, City of Monterey Chapter 9 Article 8, and City of Seaside Chapter 15.34, respectively ).

The intent of these ordinances is to ensure that site purchasers, developers or workers are aware of the potential that explosive hazards may still be located on these properties, and to ensure that appropriate precautions, including UXO Construction Support, are implemented prior to any ground disturbance.

As a condition for excavation permits, all personnel working on the site must also complete munitions recognition and safety training. If a suspect munition item is encountered, it is imperative that all site workers understand the potential hazards, safety precautions, and protective measures in place.

**APPENDIX D**

**Local Digging and Excavation Ordinances related to Interim Action Ranges  
MRA Properties and Confirmation of Agreement between Fort Ord Reuse  
Authority and Monterey Peninsula College**

- Chapter 16.10 - DIGGING AND EXCAVATION ON THE FORMER FORT ORD
- 16.10.010 - Purpose and intent.
- 16.10.020 - General.
- 16.10.030 - Applicability.
- 16.10.040 - Excavation and digging restrictions.
- 16.10.050 - Permit requirements.
- 16.10.060 - Permit procedure.
- 16.10.070 - Term of permit.
- 16.10.080 - Exceptions to permit conditions.
- 16.10.090 - Performance bond.
- 16.10.100 - Amendment to permits.
- 16.10.110 - Appeals.
- 16.10.120 - Notification to property owners and other land users.
- 16.10.130 - Revision of Chapter.

## Chapter 16.10 - DIGGING AND EXCAVATION ON THE FORMER FORT ORD

### 16.10.010 - Purpose and intent.

The United States Army (Army) is in the process of transferring various parcels of the former Fort Ord military installation (Fort Ord) to the County or to other entities within the County's land use jurisdiction. Some parcels of the former Fort Ord were contaminated with unexploded ordnance and explosives (UXO), which is a hazardous waste. The Army will not transfer those parcels until it has cleared those parcels of UXO to its standard. Even following the Army's completion of UXO response activities, it is possible that some UXO materials may remain on those parcels. The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has statutory responsibility to oversee cleanup of releases of hazardous substances, which includes hazardous waste. DTSC cannot certify that all UXO has been cleared and it will require a land use covenant to be recorded with the Monterey County Recorder on those parcels to provide additional controls and restrictions to protect the public health and safety. The County will also enter into an Agreement with DTSC to provide additional safety measures and reporting.

(Ord. 5012 § 1 (part), 2005)

### 16.10.020 - General.

The Board of Supervisors finds and determines that those properties formerly included within the Fort Ord military installation that are suspected of containing UXO require special standards and procedures for digging and excavation in addition to those contained in the Building Code, to ensure that:

- A. Neither digging or excavation nor development of such properties occurs until ordnance or explosive remediation thereon is completed;
- B.
- B. Potential purchasers or developers of sites which may contain UXO and those persons whose work at such sites includes disturbing soil, are aware of the potential that UXO may be located on these properties and are aware of the requirements for UXO precautions prior to any digging, excavation or ground disturbance thereon; and
- C. DTSC should be continuously involved in the establishment of controls for those properties because it has statutory oversight responsibility with respect to hazardous substance response actions.

(Ord. 5012 § 1 (part), 2005)

**16.10.030 - Applicability.**

A. The Board of Supervisors, with the concurrence of DTSC, hereby designates all real property within the County's land use jurisdiction which was formerly part of Fort Ord and which have been identified in the Archives Search Report and supplement, dated 1997, or otherwise identified, as the possible location of unexploded ordnance or explosives as an Ordinance Remediation District (hereafter "district"). All such districts are defined as those areas of the unincorporated portions of the former Fort Ord, excepting therefrom the "Track 0" parcels as identified in the *Finding of Suitability to Transfer, Track 0 Parcels, Former Fort Ord, California* document, dated May 2003. The County shall notify DTSC of any change in the permitted land uses in any district within thirty (30) days after it adopts any change.

B. The regulations in this Chapter shall apply in all districts and shall be in addition and subject to all provisions of the County Code, including Titles 16, 18 and 21.

(Ord. 5012 § 1 (part), 2005)

**16.10.040 - Excavation and digging restrictions.**

It shall be unlawful for any person, including utilities, to engage in any of the following activities on any property located within a district unless that person is acting pursuant to a valid excavation permit (hereafter "permit") issued pursuant to this Chapter: excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil.

(Ord. 5012 § 1 (part), 2005)

16.10.050 - Permit requirements.

An owner or user of real property located within a district who desires to conduct the activities described in Section 16.10.040 shall apply to the Building Official for a permit. The application shall be on a form approved by the County, may be combined with an application for grading pursuant to County Code Chapter 16.08, shall be signed by the permit applicant and all owners of each parcel of property on which excavation will be done, and shall contain the following information:

- A. Six copies of a description of any previous UXO excavation or removal activity conducted on the property whose soil is proposed to be excavated, moved or graded;
- B. Six copies of a description of the property where soil is proposed to be excavated, moved or graded. The description shall include a drawing with dimensions to a scale which sets forth the size and details of all proposed excavation activity, including any proposed cut and fill, trenching, well drilling, mineral excavation, post hole drilling, or other activity of any sort whenever the applicant proposes to do either of the following: (1) disturb ten (10) cubic yards or more of soil; or (2) disturb soil in a manner inconsistent with restrictions placed on the property by the Army or as noted on the district map;
- C. Six copies of a statement that the person submitting the application acknowledges liability for removing all detected unexploded ordnance and explosives in accordance with this Chapter and the permit;
- D. Six copies of a statement by the person submitting the application that they have, within the preceding twelve (12) months, delivered a copy of the notice to everyone whose work at the property described in Subsection 16.10.050(B) includes disturbing soil;
- E. The expected completion date of the activities authorized by the permit;
- F. Any other information which the Building Official may require as pertinent to the determination of the adequacy of the proposed plan;
- G. Payment of the permit fee, as established by the Board of Supervisors, at the time of filing the application for the permit.

(Ord. 5012 § 1 (part), 2005)

16.10.060 - Permit procedure.

The Building Official shall review the permit application and shall approve the permit unless evidence is available which indicates that the proposed grading or excavation will create an undue risk to the health and safety of the public at large. Prior to acting on any such application, the Building Official, in his/her sole discretion, may set and conduct a public hearing for the purpose of receiving comments on the proposed grading and excavation. Except as otherwise indicated in Section 16.10.080, any permit issued hereunder shall be subject to the following conditions:

- A. All excavation and grading shall be performed solely in accordance with the permit approved and issued by the County.
- B. Prior to movement of any soil on any property located within a district, the permittee or designee shall personally deliver to each person who intends to work on the property described in the permit the Safety Alert—Ordnance and Explosives at former Fort Ord, as prepared by the Directorate of Environmental and Natural Resources Management at the Presidio of Monterey, or its successor document, and explain to each such person the information set forth in that notice.
- C. The permittee may not move or disturb soil unless the permittee is in compliance with the requirements placed on the property by an Agreement executed between the County, Redevelopment Agency, FORA and DTSC. Said Agreement shall, at a minimum, include OE construction support ("Construction Support") and shall be attached to and become a part of any permit issued pursuant to this Chapter.
- D. The permittee shall cease soil disturbance activities upon a discovery of any suspected unexploded ordnance. The permittee shall notify the Monterey County Sheriff, Directorate of Law Enforcement at the Presidio of Monterey, the Army and DTSC of any suspected unexploded ordnance discovered during any excavation or soil removal immediately upon discovery. The permittee shall coordinate appropriate response actions with the Army and DTSC.
- E. No later than thirty (30) days following the completion of the permitted soil disturbance activity, the permittee shall prepare and file with the Building Official, the Army and DTSC an After Action Report that shall state whether and where UXO was detected and the extent and depth of UXO response actions undertaken and completed on the property that is the subject of the permit. The After Action Report shall be in the form provided in Exhibit "A" and shall include site maps to illustrate the information contained in the report. All After Action Reports prepared and filed in accordance with this Chapter shall be deemed public records.

- F. --In consideration for the issuance of a permit and project approval, permittee shall defend at its sole expense any action or proceeding brought against the County and its Agents, Officers, and employees because of the approval of said permit. In further consideration for the issuance of a permit and project approval, the permittee shall indemnify and hold harmless from any liability the County and its agents, officers and employees and reimburse the County for any expenses incurred resulting from or in connection with the approval of the project including any claim, suit or legal proceeding and any and all related litigation costs, court costs, and attorneys' fees which the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this Subsection.
- G. The Building Official shall mail a notice of permit approval to the Army, DTSC, and all owners of property within three hundred (300) feet of the real property that is the subject of the permit application.

(Ord. 5012 § 1 (part), 2005)

#### 16.10.070 - Term of permit.

Every permit issued by the Building Official under the provisions of this Chapter shall expire if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of such permit, or if the work authorized by such permit is commenced and then suspended or abandoned for a period of thirty (30) days, unless such suspension is approved by the Building Official. Before such work can be recommenced, a new permit shall first be obtained, and the fee therefor shall be as established from time to time by the Board of Supervisors for a new permit for such work, provided no changes have been made or will be made in the original plans and specification for such work.

(Ord. 5012 § 1 (part), 2005)

#### 16.10.080 - Exceptions to permit conditions.

Following consultation with and approval by DTSC, the Board of Supervisors may, upon a finding that the requirements of Section 16.10.060(C) are no longer necessary, designate by ordinance or resolution any district as a Limited Control District and/or no longer subject to the provisions of this Chapter. The holder of any permit issued for any Limited Control District shall not be subject to Section 16.10.060(C).

(Ord. 5012 § 1 (part), 2005)



**16.10.090 - Performance bond.**

Upon a finding by the Building Official that a permit should be issued for excavation or grading on the proposed site, a surety bond, in the form prescribed by the Monterey County Code Section 16.08.290, conditioned upon the faithful performance and completion of the permitted excavation activity, shall be filed with the County. Such surety shall be executed in favor of the County and shall be maintained in an amount prescribed by the Building Official sufficient to ensure the completion of the ordnance remediation and excavation of the site as prescribed in the approved permit.

(Ord. 5012 § 1 (part), 2005)

**16.10.100 - Amendment to permits.**

Request for amendments to an approved excavation permit may be submitted to the Building Official at any time, detailing proposed changes from the original permit. Deviations from the original permit shall not be undertaken until such amendment has been approved by the County in writing. Amendments to an approved permit shall be approved by the same procedure as prescribed for the approval of the original excavation permit.

(Ord. 5012 § 1 (part), 2005)

**16.10.110 - Appeals.**

Any person aggrieved by any determination of the Building Official in exercise of the authority granted in this Chapter shall have the right to appeal pursuant to Monterey County Code Sections 16.08.460 through 16.08.510, inclusive.

(Ord. 5012 § 1 (part), 2005)

**16.10.120 - Notification to property owners and other land users.**

A. The County shall notify the owners of property designated as Ordnance Remediation Districts, and those utilities known to be providing service within the County, of the requirements of this Chapter and provide those persons with the Safety Alert—Ordnance and Explosives at Former Fort Ord, as identified in Section 16.10.060(B), above. The County shall annually notify the owners of said property as shown on the equalized tax rolls of the requirements of this Chapter and provide those persons with a copy of the notice. Failure of any owner, occupant or user of such land to receive said notification shall not relieve them from responsibility for compliance with this Chapter.

B. All owners, occupants or users of land subject to this Chapter, including utilities, shall notify any subsequent owners, assigns, lessees or users of such land of the requirements of this Chapter. Notification shall be made prior to transfer of the property in question.

Monterey County Code Chapter 16.10 - DIGGING AND EXCAVATION ON THE FORMER FORT ORD

C. All persons identified in Subsection 16.10.120(A) above shall deliver, at least annually, a copy of the notice to everyone whose work at UXO sites includes disturbing soil and shall explain the contents thereof to those persons.

(Ord. 5012 § 1 (part), 2005)

**16.10.130 - Revision of Chapter.**

This Chapter shall not be revised without prior written notice to the DTSC.

(Ord. 5012 § 1 (part), 2005)

## **Chapter 15.34 DIGGING AND EXCAVATION ON THE FORMER FORT ORD**

Sections:

- 15.34.010 Citation and authority.**
- 15.34.020 Purpose and intent.**
- 15.34.030 General.**
- 15.34.040 Designation and applicability.**
- 15.34.050 Excavation and digging restrictions.**
- 15.34.060 Permit requirements.**
- 15.34.070 Permit procedure.**
- 15.34.080 Term of permit.**
- 15.34.090 Exceptions.**
- 15.34.100 Performance bond.**
- 15.34.110 Amendments to permits.**
- 15.34.120 Appeals.**
- 15.34.130 Notification to property owners and other land users.**
- 15.34.140 Revision of chapter.**

### **15.34.010 Citation and authority.**

The ordinance codified in this title is adopted to establish a regulatory framework for subsequent agreements between the city of Seaside ("city"), the redevelopment agency of the city of Seaside ("City RDA"), the Fort Ord Reuse Authority ("FORA") and the California environmental protection agency, department of toxic substances control ("DTSC") related to digging and excavation on approximately one thousand five hundred eighty-one acres of the former Fort Ord military installation ("Fort Ord") that are known or suspected to be contaminated with ordnance and explosives ("OE") (Exhibit "A"). This chapter may be cited as the "Ordnance Remediation District Regulations of the City." (Ord. [924](#) (part), 2004).

### **15.34.020 Purpose and intent.**

The United States Army ("Army") is in the process of transferring portions of the former Fort Ord to the city. Some parcels of the former Fort Ord were contaminated with OE, which is a hazardous waste. The Army will not transfer those parcels until it has cleared those parcels of OE to its standard. Even following the Army's completion of OE response activities, it is possible that some OE materials may remain on those parcels. The DTSC has statutory responsibility to oversee cleanup of releases of hazardous substances, which includes hazardous waste. DTSC cannot certify that all OE has been cleared and it will require a land use covenant to be recorded with the Monterey county recorder on these parcels to provide

additional controls and restrictions to protect the public health and safety. The city will also enter into an agreement with DTSC to provide additional safety measures, reporting, etc. (Ord. [924](#) (part), 2004).

#### **15.34.030 General.**

The city council finds and determines that those properties formerly included within the Fort Ord military installation which are suspected of containing OE require special standards and procedures for digging and excavation in addition to those contained in the Building and Construction Code, to ensure that:

- A. Neither digging or excavation nor development of such properties occurs until ordnance or explosive remediation thereon is completed;
- B. Potential purchasers or developers of sites which may contain OE and those persons whose work at such sites includes disturbing soil, are aware of the potential that OE may be located on these properties and are aware of the requirements for OE precautions prior to any digging, excavation or ground disturbance thereon; and
- C. DTSC should be continuously involved in the establishment of controls for those properties because it has statutory oversight responsibility with respect to hazardous substance response actions. (Ord. [924](#) (part), 2004).

#### **15.34.040 Designation and applicability.**

The city council, with the concurrence of DTSC, designates all real property within the city's land use jurisdiction which was formerly part of Fort Ord and which has been identified in the archives search report and supplement, dated 1997, or otherwise identified, as the possible location of unexploded ordnance or explosives as an "ordnance remediation district" ("District"). Such district is depicted on the map included as Exhibit "A" to this chapter and includes all areas on the map that are within map legend designations "OE sites in Seaside" and "first tee boundary," except those OE areas located within map legend designation "parcels retained by DOD."

- A. Such district shall be depicted on the city zoning map by an "ORD" suffix to indicate the existence of ordnance precaution remediation obligations on such property. The city shall notify DTSC of any change in the permitted land uses in the district within thirty days after it adopts any change.
- B. The regulations in this chapter shall apply throughout the district and shall be in addition and subject to all provisions of the Municipal Code including [Title 17](#) - Zoning and [Title 15](#) - Building and Construction, Chapter [15.32](#) - Standards to Control Excavation, Grading, Clearing and Erosion. (Ord. [924](#) (part), 2004).

**15.34.050 Excavation and digging restrictions.**

It is unlawful for any person, including utilities, to engage in any of the following activities on any property located within a district unless that person is acting pursuant to a valid permit issued pursuant to this chapter: excavation, digging, development or ground disturbance of any type involving the displacement of ten cubic yards or more of soil. (Ord. [924](#) (part), 2004).

**15.34.060 Permit requirements.**

An owner or user of real property located within the district who desires to conduct the activities described in Section [15.34.050](#) of this chapter shall apply to the director of community development for a permit. The application shall be on a form approved by the city, may be combined with an application for grading pursuant to Chapter [15.32](#) of this code, shall be signed by the permit applicant, and shall contain the following information:

- A. A description of any previous OE excavation or removal activity conducted other than by the Army on the property whose soil is proposed to be excavated, moved or graded;
- B. A description of the property, whose soil is proposed to be excavated, moved or graded. The description shall include a drawing with dimensions to a scale which sets forth the size and details of all proposed excavation activity, including any proposed cut and fill, trenching, well drilling, mineral excavation, post hole drilling, or other activity of any sort whenever the applicant proposes to disturb ten cubic yards or more of soil;
- C. A statement that the person submitting the application acknowledges liability if the person removes any detected unexploded ordnance or otherwise violates this chapter and/or the permit. The Army will continue to have the liability to remove any ordnance items found. The person submitting the application is responsible to follow the procedures for notification of DTSC and the Army upon finding an ordnance item set out in Section [15.34.070](#) of this chapter;
- D. A statement by the person submitting the application that he or she has, within the preceding twelve months, delivered a copy of the safety alert required by Section [15.34.130](#) of this chapter to everyone whose work at the property described in subsection B of this section includes disturbing soil;
- E. Any other information which the director of community development may require as pertinent to the determination of the adequacy of the proposed plan;
- F. Payment of the permit fee, as established by the city council, at the time of filing the application for the permit. (Ord. [924](#) (part), 2004).

**15.34.070 Permit procedure.**

The director of community development shall review the permit application and shall approve the permit unless evidence is available which indicates that the proposed grading or excavation will create an undue risk to the health and safety of the public at large. Prior to acting on any such permit, the director of community development, in his or her sole discretion, may set and conduct a public hearing for the purpose of receiving comments on the proposed grading and excavation. Any permit issued hereunder shall be subject to the following conditions:

- A. All excavation and grading shall be performed solely in accordance with the permit approved by the city and in accordance with the permit as issued by the city;
- B. Prior to movement of any soil on any property located within the district, the permittee or designee shall personally deliver to each person who intends to work on the property described in the permit the Safety Alert - Ordnance and Explosives at former Fort Ord which is referenced hereto as Exhibit "C," and explain to each such person the information set forth in that notice;
- C. The permittee may not move or disturb any soil unless the permittee is in compliance with the requirements placed on the property by an agreement executed between the city, the city RDA, FORA and DTSC. The agreement shall, as a minimum, include OE construction support ("construction support") and shall be attached to and become a part of any permit issued pursuant to this chapter;
- D. The permittee shall cease soil disturbance activities upon discovery of any suspected unexploded ordnance. The permittee shall notify the Seaside police department, the Directorate of Law Enforcement at the Presidio of Monterey, the Army and DTSC of any suspected unexploded ordnance discovered during any excavation or soil removal immediately upon discovery. The permittee shall coordinate appropriate response actions with the Army and DTSC;
- E. No later than thirty days following the completion of the permitted soil disturbance activity, the permittee shall prepare and file with the director of community development, the Army and DTSC an after action report that shall state whether and where OE was detected and the extent and depth of OE response actions undertaken and completed on the property that is the subject of the permit. The after action report shall be in the form provided as referenced in Exhibit "B" and shall include site maps to illustrate the information contained in the report. All after action reports prepared and filed in accordance with this chapter shall be deemed public records;
- F. The permittee agrees that as a condition of issuance of a permit to defend at its sole expense, indemnify and hold harmless from any liability the city, and reimburse the city for any expenses incurred resulting from or in connection with the approval of the project including any claim, suit or legal

proceeding. The city may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this subsection. (Ord. [924](#) (part), 2004).

**15.34.080 Term of permit.**

The permit shall be valid for one year from the date it is issued. (Ord. [924](#) (part), 2004).

**15.34.090 Exceptions.**

Following consultation with and approval by DTSC, the city council may, upon a finding that the requirements of Section [15.34.070\(C\)](#) are no longer necessary, designate by resolution any portion of the district as a "limited control district" and/or no longer subject to the provisions of this chapter. The holder of any permit issued for any limited control district shall not be subject to Section [15.34.070\(C\)](#). (Ord. [924](#) (part), 2004).

**15.34.100 Performance bond.**

Upon a finding by the director of community development that a permit should issue for excavation or grading on the proposed site, the director of community development may require that a surety bond, lien or other security guarantee conditioned upon the faithful performance and completion of the permitted excavation activity be filed with the city. Such surety shall be executed in favor of the city and shall be maintained in an amount prescribed by the director of community development sufficient to ensure the completion of the excavation of the site as prescribed in the approved permit. (Ord. [924](#) (part), 2004).

**15.34.110 Amendments to permits.**

Request for amendments to an approved excavation permit may be submitted to the director of community development at any time, detailing proposed changes from the original permit. Deviations from the original permit shall not be undertaken until such amendment has been approved by the city in writing. Amendments to an approved permit shall be approved by the same procedure as prescribed for the approval of the original excavation permit. (Ord. [924](#) (part), 2004).

**15.34.120 Appeals.**

Any person aggrieved by any determination of the director of community development in exercise of the authority granted in this chapter shall have the right to appeal to the city council. Any appeal setting forth the contested decision and the reasons for contesting same must be filed within ten working days after the posting of the director of community development's decision at the places designated by Section [1.08.020](#) of this code. The city council shall render its decision within sixty days following the filing of the notice of appeal. The council may affirm, reverse or modify the decision of the director of community development. The council action shall be final upon issuance of its decision. (Ord. [924](#) (part), 2004).

**15.34.130 Notification to property owners and other land users.**

A. The city shall notify the owners of property designated as ordnance remediation districts and those utilities known to be providing service within the city, of the requirements of this chapter and provide those persons with the Safety Alert - Ordnance and Explosives at Former Fort Ord, which is referenced hereto as Exhibit "C." The city shall annually notify the owners of the property as shown on the equalized tax rolls of the requirements of this chapter and provide those persons with a copy of the notice. Failure of any owner, occupant or user of such land to receive the notification shall not relieve that person from responsibility for compliance with this chapter.

B. All owners, occupants or users of land subject to this chapter, including utilities, shall notify any subsequent owners, assigns, lessees or users of such land of the requirements of this chapter. Notification shall be made prior to transfer of the property in question.

C. All persons identified in subsection A of this section shall deliver, at least annually, a copy of the safety alert to everyone whose work at OE sites includes disturbing soil and shall explain the contents thereof to those persons. (Ord. [924](#) (part), 2004).

**15.34.140 Revision of chapter.**

This chapter shall not be revised without prior written notice to the DTSC. (Ord. [924](#) (part), 2004).





# FORT ORD REUSE AUTHORITY

920 2<sup>ND</sup> Avenue, Suite A, Marina, CA 93933  
Tel: 831 883 3672 | Fax: 831 883 3675 | www.fora.org

February 16, 2018

## Confirmation of MPC Agreement with Excavation Permitting Requirements

This document confirms that Monterey Peninsula College (“MPC”) concurs with the excavation permitting requirements outlined in the Group 3 Land Use Controls Implementation Plan/Operation and Maintenance Plan (“the Group 3 LUCIP/OMP”) and the Interim Action Ranges Munitions Response Area Land Use Controls Implementation Plan/Operation and Maintenance Plan (“the Interim Action Ranges MRA LUCIP/OMP”). This document also confirms Fort Ord acknowledgement of MPC recognition of the excavating permit requirements.

MPC is not bound by local building regulations when they act in their higher education capacity/role and is not subject to project review or permitting by the City of Seaside or Monterey County. MPC is not required to obtain an excavation permit under the local digging and excavation ordinance. However, MPC has agreed to comply with the local digging and excavation ordinance, specifically the requirements for munitions recognition and safety training, construction support, notifications, and monitoring and reporting, under the Memorandum of Agreement in place with the Fort Ord Reuse Authority, MPC, Monterey County and Department of Toxic Substances Control. In addition, MPC, as landowner, is prohibited from activities in violation of the digging and excavation ordinance under the State Covenants Restricting Use of Property and Federal deeds; therefore, excavation permits are required.

Acknowledgement:

Dr. Walter Tribley  
Superintendent/President  
Monterey Peninsula College  
Administration Building, 980 Fremont Street  
Monterey, California 93940

3/23/2018  
Date

Confirmation:

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

February 16, 2018  
Date

## APPENDIX E

### Memoranda of Agreement

Memorandum of Agreement Memorandum of Agreement Among The Fort Ord Reuse Authority, Monterey County and Cities of Seaside, Monterey, Del Rey Oaks and Marina, California State University Monterey Bay, University of California Santa Cruz, Monterey Peninsula College and the Department of Toxic Substance Control Concerning Monitoring and Reporting on Environmental Restrictions on The Former Fort Ord, Monterey California, dated February 27, 2008

Agreement between the County of Monterey, Monterey Peninsula College, and the Fort Ord Reuse Authority Regarding Public Safety Officer Training Facilities, dated October 21, 2002

**MEMORANDUM OF AGREEMENT AMONG THE  
FORT ORD REUSE AUTHORITY, MONTEREY COUNTY AND CITIES OF  
SEASIDE, MONTEREY, DEL REY OAKS AND MARINA, CALIFORNIA STATE  
UNIVERSITY MONTEREY BAY, UNIVERSITY OF CALIFORNIA SANTA CRUZ,  
MONTEREY PENINSULA COLLEGE, AND THE  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL  
CONCERNING MONITORING AND REPORTING ON ENVIRONMENTAL  
RESTRICTIONS ON  
THE FORMER FORT ORD, MONTEREY COUNTY, CALIFORNIA (HEREINAFTER  
REFERRED TO AS "AGREEMENT")**

This Agreement is made and entered into, by and among the State Department of Toxic Substances Control ("Department"), and the Respondents including the Fort Ord Reuse Authority ("FORA"), Monterey County ("County"), the City of Seaside ("Seaside"), the City of Monterey ("Monterey"), the City of Del Rey Oaks ("Del Rey Oaks"), the City of Marina ("Marina"), California State University Monterey Bay ("CSUMB"), University of California Santa Cruz ("UCSC"), and Monterey Peninsula College ("MPC") pursuant to Health and Safety Code section 25355.5 (a)(1)(c). The cities, County, CSUMB, UCSC, and MPC are collectively referred to as "jurisdictions." This agreement:

- Requires the jurisdictions to monitor compliance with all land use covenants ("LUCs"), including those imposed after this Agreement is executed, for all property on the former Fort Ord, except Fort Ord Dunes State Park, which will be transferred to the State of California Department of Parks and Recreation.
- Requires the jurisdictions to report to FORA or the County concerning their compliance with all recorded LUCs within their jurisdiction.
- Requires FORA or the County to compile data in the jurisdiction reports and transmit those data in a report to the Department. FORA or the County will report to the Department from the effective date of this Agreement until FORA ceases to exist. The possibility of extending FORA's existence will be explored in 2013. If the Legislature extends FORA's existence, FORA will remain the reporting agency for this agreement after June 20, 2014 or until FORA ceases to exist. When FORA ceases to exist, the County will become responsible for compiling the jurisdictions' monitoring reports and transmittal of the compiled report to the Department.
- Provides funding for the Department's review and oversight costs relating to this agreement and all covenants referred to above (see Section 1.16 below).

**1.0 Background**

- 1.1 Fort Ord was selected for closure in 1991 under Public Law 101-510, the Base Realignment and Closure Act of 1990. Soldiers remained on the base until

1993. Some of the former Fort Ord property is owned by the United States Army ("Army"). Some former Fort Ord property has transferred and will transfer to various cities, other entities and the County. A detailed map of the former Fort Ord with affected Parcels identified is provided as Attachment 1. This map will be updated annually by FORA/the County as part of the annual report.

- 1.2 In 1990, Fort Ord was listed on the National Priorities List ("Superfund"). In 1990, the Fort Ord Federal Facility Agreement was signed by the Army, the United States Environmental Protection Agency, the Department and the California Regional Water Quality Control Board, Central Coast Region. The entire Property is undergoing, or has undergone, the federal Comprehensive Environmental Compensation and Liability Act ("CERCLA") remediation process.
- 1.3 LUCs are required under state law for any properties having remnant hazardous materials. Covenants are placed on such properties being transferred from the federal government to a subsequent owner. Portions of Fort Ord were used as practice ranges and/or maneuver areas for military munitions training. The Army and/or private professionals have and will continue to investigate and clean up the munitions and explosives of concern ("MEC"). FORA cannot find all MEC using current technology. FORA cannot safely remove MEC until it is found. FORA's goals for the subject Environmental Services Cooperative Agreement property are to: a) locate and remove as much MEC as possible, and b) minimize MEC-related risk. FORA is committed to achieving those goals to a level established by the Department before it transfers former munitions areas to local jurisdictions for reuse. Remedies for several MEC areas and potential MEC areas have been selected in the following Records of Decision:

- Interim Action For Ordnance and Explosives at Ranges 43-48, Range 30A and MRS-16 (dated September 13, 2002, signed September 26, 1994)
- No Further Action Related to Munitions and Explosives of Concern, Track 1 Sites, No Further Remedial Action with Monitoring for Risks from Chemical Contamination at Site 3 (MRS-22) (dated March 10, 2005, signed April 6, 2005) (Track 1)

The parties to this Agreement anticipate the following Records of Decision for MEC to be signed in 2007:

- Track 2 Munitions Response Parker Flats Munitions Response Area
- Track 3 Impact Area Munitions Response Area

- 1.4 The County adopted Ordinance No. 5012<sup>1</sup>, amending the County Code to include Chapter 16.10, titled *"Digging and Excavation on the Former Fort Ord."* The ordinance prohibits excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil without a permit. Chapter 16.10 also indicates that the County will also enter into an Agreement with the Department to provide additional safety measures and reporting (Ordinance 5012 § 1 (part), 2005). This Memorandum of Agreement fulfills that reporting requirement.
- 1.5 The City of Marina adopted Ordinance No. 98-04 amending the Municipal Code to add Chapter 15.56. That Ordinance prohibits excavation, digging, development or ground disturbance of any type on the former Fort Ord that involves the displacement of ten (10) cubic feet or more of soil without a permit. The parties anticipate that the City of Marina will amend Municipal Code to add Chapter 15.56 to prohibit excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil without a permit to be consistent with adjacent jurisdictions' municipal codes.
- 1.6 The City of Del Rey Oaks adopted Ordinance No. 259 amending the Municipal Code to add Chapter 15.48. The ordinance prohibits excavation, digging, development or ground disturbance of any type on the former Fort Ord that involves the displacement of ten (10) cubic yards or more of soil without a permit.
- 1.7 The City of Seaside adopted Ordinance No. 924, amending the Municipal Code to add Chapter 15.34. The ordinance prohibits excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil without a permit on the former Fort Ord.
- 1.8 The City of Monterey adopted Ordinance No. 3384, amending the Municipal Code to add Chapter 9 Article 8. The ordinance prohibits excavation, digging, developing or ground disturbing activities of any type that involves the displacement of ten (10) cubic feet or more of soil without a permit on the former Fort Ord.
- 1.9 FORA Resolution 98-1 contains measures that avoid/ minimize impacts from hazardous material (See Attachment 2, FORA Resolution 98-1).
- 1.10 Non-MEC hazardous waste and/or hazardous substances were disposed of in various locations throughout Fort Ord. The Army remediated many of these locations. There are, however, locations where wastes remain, such as Operable Unit 2 ("OU2") Landfill. Measures must be taken at these locations to assure that they can be safely used. The Department requires LUCs in

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<sup>1</sup> As the State of California acting in a higher education capacity, CSUMB, UCSC, and MPC are not bound by local regulations and specifically the ordinances and regulations discussed in Sections 1.4—1.9 and 1.12—1.14.

these cases. Remedies for these sites, which may include institutional controls including LUCs, were selected in the following Records of Decision ("ROD"):

- Interim Action ROD, Contaminated Surface Soil Remediation (dated February 23, 1994, signed March 15, 1994)
- OU2, Fort Ord Landfills (dated July 15, 1994, signed August 23, 1994)
- Remedial Investigation Sites (dated January 13, 1997, signed January 24, 1997)

1.11 Portions of Fort Ord overlie contaminated groundwater. The contaminated groundwater at OU1, OU2 and Sites 2/12 is currently being remediated by the Army via comprehensive pumping and treatment systems. Activities which may affect the groundwater monitoring, pumping and treatment systems must be prevented. To achieve that goal, authorized representatives must be allowed to enter these areas. Well drilling in contaminated areas and consumption of unsafe groundwater must also be prevented. Remedies for these sites, which include institutional controls, were selected in the following Records of Decision:

- Operable Unit 1 ("OU1") Fritzsche Army Airfield, Fire Drill Area (dated July 25, 1995, signed May 8, 1996)
- OU2, Fort Ord Landfills (dated July 15, 1994, signed August 23, 1994)
- Remedial Investigation Sites, including Sites 2/12 Groundwater Remedy (dated January 13, 1997, signed January 24, 1997)

The parties expect the following Groundwater ROD will be signed in 2007:

- Operable Unit Carbon Tetrachloride Plume ("OUCTP")

1.12 The County adopted Ordinance No. 4011. Ordinance 4011, which amends and adds to Chapter 15.08 of Title 15 of the County Code, indicates that *"in areas overlying or adjacent to the contaminant plumes on the former Fort Ord ("Prohibition Zone"), water well construction shall be prohibited and no application for a ministerial well permit shall be accepted for any real properties within the Prohibition Zone area. The Prohibition Zone area is identified on the former Fort Ord, Special Ground Water Protection Zone Map, prepared and maintained by the United States Army and on file in the County of Monterey, Department of Health."*

- 1.13 Chapter 13.12 of the City of Marina Municipal Code regulates the construction of water wells so as to protect the quality of groundwater. Section 13.12.030 of the City Code requires a written permit to construct a water well first be obtained from the County.
- 1.14 Chapter 8.24 of the City of Seaside Municipal Code regulates the construction of water wells so as to protect the quality of groundwater and requires a written permit to construct a water well to be approved by the health officer.
- 1.15 The Army and the Department have or will enter into, Covenants to Restrict Use of Property (hereinafter referred to as "Covenants") prior to transfer of the Property. The purpose of these Covenants is to prohibit certain land uses on Fort Ord. FORA and other entities may also enter into such covenants directly with the Department. After EPA has selected one or more remedies for the Property in a ROD(s), the then-current land owner, the Department and Regional Water Quality Control Board ("RWQCB") may, if appropriate, modify or remove the restrictions in the LUC to be consistent with the land and water use restrictions, if any, selected in the ROD(s). The land use covenants variously include restrictions based on MEC, lead based paint, groundwater contamination and proximity to the landfill.
- 1.16 FORA, the County and the jurisdictions enter into this agreement to monitor and report on compliance with all covenants, past, present and future, signed for all former Fort Ord property except for Fort Ord Dunes State Park. FORA will pay the Department's invoices from the effective date of this agreement until FORA ceases to exist. (See California Code of Regulations (hereinafter referred to as "CCR"), Title 22, Division 4.5, Chapter 39, section 67391.1 and Health and Safety Code section 25355.5 (a)(1)(c)). The County agrees to pay the Department's costs from and after the date FORA ceases to exist (See Section 3.14).
- 1.17 Attachment 3 (Table 3-1) contains a summary of the recorded LUCs as of the date of this agreement. The summary also lists the restrictions in the covenant and the associated monitoring requirements.
- 1.18 FORA will supplement the property descriptions as set forth in the LUCs with specific GPS coordinates. These GPS coordinates will be included in the annual report.
- 1.19 The references to "schools" in this agreement and in Attachment 4 do not include post-secondary schools.

The Parties agree as follows:

## **2.0 Implementation of This Agreement**

- 2.1 The above recitals are incorporated into this Agreement. FORA, the County

and the jurisdictions agree that this Agreement applies to all properties on the former Fort Ord except Fort Ord Dunes State Park. The parties agree to perform the following tasks:

#### 2.1.1 Annual Review of Compliance with LUCs

Annually (starting on July 1 and being completed by June 30 of each year), the jurisdictions shall:

- a. Inspect each property within their jurisdiction for which a covenant has been signed, to assure compliance with all restrictions, and report findings to FORA/County in the report format provided in Attachment 4. CSUMB, UCSC, and MPC will report findings directly to FORA/County. The City of Marina, the City of Seaside, the City of Del Rey Oaks, the City of Monterey, and Monterey County will not report on CSUMB, UCSC, and MPC's properties, explicitly defined in Attachment 3 "Table 3-1 Summary of Land Use Covenants." If property owners other than CSUMB, UCSC, and MPC have multiple parcels within multiple jurisdictions, each jurisdiction will be responsible to report on only those properties within their jurisdiction. The number of annual reports to be provided by the local jurisdictions will be based on the initial land conveyance parcels as described in Table 3-1, and the total number of reports will not increase over time as land is subsequently sold and subdivided (i.e. the Department does not expect one report for each subsequent Assessor's Parcel Number).
- b. Check with the applicable building departments or campus planning and development departments to ensure no structures were approved or built in violation of any covenant and report findings to FORA/County.
- c. Check with the applicable planning departments or campus planning and development departments to assure no uses were approved in violation of any covenant.
- d. All jurisdictions shall review the jurisdiction well permit applications or the institution records, in the case of CSUMB, UCSC, and MPC, to ensure no wells have been approved, dug or installed in violation of the ordinance or the covenants.

#### 2.1.2 Annual Review of Local Ordinances<sup>2</sup>

- a. Summarize compliance with the jurisdictions' digging ordinances, including the number of permits issued.

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<sup>2</sup> Section 2.1.2 does not apply to CSUMB, UCSC, and MPC.



- b. Document any changes to the jurisdictions' excavation/grading ordinances.
- c. Document any changes to the jurisdiction well permit ordinances.
- d. FORA and the County, in conjunction with the Department and in consultation with RWQCB, will annually, prior to June 30<sup>th</sup>, update and distribute copies to the other parties to this agreement:
  1. The map illustrating parcels with LUCs (Attachment 1)
  2. Table 3-1 summarizing LUCs for the Fort Ord property (Attachment 3)
  3. Changes to County Digging and Excavation on the former Fort Ord Ordinance No. 5012
  4. Changes to the County Groundwater Ordinance No. 4011

## 2.2 MEC Incident Reporting (*pending Department discussions with Army*)

For parcels that have been transferred and are not being regulated under the former Fort Ord Munitions Response Site (hereinafter referred to as "MRS") Site Security Plan, the Department requests FORA and the County to provide data regarding MEC found at the parcels. The Department requests to track MEC found at parcels where cleanup has been completed, although some MEC may remain in place at depth.

On an annual basis, the jurisdictions agree to report 911 call data for MEC found, including but not limited to:

- a) date and time of the call,
- b) contact name,
- c) location of MEC finding,
- d) type of munitions, if available and
- e) response of jurisdiction law enforcement agency.

## 2.3 Annual Report

No later than September 1 of each year, FORA agrees to submit a report to the Department describing compliance with each of the prohibited activities and uses listed in the covenants. The County agrees to submit this report when FORA ceases to exist. The letter report will summarize the annual reviews conducted under 2.1 and 2.2 above. A Draft Annual Report outline is provided in Attachment 4. This report outline provides the minimum requirements for the annual report. Other information gathered during inspections or records searches should be attached (i.e., inspection notes and photos of violations, excavation permits, applicable County well records, and other relevant data). Each jurisdiction will certify the accuracy and

validity of its annual land use monitoring report. Except for land in the County's jurisdiction, the Department does not expect FORA or the County to:

- a. verify the accuracy of the local jurisdiction reports prior to submittal to Department;
  - b. perform monitoring or testing relative to these annual reports; or
  - c. accept responsibility for enforcement of the provisions of the LUCs.
- 2.4 The Department's activities will include, but not be limited to, review and comment on annual reports, travel to the Properties, inspection of implementation and compliance with this Agreement and the covenants as outlined in Attachment 5. The Department will notify FORA and the County of the change in scope and cost if it determines that it must undertake additional work to oversee compliance with this MOA and LUCs. FORA and the County agree to pay those additional costs.
- 2.5 FORA and the County have no responsibility for enforcement of this Agreement if a local jurisdiction fails to submit its annual reports to FORA or the County on time or at all. Local jurisdictions have no responsibility for enforcement of this Agreement if FORA or the County fail to compile and submit their annual report to the Department. The Department is responsible for enforcing compliance with this Agreement.

### **3.0 General Provisions**

- 3.1 Any Notice given under this Agreement, including any communication with respect to this Agreement must be in writing. It will be deemed effective: (1) when delivered, if personally delivered to the person being served, or (2) three business days after deposit in the United States mail, postage paid, certified, return receipt requested. Such Notices must be addressed as follows:

To Monterey County:                      Director of Health  
Monterey County Health Department  
2170 Natividad Road  
Salinas, California 93901

To FORA:                                      Executive Officer  
Fort Ord Reuse Authority (FORA)  
100 12th Street  
Building 2880  
Marina, California 93933

To City Of Monterey:                      City Manager  
City of Monterey  
City Hall  
Monterey, California 93940

To City Of Marina	City Manager City of Marina 211 Hillcrest Avenue Marina, California 93933
To City Of Seaside	City Manager City of Seaside 440 Harcourt Avenue Seaside, California 93955
To City Of Del Rey Oaks	City Manager City of Del Rey Oaks 650 Canyon Del Rey Del Rey Oaks, California 93940
To University of California Santa Cruz	Chancellor University of California Santa Cruz 1156 High Street Santa Cruz, California 95064
To California State University Monterey Bay	<i>VICE</i> President <i>for ADMIN. &amp; FINANCE</i> CSU Monterey Bay 100 Campus Center Seaside, California 93955
To Monterey Peninsula College	Superintendent/President Monterey Peninsula College 980 Fremont Street Monterey, California 93940
To Department:	Anthony Landis, Chief Northern California Operations Office of Military Facilities Department of Toxic Substances Control 8800 Cal Center Drive Sacramento, California 95826

3.2 Obligations of the Department. The Department agrees to review and oversee the measures to be performed by FORA, jurisdictions and the County under this Agreement.

3.3 Coordinator. The FORA Coordinator is the Executive Officer. The Coordinator is responsible for receiving and submitting all notices, comments, approvals, and other communications to and from the Department until FORA

ceases to exist. The County Coordinator is the Monterey County Health Department Director of Health. The County Coordinator will receive and submit all notices, comments, approvals, and other communications from and to the Department after FORA ceases to exist.

- 3.4 Submittals. All submittals, reports and notifications from FORA and the County that are required by this Agreement shall be sent to:

Anthony Landis, Chief  
Northern California Operations  
Office of Military Facilities  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826

- 3.5 Communications. FORA and the County may not be relieved of their obligation to obtain formal approvals by informal advice, guidance, suggestions or comments given by the Department regarding reports, plans, specifications, schedules or any other writings by FORA, County and jurisdictions.
- 3.6 Department Review and Approval. If the Department determines that any report, plan, schedule or other document submitted to the Department for approval under this Agreement fails to comply with this Agreement or fails to protect public health or safety or the environment, the Department may return comments to FORA, the County and or jurisdictions with recommended changes and a date by which a revised document must be submitted to the Department incorporating the recommended changes.
- 3.7 Compliance with Applicable Laws. FORA, the County and jurisdictions shall carry out this Agreement in compliance with all applicable local, state, and federal requirements, including, but not limited to, requirements to obtain permits and to assure worker safety. CSUMB, UCSC, and MPC are not bound by local regulations when they act in their higher education capacity.
- 3.8 Liabilities. This Agreement does not satisfy or release FORA, the County or jurisdictions from liability for any conditions or claims arising as a result of their current or future operations. This Agreement does not limit or preclude the Department from taking any lawful act to protect public health or safety or the environment and recovering the cost thereof. Notwithstanding compliance with this Agreement, the Department may require FORA, the County and jurisdictions to take further actions necessary to protect public health and the environment.
- 3.9 Record Retention. All data, reports and other documents including email, and electronic deliverables required by this Agreement shall be transferred to the County within 90 days after the FORA agreement period ends (i.e., six years

and three months unless FORA's existence is extended). The County shall preserve the records for a minimum of ten (10) years after the conclusion of all activities under this Agreement. If the Department requests that some or all of these documents be preserved for a longer period of time, FORA and the County shall either comply with that request or deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. FORA and the County shall notify the Department in writing at least six (6) months prior to destroying any documents prepared pursuant to this Agreement.

- 3.10 State Liabilities. The State of California is not liable for personal injuries or property damage resulting from acts or omissions by FORA, the County and/or the jurisdictions, in carrying out activities pursuant to this Agreement, nor shall the State of California be held as a party to any contract entered into by FORA, the County, the jurisdictions or its agents in carrying out this Agreement.
- 3.11 Severability. The requirements of this Agreement are severable, and FORA, the County and the jurisdictions and/or shall comply with each and every provision hereof notwithstanding the effectiveness of any other provision.
- 3.12 Modification and Termination. FORA, the County and/or the jurisdictions may, upon written request, seek modification or termination of this Agreement at any time. In addition to modification as provided elsewhere in this Agreement, this Agreement may only be modified or terminated by mutual written agreement of the parties at any time.
- 3.13 Parties Bound. This Agreement applies to and is binding upon FORA, the County and jurisdictions and its officers, directors, agents, employees, successors and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Agreement. FORA, the County and the jurisdictions shall provide a copy of this Agreement to any successor or assignee.
- 3.14 Cost Recovery. FORA and the County as FORA's successor are liable for all of the Department's costs incurred in reviewing and overseeing compliance with this MOA and all past, present and/or future LUCs. FORA will pay the Department's and its own costs for their activities under this MOA. FORA will recover these costs from each local jurisdiction through payment of the local agencies' FORA "dues." FORA "dues" are funds that FORA collects annually from agencies represented on the board in accordance with SB 899, Title 7.85 Section 67690. FORA will pay for costs incurred by the department and FORA for fiscal years 2008 and 2009 and will not seek cost recovery from the local jurisdictions for this initial two-year period. When FORA ceases to exist and the County assumes FORA's responsibilities under this Agreement, the other parties to this agreement shall pay the Department and the County costs

as determined in this Section to the County. If any party defaults on such payment, the Department shall pursue collection of the Department's costs directly from that party. FORA's and the County's cost recovery will be based on the Department's accounting of its actual costs, broken down by jurisdiction, and will include an additional 15% cost for FORA's or the County's administrative activities. The cost estimate for Department services is provided in Attachment 5. The estimate is based on the attached 2007 Department Contract Estimation Rates for the time period between July 1, 2006 and June 30, 2007 (see Attachment 5A). Actual charges will be based on each employee's salary and benefits, actual per diem, mileage rates and expenses. The Department will send quarterly "time and materials" invoices. Title 22 California Code of Regulations section 67391.1(h) provides: "The Department shall require responsible parties, facility owners or operators, or project proponents involved in land use covenants to pay all costs associated with the administration of such controls." Cost recovery may also be pursued by the Department under CERCLA, Health and Safety Code Section 25360, or any other applicable state or federal statute or common law.

On an annual basis, the Department will compare this cost estimate with actual charges. If the invoice variance is greater than 20% from the original cost estimate for any jurisdiction, the Department will notify FORA and prepare an addendum to this cost estimate. Agreements to distribute financial liability between the jurisdictions, the County or FORA are beyond the scope of this agreement.

Invoices shall be transmitted to:

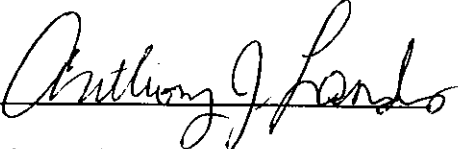
Mr. Michael Houlemard, Jr.  
Executive Officer  
Fort Ord Reuse Authority (FORA)  
100 12th Street  
Building 2880  
Marina, California 93933

County of Monterey  
Director of Health  
Monterey County Health Department  
2170 Natividad Road  
Salinas, California 93901

- 3.15 Effective Date. The effective date of this Agreement is the date of signature by the Department's authorized representative.
- 3.16 Representative Authority. Each undersigned representative of the parties to this Agreement certifies that she or he is authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the parties to this Agreement.

IN WITNESS WHEREOF, the authorized representatives below have executed this Memorandum of Agreement among FORA, the County and Cities of Seaside, Monterey, Del Rey Oaks and Marina, CSUMB, UCSC, MPC and the Department concerning monitoring and reporting on environmental restrictions on the former Fort Ord on the dates set forth below at Sacramento, California.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

  
\_\_\_\_\_

Anthony J. Landis, P.E.  
Chief  
Northern California Operations  
Office of Military Facilities  
Department of Toxic Substances Control

  
\_\_\_\_\_

Date

IN WITNESS WHEREOF, the authorized representatives below have executed this Memorandum of Agreement among FORA, the County and Cities of Seaside, Monterey, Del Rey Oaks and Marina, CSUMB, UCSC, MPC and the Department concerning monitoring and reporting on environmental restrictions on the former Fort Ord on the dates set forth below at \_\_\_\_\_, California.

COUNTY OF MONTEREY

Dave Potter  
Chair, Board of Supervisors  
168 W. Alisal Street  
Salinas, California 93901

10-16-07

Date

CITY OF MONTEREY

Felipe  
**APPROVED BY** City Manager  
City Hall  
Monterey, California 93940  
Felt  
City Attorney's Office

2-25-2009

Date

CITY OF MARINA

[Signature]  
City Manager  
211 Hillcrest Avenue  
Marina, California 93933

11.29.07

Date

CITY OF SEASIDE

[Signature]  
City Manager  
440 Harcourt Avenue  
Seaside, California 93955

2.27-08

Date

CITY OF DEL REY OAKS

[Signature]  
City Manager  
650 Canyon Del Rey  
Del Rey Oaks, California 93940

2/27/08

Date



IN WITNESS WHEREOF, the authorized representatives below have executed this Memorandum of Agreement among FORA, the County and Cities of Seaside, Monterey, Del Rey Oaks and Marina, CSUMB, UCSC, MPC and the Department concerning monitoring and reporting on environmental restrictions on the former Fort Ord on the dates set forth below at \_\_\_\_\_, California.

University of California Santa Cruz




Chancellor  
1156 High Street  
Santa Cruz, California 95064

1/18/08

Date


California State University Monterey Bay

  
VICE President *ADMIN. & FINANCE*  
100 Campus Center  
Seaside, California 93955

1-25-08

Date

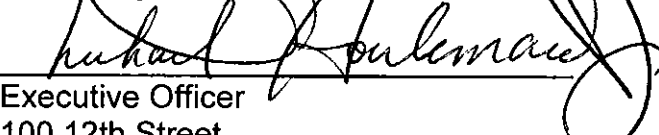
Monterey Peninsula College

  
Superintendent/President  
980 Fremont Street  
Monterey, California 93940

12-18-07

Date


FORA

  
Executive Officer  
100 12th Street  
Building 2880  
Marina, California 93933

11/28/07

Date

APPROVED AS TO FORM:

  
Gerald D. Bowden  
Authority Counsel

12/8/07

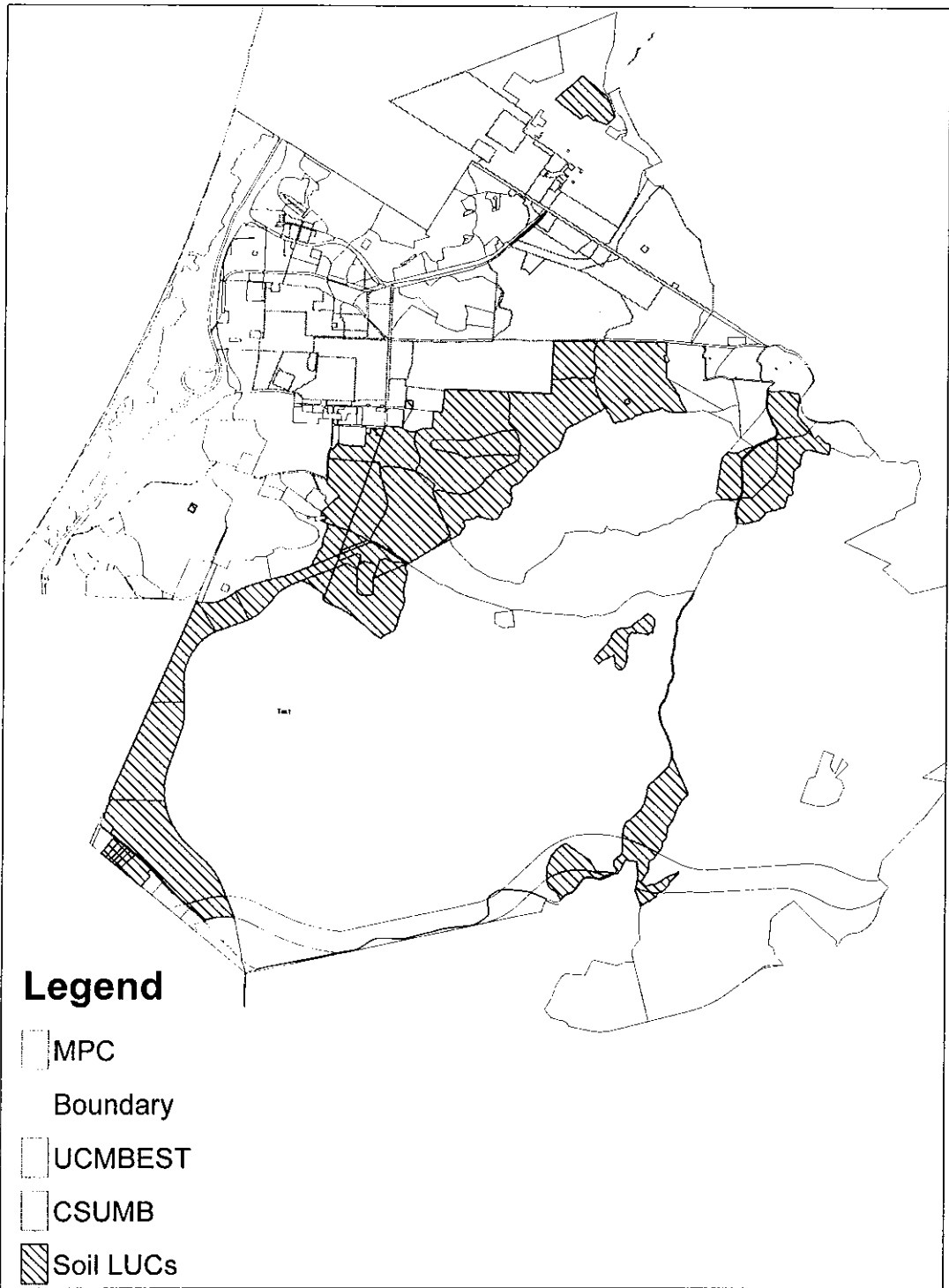
Date

**ATTACHMENT "1"**

*LUC Parcel Maps*

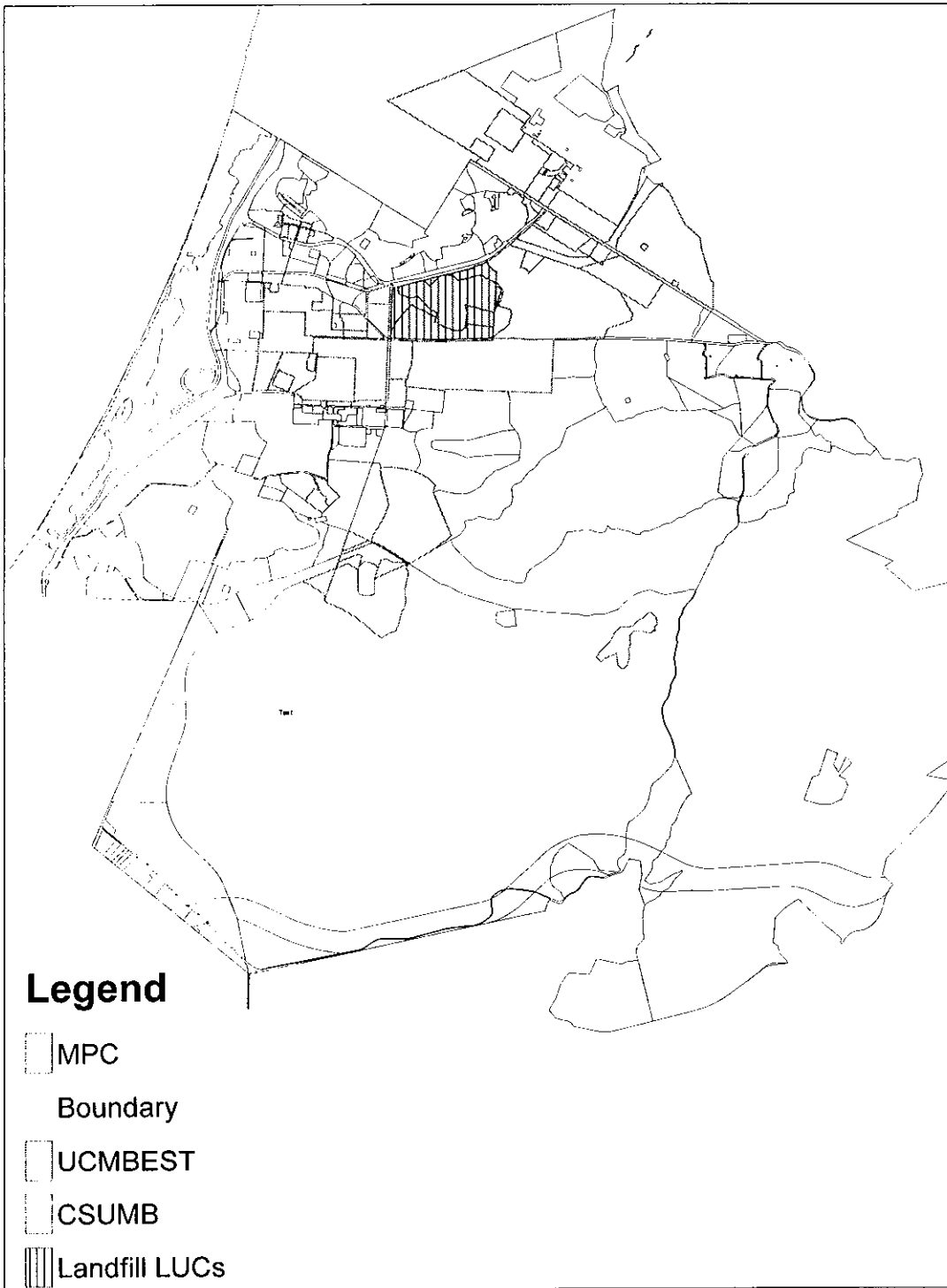
***ATTACHMENT 1***

# Fort Ord LUCs - Soil



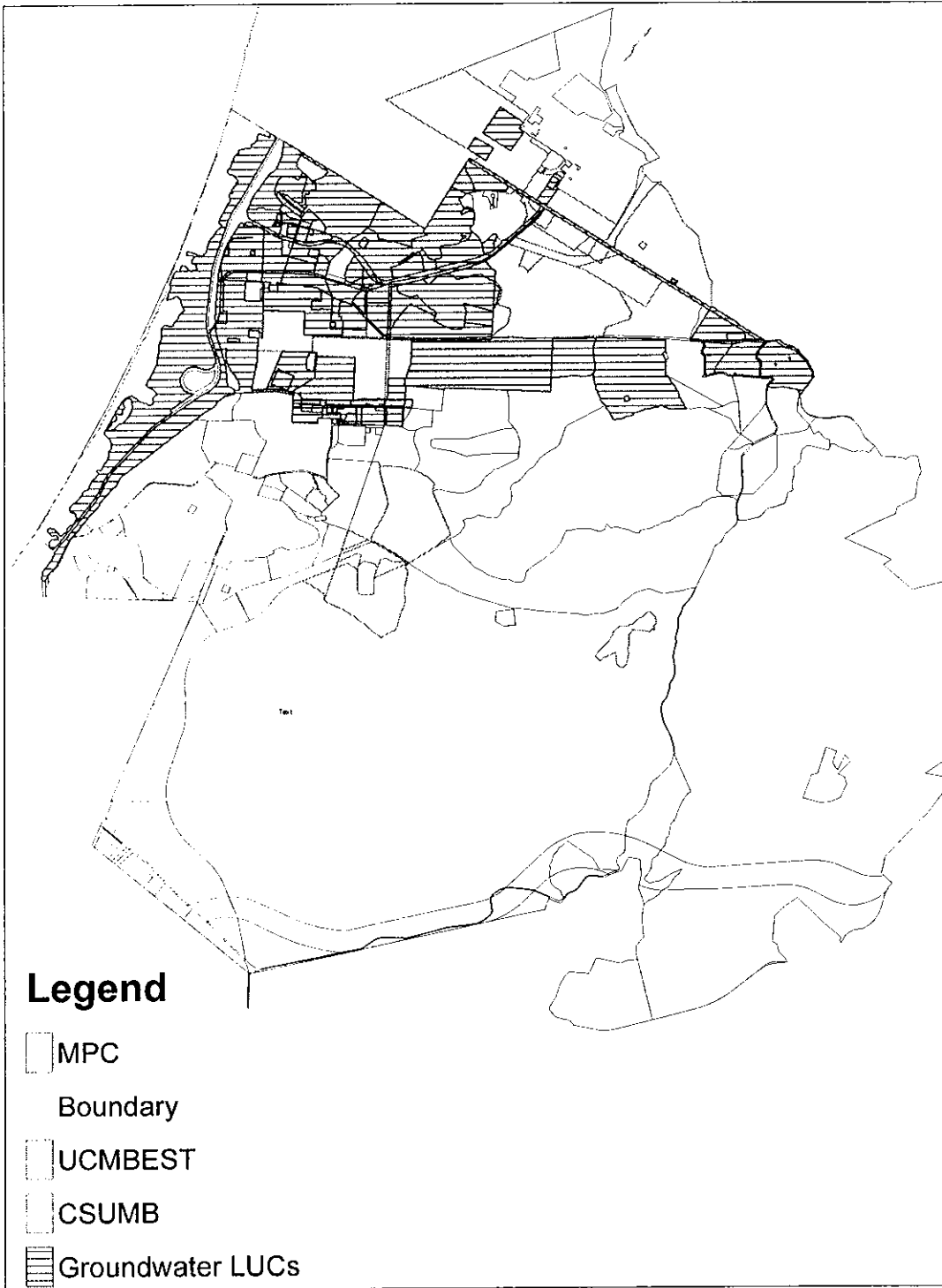
0 1,950 3,900 7,800 11,700 15,600 Feet

# Fort Ord LUCs - Landfill



0 1,950 3,900 7,800 11,700 15,600 Feet

# Fort Ord LUCs - Groundwater



0 1,9503,900 7,800 11,700 15,600 Feet

**ATTACHMENT "2"**

*FORA, Resolution 98-1*

***ATTACHMENT 2***

Resolution 98-1

**A RESOLUTION OF THE FORT ORD REUSE AUTHORITY, AMENDING SECTION 1.01.050 AND ADDING CHAPTER 8 TO THE FORT ORD REUSE AUTHORITY MASTER RESOLUTION, RELATING TO BASE REUSE PLANNING AND CONSISTENCY DETERMINATIONS**

**Section 1.** Section 1.01.050 of the Fort Ord Reuse Authority Master Resolution is amended by adding the following definitions to such section in alphabetical order:

“Affected territory” means property within the Fort Ord Territory that is the subject of a legislative land use decision or an application for a development entitlement and such additional territory within the Fort Ord Territory that may be subject to an adjustment in density or intensity of allowed development to accommodate development on the property subject to the development entitlement.

“Army urbanized footprint” means the Main Garrison Area and the Historic East Garrison Area as such areas are described in the Reuse Plan.

“Augmented water supply” means any source of potable water in excess of the 6,600 acre feet of potable water from the Salinas Basin as allowed under the Reuse Plan.

“Development entitlements” includes but is not limited to tentative and final subdivision maps, tentative, preliminary, and final parcel maps or minor subdivision maps, conditional use permits, administrative permits, variances, site plan reviews, and building permits. The term “development entitlement” does not include the term “legislative land use permits” as that term is defined in this Master Resolution. In addition, the term “development entitlement” does not include:

- 1) Construction of one single family house, or one multiple family house not exceeding four units, on a vacant lot within an area appropriately designated in the Reuse Plan.
- 2) Improvements to existing single family residences or to existing multiple family residences not exceeding four units, including remodels or room additions.
- 3) Remodels of the interior of any existing building or structure.
- 4) Repair and maintenance activities that do not result in an addition to, or enlargement of, any building or structure.
- 5) Installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and development approved pursuant to the Authority Act.
- 6) Replacement of any building or structure destroyed by a natural disaster with a comparable or like building or structure.
- 7) Final subdivision or parcel maps issued consistent with a development entitlement subject to previous review and approval by the Authority Board.
- 8) Building permit issued consistent with a development entitlement subject to previous review by the Authority Board.

"Fort Ord Territory" means all territory within the jurisdiction of the Authority.

"Habitat Management Plan" means the Fort Ord Installation-Wide Multi-Species Habitat Management Plan, dated April, 1997.

"Land use agency" means a member agency with land use jurisdiction over territory within the jurisdiction of the Authority Board.

"Legislative land use decisions" means general plans, general plan amendments, redevelopment plans, redevelopment plan amendments, zoning ordinances, zone district maps or amendments to zone district maps, and zoning changes.

"Noticed public hearing" means a public hearing noticed in the following manner

1. Notice of the public hearing shall be posted on the public meeting room at the FORA office at least 10 days before the date of the hearing; and
2. Notice of the public hearing shall be mailed or delivered at least 10 days prior to the affected land use agency, to any person who has filed an appeal, and to any person who has requested special notice; and
3. Notice of the public hearing shall be published at least 10 days before the date of the hearing in at least one newspaper of general circulation within the area that the real property that is the subject of the public hearing is located.

"Reuse Plan" means the plan for reuse and development of the territory within the jurisdiction of the Authority, as amended or revised from time to time, and the plans, policies, and programs of the Authority Board, including the Master Resolution.

Section 2. Chapter 8 is added to the Fort Ord Master Resolution to read:

**CHAPTER 8.  
BASE REUSE PLANNING AND CONSISTENCY DETERMINATIONS.**

**Article 8.01. GENERAL PROVISIONS.**

**8.01.010. REUSE PLAN**

(a) The Authority Board shall prepare, adopt, review, revise from time to time, and maintain a Reuse Plan for the use and development of the territory within the jurisdiction of the Authority. Such plan shall contain the elements mandated pursuant to the Authority Act and such other elements, policies, and programs as the Authority Board may, in its sole discretion, consider and adopt.



**Article 8.02. CONSISTENCY DETERMINATION CRITERIA**

**8.02.010. LEGISLATIVE LAND USE DECISION CONSISTENCY.**

(a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land use decision for which there is substantial evidence supported by the record, that

- (1) Provides a land use designation that allows more intense land uses than the uses permitted in the Reuse Plan for the affected territory;
- (2) Provides for a development more dense than the density of uses permitted in the Reuse Plan for the affected territory;
- (3) Is not in substantial conformance with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution.
- (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority;
- (5) Does not require or otherwise provide for the financing and/or installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the legislative land use decision; and
- (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.

(b) FORA shall not preclude the transfer of intensity of land uses and/or density of development involving properties within the affected territory as long as the land use decision meets the overall intensity and density criteria of Sections 8.02.010(a)(1) and (2) above as long as the cumulative net density or intensity of the Fort Ord Territory is not increased.

(c) The Authority Board, in its discretion, may find a legislative land use decision is in substantial compliance with the Reuse Plan when the Authority Board finds that the applicant land use agency has demonstrated compliance with the provisions specified in this section and Section 8.020.020 of this Master Resolution.

**8.02.020. SPECIFIC PROGRAMS AND MITIGATION MEASURES FOR INCLUSION IN LEGISLATIVE LAND USE DECISIONS.**

(a) Prior to approving any development entitlements, each land use agency shall act to protect natural resources and open spaces on Fort Ord Territory

by including the open space and conservation policies and programs of the Reuse Plan, applicable to the land use agency, into their respective general, area, and specific plans.

- (1) Each land use agency shall review each application for a development entitlement for compatibility with adjacent open space land uses and require suitable open space buffers to be incorporated into the development plans of any potentially incompatible land uses as a condition of project approval.
- (2) When buffers are required as a condition of approval adjacent to Habitat Management areas, the buffer shall be designed in a manner consistent with those guidelines set out in the Habitat Management Plan. Roads shall not be allowed within the buffer area adjacent to Habitat Management areas except for restricted access maintenance or emergency access roads.

(b) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure consistency of future use of the property within the coastal zone through the master planning process of the California Department of Parks and Recreation, if applicable. All future use of such property shall comply with the requirements of the Coastal Zone Management Act and the California Coastal Act and the coastal consistency determination process.

(c) Monterey County shall include policies and programs in its applicable general, area, and specific plans that will ensure that future development projects at East Garrison are compatible with the historic context and associated land uses and development entitlements are appropriately conditioned prior to approval.

(d) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall limit recreation in environmentally sensitive areas, including, but not limited to, dunes and areas with rare, endangered, or threatened plant or animal communities to passive, low intensity recreation, dependent on the resource and compatible with its long term protection. Such policies and programs shall prohibit passive, low-density recreation if the Board finds that such passive, low-density recreation will compromise the ability to maintain an environmentally sensitive resource.

(e) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall encourage land uses that are compatible with the character of the surrounding districts or neighborhoods and discourage new land use activities which are potential nuisances and/or hazards within and in close proximity to residential areas. Reuse of property in the Army urbanized footprint should be encouraged.

(f) Each land use agency with jurisdiction over property in the Army urbanized footprint shall adopt the cultural resources policies and programs of the Reuse Plan concerning historic preservation, and shall provide appropriate incentives for historic preservation and reuse of historic property, as determined by the affected land use agency, in their respective applicable general, area, and specific plans.

(g) The County of Monterey shall amend the Greater Monterey Peninsula Area Plan and designate the Historic East Garrison Area as an historic district in the County Reservation Road Planning Area. The East Garrison shall be planned and zoned for planned development mixed uses consistent with the Reuse Plan. In order to implement this aspect of the plan, the County shall adopt at least one specific plan for the East Garrison area and such specific plan shall be approved before any development entitlement shall be approved for such area.

(h) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall support all actions necessary to ensure that sewage treatment facilities operate in compliance with waste discharge requirements adopted by the California Regional Water Quality Control Board.

(i) Each land use agency shall adopt the following policies and programs:

- (1) A solid waste reduction and recycling program applicable to Fort Ord Territory consistent with the provisions of the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 *et seq.*
- (2) A program that will ensure that each land use agency carries out all action necessary to ensure that the installation of water supply wells comply with State of California Water Well Standards and well standards established by the Monterey County Health Department; and
- (3) A program that will ensure that each land use agency carries out all actions necessary to ensure that distribution and storage of potable and non-potable water comply with State Health Department regulations.

(j) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to address water supply and water conservation. Such policies and programs shall include the following:

- (1) Identification of, with the assistance of the Monterey County Water Resources Agency and the Monterey Peninsula Water Management District, potential reservoir and water impoundment sites and zoning of such sites for watershed use, thereby precluding urban development;

- (2) Commence working with appropriate agencies to determine the feasibility of development additional water supply sources, such as water importation and desalination, and actively participate in implementing the most viable option or options;
- (3) Adoption and enforcement of a water conservation ordinance which includes requirements for plumbing retrofits and is at least as stringent as Regulation 13 of the Monterey Peninsula Water Management District, to reduce both water demand and effluent generation.
- (4) Active participation in support of the development of "reclaimed" or "recycled" water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency to ensure adequate water supplies for the territory within the jurisdiction of the Authority.
- (5) Promotion of the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use.
- (6) Adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development of territory within the jurisdiction of the Authority to assure that it does not exceed resource constraints posed by water supply.
- (7) Adoption of appropriate land use regulations that will ensure that development entitlements will not be approved until there is verification of an assured long-term water supply for such development entitlements.
- (8) Participation in the development and implementation of measures that will prevent seawater intrusion into the Salinas Valley and Seaside groundwater basins.
- (9) Implementation of feasible water conservation methods where and when determined appropriate by the land use agency, consistent with the Reuse Plan, including; dual plumbing using non-potable water for appropriate functions; cistern systems for roof-top run-off; mandatory use of reclaimed water for any new golf courses; limitation on the use of potable water for golf courses; and publication of annual water reports disclosing water consumption by types of use.

(k) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will require new development to demonstrate that all measures will be taken to ensure that storm water

runoff is minimized and infiltration maximized in groundwater recharge areas. Such policies and programs shall include:

- (1) Preparation, adoption, and enforcement of a storm water detention plan that identifies potential storm water detention design and implementation measures to be considered in all new development, in order to increase groundwater recharge and thereby reduce potential for further seawater intrusion and provide for an augmentation of future water supplies.
- (2) Preparation, adoption, and enforcement of a Master Drainage Plan to assess the existing natural and man-made drainage facilities, recommend area-wide improvements based on the approved Reuse Plan, and develop plans for the control of storm water runoff from future development. Such plans for control of storm water runoff shall consider and minimize any potential for groundwater degradation and provide for the long term monitoring and maintenance of all storm water retention ponds.

(l) Each land use agency shall adopt policies and programs that ensure that all proposed land uses on the Fort Ord Territory are consistent with the hazardous and toxic materials clean-up levels as specified by state and federal regulation.

(m) Each land use agency shall adopt and enforce an ordinance acceptable to the California Department of Toxic Substances Control ("DTSC") to control and restrict excavation or any soil movement on those parcels of the Fort Ord Territory, which were contaminated with unexploded ordnance, and explosives. Such ordinance shall prohibit any digging, excavation, development, or ground disturbance of any type to be caused or otherwise allowed to occur without compliance with the ordinance. A land use agency shall not make any substantive change to such ordinance without prior notice to and approval by DTSC.

(n) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will help ensure an efficient regional transportation network to access the territory under the jurisdiction of the Authority, consistent with the standards of the Transportation Agency of Monterey County. Such policies and programs shall include:

- (1) Establishment and provision of a dedicated funding mechanism to pay for the "fair share" of the impact on the regional transportation system caused or contributed by development on territory within the jurisdiction of the Authority; and
- (2) Support and participate in regional and state planning efforts and funding programs to provide an efficient

regional transportation effort to access Fort Ord Territory.

(o) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure that the design and construction of all major arterials within the territory under the jurisdiction of the Authority will have direct connections to the regional network consistent with the Reuse Plan. Such plans and policies shall include:

- (1) Preparation and adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development to assure that it does not exceed resource constraints posed by transportation facilities;
- (2) Design and construction of an efficient system of arterials in order to connect to the regional transportation system; and
- (3) Designate local truck routes to have direct access to regional and national truck routes and to provide adequate movement of goods into and out of the territory under the jurisdiction of the Authority.

(p) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to provide regional bus service and facilities to serve key activity centers and key corridors within the territory under the jurisdiction of the Authority in a manner consistent with the Reuse Plan.

(q) Each land use agency shall adopt policies and programs that ensure development and cooperation in a regional law enforcement program that promotes joint efficiencies in operations, identifies additional law enforcement needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services.

(r) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure development of a regional fire protection program that promotes joint efficiencies in operations, identifies additional fire protection needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services

(s) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure that native plants from on-site stock will be used in all landscaping except for turf areas, where practical and appropriate. In areas of native plant restoration, all cultivars, including, but not limited to, manzanita and ceanothus, shall be obtained from stock originating on Fort Ord Territory.

(t) Each land use agency shall include policies and programs in their general, area, and specific plans that will ensure compliance with the 1997 adopted FORA Reuse Plan jobs/housing balance provisions. The policies and programs for the provision of housing must include flexible targets that generally correspond with expected job creation on the former Fort Ord. It is recognized that, in addressing the Reuse Plan jobs/housing balance, such flexible targets will likely result in the availability of affordable housing in excess of the minimum 20% local jurisdictional inclusionary housing figure, which could result in a range of 21% - 40% below market housing. Each land use agency should describe how their local inclusionary housing policies, where applicable, address the Reuse Plan jobs/housing balance provisions.

(1) Agencies submitting consistency determination requests to FORA should identify and describe, where applicable, any factors that impact production of housing. These factors may include, without limitation, public financing, water resources, land use regulations, and environmental conditions. Each jurisdiction should consider but not be limited to, the following in establishing its Reuse Plan jobs/housing balance policies and programs:

- (a) Earmarking of tax increment housing set aside funds for housing programs, production, and/or preservation linked to jobs;
- (b) Development and/or preservation of ownership or rental housing linked to jobs;
- (c) Incorporation of job creation targets in project specifications;
- (d) Linkage of existing housing resources with jobs created;
- (e) Development of agreements with such jurisdictions for Reuse Plan-enhancing job creation or housing programs, production, and/or preservation; and
- (f) Granting of incentives to increase additional below-market housing productions to meet job creation needs.

(2) As a reference and guide for determining income limits and housing affordability levels, each land use agency should use measures established by the U.S. Department of Housing and Urban Development, the California Department of Housing and Community Development, and/or the Association of Monterey Bay Area Governments when determining compliance for very low, low, median, moderate affordability and comparable affordability factors for below-market housing up to 180% of median as approved as FORA

policy guidelines at the January 9, 2004 FORA Board meeting.

**8.02.030. DEVELOPMENT ENTITLEMENT CONSISTENCY.**

(a) In the review, evaluation, and determination of consistency regarding any development entitlement presented to the Authority Board pursuant to Section 8.01.030 of this Resolution, the Authority Board shall withhold a finding of consistency for any development entitlement that:

- (1) Provides an intensity of land uses, which is more intense than that provided for in the applicable legislative land use decisions, which the Authority Board has found consistent with the Reuse Plan;
- (2) Is more dense than the density of development permitted in the applicable legislative land use decisions which the Authority Board has found consistent with the Reuse Plan;
- (3) Is not conditioned upon providing, performing, funding, or making an agreement guaranteeing the provision, performance, or funding of all programs applicable to the development entitlement as specified in the Reuse Plan and in Section 8.02.020 of this Master Resolution and consistent with local determinations made pursuant to Section 8.02.040 of this Resolution.
- (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority.
- (5) Does not require or otherwise provide for the financing and installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the applicable legislative land use decision.
- (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.
- (7) Is not consistent with the Highway 1 Scenic Corridor design standards as such standards may be developed and approved by the Authority Board.
- (8) Is not consistent with the jobs/housing balance requirements developed and approved by the Authority Board as provided in Section 8.02.020(t) of this Master Resolution.



**8.03.080. CONFLICT DETERMINATIONS.**

This article establishes procedural guidelines for the evaluation of the environmental factors concerning activities within the jurisdiction of the Authority and in accordance with State Guidelines. Where conflicts exist between this article and State Guidelines, the State Guidelines shall prevail except where this article is more restrictive.

**Section 3.** This resolution shall become effective upon adoption.

PASSED AND ADOPTED this 20 day of November, 1998, upon motion of Member MANEINI, seconded by Member RUCKER, and carried by the following vote:


AYES: 10

NOES: 2

ABSENT: 1

I, EDITH JOHNSEN, Chair Of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered in the minutes thereof at section 4a., page 2 of Minute Book  
Nov. 20 1998 on Dec 2, 1998.

Dated: January 20, 1999

By:   
EDITH JOHNSEN  
Chair, Board of Directors  
Fort Ord Reuse Authority

## **ATTACHMENT "3"**

*Table 3-1  
Summary of Land Use Covenants*

**ATTACHMENT 3**

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
Del Rey Oaks	12/28/05	Soil 3	E29a		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Notification of MEC 4. Access rights
			E29b.1		
			E31.b		
			E31a		
			E31c		
			E36		
	In Review	Soil 4	L20.13.1.2		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Notification of MEC 4. Access rights
			L20.13.3.1		
L6.2					

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor)

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
Marina	10/12/01	Soil 1	L5.1.1		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Access rights
	05/22/02	Groundwater 1a	E17		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			E4.1.1		
			E4.2		
			E4.3.1.1		
	09/17/03	Groundwater 1	L2.2.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L35.1		
			L35.2		
	09/22/03	Groundwater 2	E2B.1.1.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			E2B.1.1.2		
			E2B.1.2		
			E2B.1.3		
			E2B.1.4		
			E2B.1.5		
			E2B.2.1		
			E2B.2.2		
			E2B.2.3		
			E2B.2.4		
			E2B.2.5		
			E2B.3.1.1		
			E2B.3.2		
			E2C.1		
			E2C.2		
			E2C.3.1		
			E2C.3.2		
			E2C.3.3		
			E2C.4.1.1		
E2C.4.2.1					
E2D.1					
E2D.2					
E2E.1					
E4.5					
L12.2.2					
L12.2.3					
L12.3					
L20.16.1					
L20.16.2					
L20.16.3					
L20.17.1					
L5.8.1					
L5.8.2					
S4.1.4					
09/28/04	Groundwater 3	S4.1.3		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area.	

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
	03/29/07	Groundwater 6	S4.1.5		3. Notify damages to remedy and monitoring systems. 4. Access rights.
	03/13/06	Groundwater 4	E2a E4.1.2.1 E4.1.2.2 E4.1.2.3 E4.3.1.2 E4.3.2.1 E4.6.1 L5.6.1 L5.6.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
	03/21/06	Groundwater 5	E2d.3.1 E5a.2 L5.10.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
	In Review	Groundwater 8	E4.3.2.2 E4.7.1 E5a.1 L5.10.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
	In Review	Groundwater TBA	E2c.4.1.2 E2c.4.2.2 E2c.4.3 E2c.4.4 E2d.3.2 L5.9.2 L20.17.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
	In Review	Groundwater TBA	L2.2.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
City of Monterey	In Review	Soil 5	E29.1		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
Monterey County	05/22/02	Groundwater 1a	L2.4.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L2.4.3.2		
	09/17/03	Groundwater 1	L35.3		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L35.6		
			L35.7		
			L35.8		
	9/28/04 and TBD	Groundwater 3 and Landfill 1	E8a.1.2		1. No construction of wells. 2. No disturbance or creation of recharge area. 3. No sensitive uses. 4. Notify damages to remedy and monitoring system. 5. Access rights. 6. No structures unless protective for LFG per Title 27
			E8a.1.3		
			E8a.1.4		
			E8a.1.5		
09/28/04	Groundwater 3	E11B.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
		E11B.2			
		E11B.3			
		E11B.4			
		E2E.2			
		L20.10.1.1			
		L20.10.1.2			
		L20.10.2			
		L20.14.1.2			
		L20.20			
		L20.21.1			
		L20.21.2			
		L20.22			
		L23.3.1			
L23.3.2.1					
L32.4.2					
S4.1.2.2					
06/26/06	Groundwater 6	E4.6.2		1. No construction of wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
6/26/2006 and TBD	Groundwater 6 and Landfill 2	E8a.1.1.2		1. No construction of wells. 2. No disturbance of systems or cap. 3. No sensitive uses. 4. No disturbance or creation of recharge area. 5. Notify damages to remedy and monitoring systems. 6. Access rights 7. No structures unless protective for LFG per Title 27	
10/18/06	Groundwater 7	S3.1.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
In Review	Groundwater 9	E4.7.2, L5.7, L20.2.1, L32.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
		E4.7.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
In Review		Soil TBD/GW 9	L5.7		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights. 5. No sensitive uses. 6. No soil disturbance or violation of ordinance without soil management plan 7. Notification of MEC
			L20.2.1		
			L32.1		
			E11.b.6.1		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Notification of MEC 4. Access rights
			E11b.7.1.1		
			E11b.8		
			E18.1.2		
			E19a.1		
			E19a.2		
			E19a.3		
			E19a.4		
			E19a.5		
			E21b.3		
			E39		
			E40		
			E41		
			E42		
			F1.7.2		
			L20.3.1.		
			L20.3.2		
			L20.5.1		
			L20.5.2		
			L20.5.3		
L20.5.4					
L20.8					
L20.18					
L20.19.1.1					
L23.2					
TBD	Landfill 3 and Groundwater 11	E8a.2		1. No construction of wells. 2. No disturbance of systems or cap. 3. No sensitive uses. 4. No disturbance or creation of recharge area. 5. Notify damages to remedy and monitoring systems. 6. Access rights 7. No structures unless protective for LFG per Title 27	
		E8a.1.1.1			
TBD	Soil TBD	L23.3.2.2		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Access rights	

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media  
 Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media  
 Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor)



**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
Seaside	05/22/02	Groundwater 1a	L2.4.3.1		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L32.4.1.2		
			L37		
	09/17/03	Groundwater 1	L1.1		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
	09/22/03	Groundwater 2	E15.1		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L19.2		
			L19.3		
			L19.4		
	03/22/04	Soil 2	F2.7.2		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Access rights
	09/28/04	Groundwater 3	L15.1		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L20.19.2		
			L32.4.1.1		
			L36		
L7.8					
L7.9					
In Review	Soil 6	S4.1.2.1		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights	
		E18.1.1			
		E18.1.3			
		E18.4			
		E20c.2			
		E23.1			
		E23.2			
E24					
E34					

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
MPC (Marina)	09/28/04	Groundwater 3	L23.1.1		1. No construction of wells. 2. No disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L23.1.2		
			L23.1.3		
			L23.1.4		
			L23.1.5		
			L23.4		
MPC (Seaside)			L23.6		
MPC (Monterey County)	In Review	Soil TBD	E19a.5		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights
			E21b.3		
			E39		
			E40		
			E41		
			E42		
			F1.7.2		
L23.2					
MPC (Seaside)	In Review	Soil 6	E38		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

When an above described LUC contains parcels belonging to more than one jurisdiction, shading is used to clarify the jurisdiction.

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
CSUMB (Seaside)	05/22/02	Groundwater 1a	S1.4		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
CSUMB (Marina)			S1.5.1.1		
			S1.5.2		
			S1.5.1.1		
CSUMB (Marina)		S1.5.2			
CSUMB (Monterey County)	09/17/03	Groundwater 1	L32.2.1		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
CSUMB (Seaside)			S1.3.3		
			L32.2.2		
			L32.3		
			L33.1		
CSUMB (Marina)		L33.2			
CSUMB (Marina)		S1.5.1.2			
CSUMB (Monterey County)	In Review	Groundwater 9	S1.3.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor)

When an above described LUC contains parcels belonging to more than one jurisdiction, shading is used to clarify the jurisdiction.

**TABLE 3-1  
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	GPS Coordinates	Restrictions
UCSC (Monterey County)	05/22/02	Groundwater 1a	S2.5.2.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
UCSC (Marina)			S2.1.3		
			S2.1.4.1		
			S2.5.1.1		
			S2.5.2.1		
UCSC (Monterey County)	09/17/03	Groundwater 1	F7.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
UCSC (Marina)			S2.1.4.2		
UCSC (Marina)	TBD FOST 11	Groundwater 10 (UCSC, OU1 GW)	S2.1.2		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.

**Explanations:**

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

When an above described LUC contains parcels belonging to more than one jurisdiction, shading is used to clarify the jurisdiction.

## **ATTACHMENT "4"**

*LUC Review Annual Report Outline*

***ATTACHMENT 4***

# Former Fort Ord

## Land Use Covenant Report Outline

Annual Status Report for \_\_\_\_\_ (Jurisdiction) \_\_\_\_\_ on Land Use Covenants  
Covering July 1, 2\_\_\_ to June 30, 2\_\_\_.

(See Parcel and LUC lists in Table 3-1)

This form is to be submitted by each Jurisdiction to:

Fort Ord Reuse Authority

by

August 1 of each year

**DATE OF REPORT:** \_\_\_\_\_

**SUBMIT TO:** Fort Ord Reuse Authority  
Attn: \_\_\_\_\_  
100 12<sup>th</sup> Street, Bldg. 2880  
Marina, California 93933

### **GENERAL:**

Has jurisdiction staff previously provided a compliance summary in regards to the local digging and excavation ordinances, including the number of permits issued?

yes or  no

Has jurisdiction staff provided an annual update of any changes to applicable digging and excavation ordinances?

yes or  no

Has jurisdiction staff provided an annual update of any changes to the Monterey County Groundwater Ordinance No. 4011?

yes or  no

### **PARCELS:**

Have any of the parcels with covenants in the jurisdiction split since the last annual report?

yes or  no

If so, please reflect the split(s) in reporting on compliance with section 2.1.2 of the MOA in Table 3-1.

**GROUND WATER COVENANTS:**

Is a ground water covenant applicable in your jurisdiction?  yes or  no  
(If no, skip questions 1 through 4)

1. Did jurisdiction staff visually inspect the parcels in your jurisdiction (see Table 3-1) with ground water covenants? Such visual inspection shall include observed groundwater wells, and any other activity that would interfere with or adversely affect the groundwater monitoring and remediation systems on the Property or result in the creation of a groundwater recharge area (e.g., unlined surface impoundments or disposal trenches).

yes or  no

2. Did jurisdiction staff check with the applicable local building department (please list department name: \_\_\_\_\_) to ensure that no wells or recharge basins such as surface water infiltration ponds were built within your jurisdiction?

yes or  no

3. Did jurisdiction staff check with the applicable local planning department (please list department name: \_\_\_\_\_) to ensure that no well permits were granted or recharge basins requested within your jurisdiction?

yes or  no

4. Did jurisdiction staff review the County well permit applications pertaining to your jurisdiction to ensure that no wells have been dug or installed in violation of the ordinance or the ground water covenants?

yes or  no

If you answered yes to any questions 1 through 4 above, please note and describe violations with USACE parcel numbers and street addresses (Use additional sheets if needed).

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**LANDFILL BUFFER COVENANTS:**

Is a landfill buffer covenant applicable in your jurisdiction?  yes or  no  
(If no, skip questions 1 through 3)

1. Did jurisdiction staff visually inspect the parcels in your jurisdiction (see Table 3-1) with landfill buffer covenants? Such visual inspection shall include observation of any structures and any other activity that would interfere with the landfill monitoring and remediation systems on the Property.

yes or  no

2.. Did jurisdiction staff check with the applicable local building department (please list department name: \_\_\_\_\_) to ensure that no sensitive uses such as residences, hospitals, day care or schools (not including post-secondary schools, as defined in Section 1.19 of the MOA), were built on the restricted parcels within your jurisdiction?

yes or  no

3. Did jurisdiction staff check with the applicable local planning department (please list department name: \_\_\_\_\_) to ensure that no other structures were built without protection for vapors in accordance with the landfill buffer covenants?

yes or  no

If you answered yes to any questions 1 through 3 above, please note and describe violations with street addresses. (Use additional sheets if needed).

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**SOIL COVENANTS:**

Is a soil covenant applicable in your jurisdiction?  
(If no, skip questions 1 through 4)

yes or  no

1. Did jurisdiction staff visually inspect the parcels (see Table 3-1) in your jurisdiction with soil covenants to assure no sensitive uses such as residences, hospitals, day care or schools (not including post-secondary schools, as defined in Section 1.19 of the MOA), were constructed or are occurring on the restricted parcels in your jurisdiction?

yes or  no

2. Did jurisdiction staff check with the applicable local building department to ensure that no soil was disturbed without an approved soil management plan in accordance with the excavation and digging Ordinance in your jurisdiction?

yes or  no

3. Did jurisdiction staff check with the applicable local planning department for notification of MEC within your jurisdiction?

yes or  no

4. Did jurisdiction staff review the 911 records of MEC observations and responses and provide a summary in annual report?

yes or  no

If you answered yes to any questions 1 through 4 above, please provide the following information:  
(Use additional sheets if needed).

- a) date and time of the call,
- b) contact name,
- c) location of MEC finding,
- d) type of munitions, if available and
- e) response of jurisdiction law enforcement agency.



**Jurisdiction's Representative Compiling this Report:** \_\_\_\_\_

**Contact Information:**      **Phone:** \_\_\_\_\_  
   **Email:** \_\_\_\_\_

**Signature of Preparer:** \_\_\_\_\_

**Suggested Attachments to Annual LUC Report**

1. Table summarizing inspections, parcels, restrictions and any deficiencies in the LUCs.
2. Inspection Notes for each parcel.
3. Inspection Photos for each parcel.
4. County and jurisdiction well records, permit reports.
5. Building department permit records.
6. Planning department permit records.
7. MEC findings (911 call records).
8. GPS coordinates for parcels.

**ATTACHMENT "5"**

*DEPARTMENT'S Annual Cost Estimate*

**ATTACHMENT 5**

## Attachment

### Cost Estimate The Department's LUC Oversight

The number of parcels anticipated to require LUCs are listed below and the restrictions are detailed in Section 4.0 of each LUC. The list of parcels and respective restrictions are summarized by jurisdiction in Table 3-1 of the Memorandum of Agreement (MOA) between the Department of Toxic Substances Control (DTSC), Fort Ord Reuse Authority (FORA), Monterey County (County), the City of Seaside (Seaside), the City of Monterey (Monterey), the City of Del Rey Oaks (Del Rey Oaks), the City of Marina (Marina) California State University Monterey Bay ("CSUMB"), University of California Santa Cruz ("UCSC"), and Monterey Peninsula College ("MPC"). The restrictions generally fall in one of three categories:

1. Prohibition of groundwater wells for injection or extraction and utilization of groundwater and any other activity that would interfere with or adversely affect the groundwater remediation systems on the former Fort Ord on property within the Prohibition Zone of the Special Groundwater Protection Zone.
2. Prohibition of sensitive land uses (residences, schools [not including post-secondary schools as defined in Section 1.19 of the MOA], hospitals, day care centers, etc.) and soil disturbance on property where Munitions and Explosives (MEC) may remain. These covenants will also have requirements for construction support, and reporting to DTSC if soil disturbance occurs.
3. Prohibition of sensitive land uses (residences, schools [not including post-secondary schools, as defined in Section 1.19 of the MOA], hospitals, day care centers, etc.) the Fort Ord Landfills and excavation activities (i.e. digging, drilling, or any other excavation or disturbance of the land surface or subsurface) or other activities, which may damage the OU2 Fort Ord Landfills soil cover and liners or landfill gas extraction and treatment systems.

#### Total Costs by Jurisdiction

Jurisdiction	# Parcels with Soil/MEC LUCs	# Parcels with Groundwater LUCs	# Parcels with Landfill LUCs	Annual DTSC oversight cost (includes FORA Administrative Costs of 15%)	Annual DTSC oversight cost (without FORA Administrative Costs)
Monterey County	2	55	7	\$6,081	\$5,288
City of Marina	<u>1</u>	<u>58</u>	0	\$5,633	\$4,898
City of Monterey	1	0	0	\$958	\$833
City of Del Rey Oaks	9	0	0	\$2,944	\$2,560
City of Seaside	<u>10</u>	15	0	\$3,036	\$2,640
CSUMB		11		\$1,213	\$1,055
UCSC		8		\$787	\$684
MPC	<u>1</u>	15		\$1,669	\$1,451
			<b>Total Estimate</b>	<b>\$22,321</b>	<b>\$19,409</b>

### Estimate By Jurisdictions

#### Monterey County

DTSC Task	Hours per year	\$ per hour/day	Annual Total
Review the MOA and 13 LUCs for 70 parcels	<u>4</u>	117	\$468
Review Annual Report on compliance with MOA and LUCs	<u>6</u>	117	\$702
Annual inspection of 70 parcels (including travel)	<u>24</u>	117	\$2,805
Review of Property Transfer Documents	<u>4</u>	117	\$468
Mileage	<u>1</u>	\$205	\$205
Per Diem	<u>3</u>	\$138	\$414
Draft and complete inspection reports, and/or approval letter	<u>6</u>	117	\$702
Supervisor QA	<u>2</u>	166	\$332
Branch Chief Briefing	<u>1</u>	166	\$166
Clerical	<u>4</u>	58	\$232
Subtotal DTSC Costs in County	<u>24</u>		\$6,494
Subtotal Prorated County Costs 57/70 LUC parcels)			\$5,288
FORA Administrative Costs (15%)			\$793
Total County Costs			\$6,081

#### City of Marina

DTSC Task	Hours per year	\$ per hour	Annual Total
Review the MOA and 9 LUCs for 73 parcels	<u>4</u>	117	\$468
Review Annual Report on compliance with MOA and LUCs	<u>3</u>	117	\$351
Annual inspection of 73 parcels (including travel)	<u>24</u>	117	\$2,805
Draft and complete inspection reports, and/or approval letter	<u>6</u>	117	\$702
Mileage	<u>1</u>	\$205	\$205
Per Diem	<u>3</u>	\$138	\$414
Review of Property Transfer Documents	<u>4</u>	117	\$468
Supervisor QA	<u>2</u>	166	\$332
Branch Chief Briefing	<u>1</u>	166	\$166
Clerical	<u>4</u>	58	\$232
Subtotal DTSC Costs in Marina	<u>9</u>		\$6,143
Subtotal Prorated Marina Costs 59/74 LUC parcels			\$4,898
FORA Administrative Costs (15%)			\$735
Total Marina Costs			\$5,633

### City of Monterey

DTSC Task	Hours per year	\$ per hour	Annual Total
Review 1 LUC for <u>1</u> parcel	<u>0.5</u>	117	\$58.5
Review Annual Report on compliance with MOA and LUC	<u>0.5</u>	117	\$58.5
Annual inspection of the parcel (no travel)	<u>1</u>	117	\$117
Mileage to Site and per diem	<u>0</u>	0	\$0
Review of Property Transfer Documents	<u>1</u>	117	\$117
Draft and complete inspection reports and/or approval letter	<u>1</u>	117	\$117
Supervisor QA	<u>2</u>	166	\$306
Branch Chief Briefing	<u>0.5</u>	166	\$83
Clerical	<u>2</u>	58	\$116
Subtotal DTSC Costs in Monterey	<u>24</u>		\$833
FORA Administrative Costs (15%)			\$125
Total Monterey Costs			\$958

### City of Del Rey Oaks

DTSC Task	Hours per year	\$ per hour	Annual Total
Review the MOA and 2 LUCs for <u>9</u> parcels	<u>1</u>	117	\$117
Review Annual Report on compliance with MOA and LUCs	<u>4</u>	117	\$468
Annual inspection of <u>9</u> parcels (including travel)	<u>6</u>	117	\$702
Review of Property Transfer Documents	<u>1</u>	117	\$117
Mileage	<u>1</u>	\$102	\$102
Per Diem	<u>1</u>	\$138	\$138
Draft and complete inspection reports, and/or approval letter	<u>4</u>	117	\$468
Supervisor QA	<u>1</u>	166	\$166
Branch Chief Briefing	<u>1</u>	166	\$166
Clerical	<u>2</u>	58	\$116
Subtotal DTSC costs in Del Rey Oaks	<u>22</u>		\$2,560
FORA Administrative Costs (15%)			\$384
Total Del Rey Oaks Costs			\$2,944

### City of Seaside

DTSC Task	Hours per year	\$ per hour	Annual Total
Review the MOA and 7 LUCs for <u>32</u> parcels	<u>2</u>	117	\$234
Review Annual Report on compliance with MOA and LUCs	<u>5</u>	117	\$585
Annual inspection of <u>32</u> parcels (including travel)	<u>10</u>	117	\$1,170
Review of Property Transfer Documents	<u>2</u>	117	\$234
Mileage	<u>1</u>	\$205	\$205
Per Diem	<u>1</u>	\$138	\$138

Draft and complete inspection reports and/or approval letter	4	117	\$468
Supervisor QA	<u>1</u>	166	\$166
Branch Chief Briefing	1	166	\$166
Clerical	<u>2</u>	58	\$116
Subtotal DTSC costs in Seaside	<u>28</u>		\$3,379
Subtotal Prorated Seaside Costs 25/32 LUC parcels			\$2,640
FORA Administrative Costs (15%)			\$396
Total Seaside Costs			\$3,036

### CSUMB

Description	Factor	Annual Cost	Annual Total
Monterey County (Prorated 3/70 LUC parcels)	4.29%	\$6,494	\$278
Marina (Prorated 3/74 LUC parcels)	4.05%	\$6,143	\$249
Seaside (Prorated 5/32 LUC parcels)	15.63%	\$3,379	\$528
Subtotal CSUMB costs to DTSC			\$1,055
FORA Administrative Costs (15%)	15%	\$1,055	\$158
Total CSUMB Costs			\$1,213

### UCSC

Description	Factor	Annual Cost	Annual Total
Monterey County (Prorated 2/70 LUC parcels)	<u>2.86%</u>	\$6,494	\$186
Marina (Prorated 6/74 LUC parcels)	8.11%	\$6,143	\$498
Subtotal UCSC costs to DTSC			\$684
FORA Administrative Costs (15%)	15%	\$684	\$103
Total UCSC Costs			\$787

### MPC

Description	Factor	Annual Cost	Annual Total
Monterey County (Prorated 8/70 LUC parcels)	11.43%	\$6,494	\$742
Marina (Prorated 6/74 LUC parcels)	8.11%	\$6,143	\$498
Seaside (Prorated 2/32 LUC parcels)	<u>6.25%</u>	\$3,379	\$211
Subtotal MPC costs to DTSC			\$1,451
FORA Administrative Costs (15%)	15%	\$1,173	\$218
Total MPC Costs			\$1,669

## Notes and Assumptions:

1. The estimates in the tables above are for DTSC's costs to oversee the LUCs on existing and anticipated future land transfers. These estimates based on the attached 2007 DTSC Contract Estimation Rates for the time period between July 1, 2006 and June 30, 2007. Actual charges will be based on actual individual salary and benefits of each employee, actual per diem, mileage rates and expenses and will be invoiced quarterly on a "time and materials" basis. On an annual basis, DTSC will compare this cost estimate with actual charges. If the invoice variance is greater than 20% from the original cost estimate for any jurisdiction, DTSC will notify FORA and prepare an addendum to this cost estimate. DTSC anticipates that staff time required to inspect parcels and review and approve annual reports may increase over time due to increased development and increase in the number of LUCs on newly transferred properties.
2. Pursuant to CCR Section 67391.1, a LUC Implementation and Enforcement Plan (IEP) is required. FORA and the jurisdictions are entering into the MOA, which describes each participant's roles and responsibilities and serves as the EIP.
3. The Army will continue to perform all operation and maintenance activities, monitoring, inspections and five-year reviews for the groundwater remediation and the OU 2 landfill as required by the FFA. DTSC's oversight costs for these tasks will continue to be paid by the Army via DSMOA or equivalent mechanism.
4. DTSC costs for variances, changes or termination of the covenant will be paid by the party requesting the action and are not included in this cost estimate.
5. This cost estimate is based on 2007 DTSC billing rates (attached) and expenses (i.e. mileage, per diem and expenses). Annually, DTSC publishes new billing rates; therefore, this cost estimate may change.

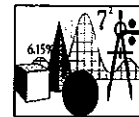
**ATTACHMENT "5A"**

*DTSC Cost Estimation Rates*

***ATTACHMENT 5A***



DEPARTMENT OF TOXIC SUBSTANCES CONTROL



**Contract Estimation Rates**  
**Effective 7/01/06 - 06/30/07**

These rates are to be used to estimate contract costs for the 2006/07 Fiscal Year effective 7/1/06. The rates are based on the highest salary rate for the class including all pay and equity raises that DTSC is aware of as of 11/1/06. Actual costs will be determined by individual salary rates and benefits, which may be higher or lower than the rate shown.

**Questions concerning these rates should be addressed to:**  
**Lillian Haglo, Fiscal Systems at CALNET 8-454-6431 or (916) 324-6431**

Rev 11/15/06

**SITE MITIGATION AND BROWNFIELD REUSE      HAZARDOUS WASTE MANAGEMENT      SCIENCE POLLUTION PREVENTION & TECHNOLOGY**

Class Code	Class Name	ALL INCLUSIVE HOURLY RATE 175.11%	ALL INCLUSIVE HOURLY RATE 159.37%	ALL INCLUSIVE HOURLY RATE 194.36%
5871	Assistant Chief Counsel	\$212	\$200	\$227
4711	Associate Environmental Planner	\$115	\$108	\$123
5393	Associate Governmental Program Analyst	\$109	\$103	\$117
3856	Associate Industrial Hygienist	\$122	\$115	\$131
7941	Associate Toxicologist	\$131	\$123	\$140
3833	CEA II	\$176	\$166	\$188
8060	Chemist	\$112	\$105	\$120
7574	Criminal Investigator, DTSC	\$115	\$108	\$123
3756	Engineering Geologist	\$145	\$137	\$155
8054	Environmental Biochemist	\$151	\$142	\$162
3726	Hazardous Substances Engineer	\$145	\$136	\$155
3564	Hazardous Substances Scientist	\$117	\$110	\$125
4247	Health Program Audit Manager I, DHS	\$126	\$119	\$135
5278	Management Services Technician	\$70	\$66	\$75
1441	Office Assistant (General)	\$57	\$53	\$61
1379	Office Assistant (Typing)	\$58	\$54	\$62
1148	Office Services Supervisor I (Typing)	\$67	\$63	\$71
1150	Office Services Supervisor II (General)	\$73	\$69	\$79
1138	Office Technician (General)	\$66	\$62	\$70
1139	Office Technician (Typing)	\$67	\$63	\$71
5373	Public Participation, Specialist (DHS)	\$109	\$103	\$117
5372	Public Participation, Supervisor (DHS)	\$125	\$118	\$134
6001	Research Program Specialist II (Soil Erosion)	\$132	\$124	\$141
5581	Research Scientist II (Chemical Sciences)	\$131	\$123	\$140
5638	Research Scientist Sup 1	\$159	\$149	\$170
3751	Senior Engineering Geologist	\$166	\$157	\$178
4713	Senior Environmental Planner	\$138	\$130	\$147
3725	Senior Hazardous Substances Engineer	\$166	\$156	\$178
3565	Senior Hazardous Substances Scientist	\$134	\$127	\$144
3852	Senior Industrial Hygienist	\$139	\$131	\$149
7943	Senior Toxicologist	\$166	\$157	\$178
8068	Staff Chemist	\$122	\$115	\$131
5778	Staff Counsel	\$165	\$156	\$177
5795	Staff Counsel III (Specialist)	\$200	\$189	\$214
5815	Staff Counsel III (Supervisor)	\$201	\$189	\$215
5157	Staff Services Analyst (General)	\$91	\$86	\$97
4800	Staff Services Manager I	\$125	\$118	\$134
4801	Staff Services Manager II (Supervisor)	\$138	\$130	\$147
7978	Staff Toxicologist (Specialist)	\$158	\$149	\$169
8070	Supervising Chemist	\$123	\$116	\$131
7575	Supervising Criminal Investigator I, DTSC	\$126	\$119	\$135
7576	Supervising Criminal Investigator II, DTSC	\$142	\$134	\$152
3748	Supervising Engineering Geologist	\$182	\$172	\$195
3724	Supervising Hazardous Substances Engineer I	\$166	\$157	\$178
3723	Supervising Hazardous Substances Engineer II	\$182	\$172	\$195
3566	Supervising Hazardous Substances Scientist I	\$135	\$127	\$144
3567	Supervising Hazardous Substances Scientist II	\$155	\$146	\$166
1181	Word Processing Technician	\$61	\$57	\$65

# AGREEMENT

## REGARDING PUBLIC SAFETY OFFICER TRAINING FACILITIES

This Agreement ("Agreement") is entered into between the **County of Monterey**, a political subdivision of the State of California ("County"), **Monterey Peninsula College**, a California community college ("MPC") and the **Fort Ord Reuse Authority**, a public entity organized and operating under Title 7.85 of the California Government Code ("FORA").

### RECITALS

A. The United States of America, acting through the Department of Defense and the Army (the "Army"), owns the real property within the former Fort Ord, identified as polygons 11b, 19a, 21a, 21b and 21c in the Fort Ord Reuse Plan (the "Property"). The Army entered into a Memorandum of Agreement dated June 23, 2000, with FORA to transfer portions of the Property to FORA pursuant to a remediation and removal schedule.

B. The County is programmed to acquire the Property from FORA pursuant to the terms of an Implementation Agreement entered into between the County and FORA, dated May 8, 2000 (the "Implementation Agreement").

C. The United States Department of Interior, Bureau of Land Management ("BLM") is programmed to receive other portions of the Property known as the former Military Operations/Urban Terrain Facility (the "MOUT Facility") from the Army pursuant to an agency-to-agency transfer.

D. MPC is seeking an area within the Property for development of a public safety officer training center and EVOC facility (collectively the "Training Facility") and it has rights to certain lands within polygon 11b in the Fort Ord Reuse Plan (the "East Garrison") by virtue of a United States Department of Education Public Benefit Conveyance request for lands in the East Garrison for development of the Facility.

E. Because of various potential land use conflicts with other prospective users in the East Garrison, the Parties entered into a memorandum of intent entitled Proposed County of Monterey/FORA/MPC Points of Agreement Regarding Public Safety Officer Training Academy (the "MOI") for the purpose of

seeking resolution of said land use conflicts by County and FORA obtaining for MPC an acceptable alternate site within the former Ft. Ord for the Training Facility.

F. The Parties have worked together to identify other potential areas within polygons 19a, 21a, 21b and 21c ("Parker Flats") that could accommodate development of the Training Facility. MPC has developed a conceptual plan for the development of such potential areas as the Training Facility, a copy of which is attached hereto as **Exhibit A**.

G. To assist in resolving the potential land use conflicts, BLM has agreed to relinquish its rights to a conveyance of the MOUT Facility and to allow the MOUT Facility to be transferred by the Army to the County or directly to MPC for MPC's use as part of the Training Facility.

H. To resolve the potential land use conflicts in accordance with the MOI and to help the County meet the need for workforce housing within the East Garrison, the Parties have agreed to an exchange of uses between the East Garrison, Parker Flats and the MOUT Facility on the terms and conditions herein.

## **AGREEMENT**

1. **Location of the Training Facility at Parker Flats.** The Parties mutually agree that sites exist within Parker Flats and the MOUT, as shown schematically on the map attached as **Exhibit B** (collectively, the "Facility Sites"), that are suitable for development of the Training Facility by MPC. The Parties anticipate that FORA will obtain title to the Facility Sites under its June 23, 2000, agreement with the Army and, in turn, that FORA will transfer title to the Facility Sites directly to MPC in accordance with the Implementation Agreement and this Agreement.

2. **Transfer of Facility Sites.** The County or FORA shall, at no cost (excepting reasonable and customary sharing of recordation and processing fees), transfer title to the Facility Sites to MPC within forty-five (45) days after receiving title to said properties.

3. **Release of Rights at East Garrison.** MPC agrees to release its rights to lands at East Garrison simultaneously with its receipt of title to the Facility Sites.

**4. Conditions Precedent.** MPC shall release its rights in the lands at East Garrison, prior to its receipt of title to the Facility Sites, upon the satisfaction of the following conditions precedent (the "Conditions"), each of which is for the benefit of MPC and may be waived or accepted only by MPC:

- a. Agreement between MPC and the California Department of Toxic Substances Control ("DTSC") as to conditions and covenants for the early transfer of the Facility Sites that will permit the early transfer of the Facility Sites and the use of the Facility Sites by MPC for the Public Safety Officer Training Facility.
- b. Written concurrence by the Army as to the covenants and conditions for transfer of the Facility Sites that will permit the use of the Facility Sites by MPC for the Public Safety Officer Training Facility as agreed to between MPC and DTSC.
- c. Agreement between MPC and BLM as to the reconfiguration and enlargement of polygon E.21.b.3 sufficient to allow the use of the resulting parcel as a firing range as noted in the conceptual plan attached hereto as **Exhibit A**, including resolution of the issues referred to in Section 6 of this Agreement.
- d. Agreement between MPC and BLM as to terms and conditions for the ownership of the MOUT Facility to be transferred to MPC, and expansion of a portion of the MOUT Facility to allow for expansion of the number of firing stations at the MOUT Facility firing range;
- e. Allocation of potable water service in an amount adequate to meet the reasonable needs of the Public Safety Officer Training Facility as described in the conceptual plan attached hereto as **Exhibit A** not to exceed 52.5 acre-feet per year. Said water allocation shall be used exclusively to meet the reasonable needs of the Public Safety Officer Training Facility as described in the conceptual plan attached hereto as **Exhibit A**;
- f. Identification by MPC of potential funding sources for site development, construction and operation of the Training Facility in accordance with Section 16 herein.

**5. Satisfaction of Conditions.** For the purposes of this Agreement, "satisfaction" of Conditions shall mean resolution of each of the Conditions to the

reasonable satisfaction of MPC. MPC shall release its rights to lands at East Garrison within ten (10) days of its written notice to County and FORA that each of the Conditions has been satisfied. If on December 31, 2002, the Conditions are not resolved to MPC's reasonable satisfaction, MPC shall provide written notice to County and FORA within ten (10) days of each condition that has not been so satisfied. The parties shall then meet and confer within ten (10) days to determine whether the remaining Conditions can be satisfied within a reasonable time. If the parties, acting in good faith, determine that the Conditions cannot be satisfied within a reasonable time, this Agreement shall be terminated.

**6. BLM Issues.** In order to satisfy the condition precedent contained in Section 4(b) above, the Parties agree to use their best efforts to resolve the following issues with the BLM, including preparation by MPC of such plans for the Training Facility as may reasonably be required to resolve the issues:

**A. Firing Ranges.**

- i. Approval of the expansion of Firing Range 45 as illustrated in Figure 6 of Assessment, East Garrison – Parker Flats Land Use Modifications, Fort Ord, California (Zander Associates, May 2002).
- ii. Approval of MPC's conceptual design of the expansion of Firing Range 45 to incorporate protective features to protect BLM employees and recreational users that will be using existing BLM roads and trails to the south of said ranges.
- iii. Approval of MPC's conceptual design of Improvements at the Firing Ranges on the Facility Sites to include an adequate firebreak (which may include roads) to separate the Natural Resource Management Area ("NRMA") lands.

**B. Eucalyptus Road.** Approval of FORA's plans for the closure and rerouting of portions of Eucalyptus Road to include provisions for the development of a recreational trail parking access point.

**C. EVOC Facility.** Approval of MPC's conceptual design of the EVOC Facility to include an adequate firebreak and provisions for noise mitigation.

D. **MOUT Facility.** Approval of MPC's conceptual design of the expansion of a portion of the MOUT facility to allow for expansion of the number of firing stations at the MOUT range.

7. **EVOG Facility.** MPC agrees that the EVOG Facility shall include an adequate firebreak and provisions for noise mitigation.

8. **Eucalyptus Road.** FORA and the County shall be responsible for the closure and rerouting of portions of Eucalyptus Road, which shall include provisions for the development of a recreational trail parking access point to be evaluated in an appropriate transportation plan. In addition, FORA agrees to consider amendment to its CIP to provide high prioritization for the rerouting of a portion of Eucalyptus Road to a location generally northwest of the Facility Sites that will allow for full development of the Training Facility by MPC.

9. **Usage of MOUT Facility.** Prior to its use of the Facility Sites as described herein, MPC shall reach agreement with the appropriate federal and local law enforcement agencies on their required levels of usage of the MOUT Facility. In addition, MPC shall devise a schedule for usage of the MOUT Facility by said agencies that guarantees the following annual levels of usage without payment of usage fees:

U. S. Military	45 day visits (Non-exclusive)
FBI	30 day visits (Non-exclusive)
Monterey County Sheriff's Dept.	12 day visits (Non-exclusive)
BLM	5 day visits (Non-exclusive)

10. **Relocation of Buildings.** If requested by MPC, and to the extent resources are available, FORA shall assist with relocation of surplus existing buildings from East Garrison or elsewhere at Fort Ord to the Facility Sites to provide scenario training, classrooms and related facilities for use by MPC at the Training Facility.

11. **Water Service.** Prior to the transfer of the Facility Sites to MPC, the County and FORA shall provide written confirmation that adequate potable water will be available to MPC for use at the Training Facility in accordance with Section 4(e) herein. MPC shall incorporate low flow fixtures and water conservation measures at the Training Facility to the reasonable satisfaction of the County and FORA. At such time as reclaimed water is available for non-potable uses at the Training Facility, all uses at the such facility that do not

require potable water for health and safety reasons shall use reclaimed water if feasible.

**12. Biological Services.** The County shall fund the services of Zander Associates to perform biological services in connection with reconfiguring and enlarging polygon 21b for use as a firing range and also in connection with the expansion of a portion of the MOUT Facility to increase the number of firing stations.

**13. Ordnance Cleanup.** The County and FORA shall request that the Army assign early priority to ordnance and explosives cleanup at Polygon 21b and to establish an acceptable explosive safety arc for the Training Facility.

**14. Infrastructure.** The County and FORA shall establish a high priority for the extension of utilities and related infrastructure as listed in **Exhibit C** attached hereto (the "Infrastructure Improvements") to the Training Facility as an early project requirement to enable development of the Facility Sites. To the extent that the Infrastructure Improvements are considered to be "Basewide Costs" as defined in Section 1(f) of the Implementation Agreement, payment of costs associated with the extension of the Infrastructure Improvements shall be apportioned in accordance with Sections 6 and 7 of the Implementation Agreement. For purposes of this Agreement, the Parties agree that MPC's share of the costs for the Infrastructure Improvements shall be no more than Five Hundred Thousand Dollars (\$500,000.00), subject to adjustment for any deferred payment in accordance with adopted FORA practice.

**15. Habitat Management.** Responsibility for management of identified habitat on the Facility Sites shall be assumed by FORA, subject to MPC's obligation to pay reasonable fair share assessments for the cost of such habitat management as part of its contribution to Basewide Costs as provided in Section 14 of this Agreement. Except for such payment, MPC shall have no responsibility for habitat management on the Facilities Sites.

**16. Funding Assistance.** The Parties acknowledge MPC's concerns regarding the financing of infrastructure and facilities improvements on the Property necessary for development of the Training Facility. Accordingly, the County and FORA agree to provide reasonable support and legislative assistance to MPC in attempting to secure Federal, State and other sources of funding for MPC's site development, construction and operation of the Training Facility in accordance with an estimated budget to be prepared by MPC.

**17. Termination.**

**A. Termination on Default.** Any party shall be entitled to terminate this Agreement if another party fails to perform in any material respect any material obligation required of it hereunder, and such default continues for sixty (60) days after the giving of written notice by the non-defaulting party, specifying the nature and extent of such default; provided, however, that if such default is not cured within sixty (60) days, but is capable of being cured within a reasonable period of time in excess of sixty (60) days, then the non-defaulting party shall not be entitled to terminate this Agreement if the defaulting party commences the cure of such default within the first 60 day period and thereafter diligently and in good faith continues to cure such default until completion.

**B. Termination for Legal Reasons.** If any legislation, regulation, rule, court decision or other government action has a material adverse effect on the operation of this Agreement, or if any term is deemed illegal by any party, then the parties shall attempt to amend this Agreement so as to avoid any adverse consequences. If the parties, acting in good faith, are unable to make the required amendments, this Agreement shall be terminated.

**18. Title.** Title to the Facility Sites shall be conveyed to MPC subject only to such encumbrances and covenants which do not render the Facility Sites unusable for MPC's intended use, to wit, the development and use as the Training Facility. Neither the County nor FORA shall be obligated to provide MPC with a policy of title insurance, and any such policy of title insurance shall be at MPC's sole expense. Transfer of the MOUT Facility to MPC shall be subject to a reversion in favor of the County if said property ceases to be used by MPC as a public safety officer training facility as described herein.

**19. Dispute Resolution.** The parties to this Agreement all desire to avoid the cost and delay attendant on litigation. To that end, all parties agree that if any dispute arises relating to this Agreement, including but not limited to its meaning, interpretation, effect or the enforcement of the provisions hereof, then the party who believes a dispute has arisen shall give written notice of such to the other parties. For a period of thirty (30) days after the giving of such notice, the parties shall attempt to resolve the dispute by informal discussions among themselves, using the services of a mediator, if the parties agree that such a mediator would facilitate resolution of the dispute.

**20. Amendments.** This Agreement may be amended, modified or supplemented, but only in writing signed by each of the Parties hereto.



21. **Entire Understanding.** This Agreement sets forth the entire agreement and understanding of the Parties in respect to the transactions contemplated hereby and supersedes all prior agreements, arrangements and understandings relating to the subject matter hereof and is not intended to confer upon any other person any rights or remedies hereunder. There have been no representations or statements, oral or written, that have been relied on by any party hereto, except those expressly set forth in this Agreement.

22. **Severability.** If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

23. **Waiver.** The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instance or a waive or any other condition or breach of any other term.

24. **Relationship of Parties.** Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of principal and agent, limited or general partnership, or joint venture between the Parties or their respective agents, employees or contractors.

25. **Notices.** Any notice, tender, delivery or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered, mailed, or faxed in the manner provided herein, to the following persons:

If to the County: Ms. Sally Reed,  
County of Monterey  
240 Church Street, West Wing, Room, 301  
Post Office Box 180  
Salinas, CA 93902  
FAX: (831) 755-5081

If to FORA: Michael Houlemard

Fort Ord Reuse Authority  
100 12<sup>th</sup> Street  
Marina, CA 93933  
FAX: (831) 883-3675


If to MPC: Dr. Kirk Avery  
Monterey Peninsula College  
980 Fremont Street  
Monterey, CA 93940  
FAX: (831) 655-2627

If sent by mail, any notice, delivery or other communication shall be deemed effective forty-eight (48) hours after deposited in the United States Mail, with postage prepaid, and addressed as set forth above. If sent by facsimile, any notice, delivery or other communication shall be deemed effective upon the receipt by the send of a faxed acknowledgement of receipt from the recipient. If personally delivered, or if delivered by overnight mail, any notice, delivery or other communication shall be deemed effective upon the delivery to a person apparently authorized to accept receipt at the address set forth above.

**26. Counterparts.** This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.


IN WITNESS WHEREOF, the authorized representatives of the Parties have signed this Agreement as of the date last written below.

**COUNTY OF MONTEREY**

By   
Dave Potter  
Chair, Board of Supervisors

Date: October 22, 2002

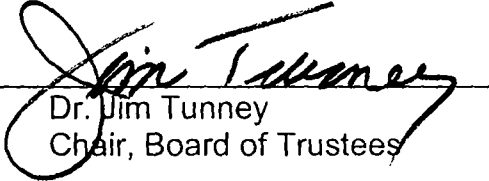
**FORT ORD REUSE AUTHORITY**

By   
Jim Perrine

Board Chair

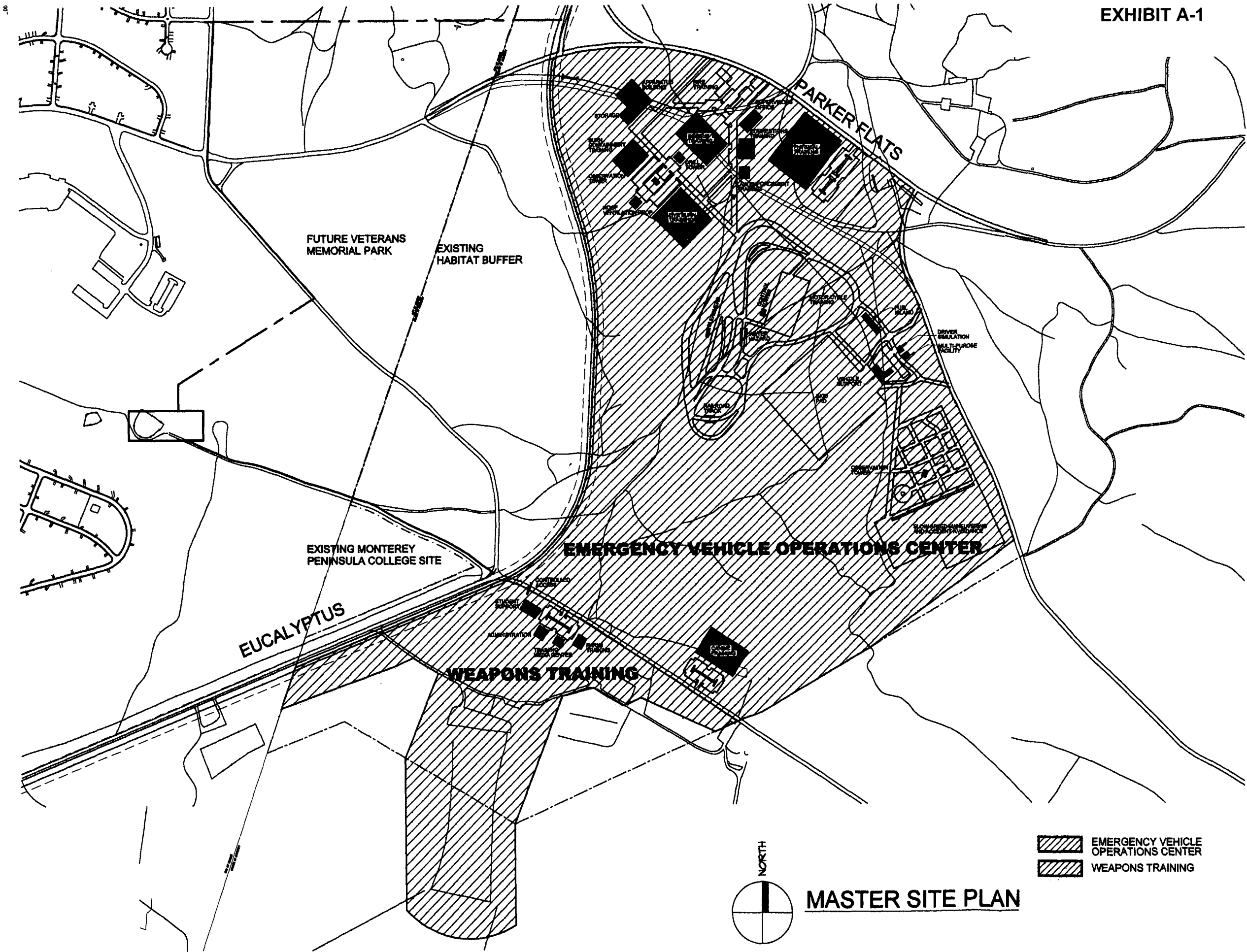
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**MONTEREY PENINSULA COLLEGE**

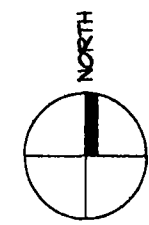
By   
Dr. Jim Tunney  
Chair, Board of Trustees

Date: October 22, 2002

# EXHIBITS



ERIC MILLER, ARCHITECTS INC.  
 157 GRAND suite 106 PACIFIC GROVE, CALIFORNIA 93950 831-372-0410



**MASTER SITE PLAN**

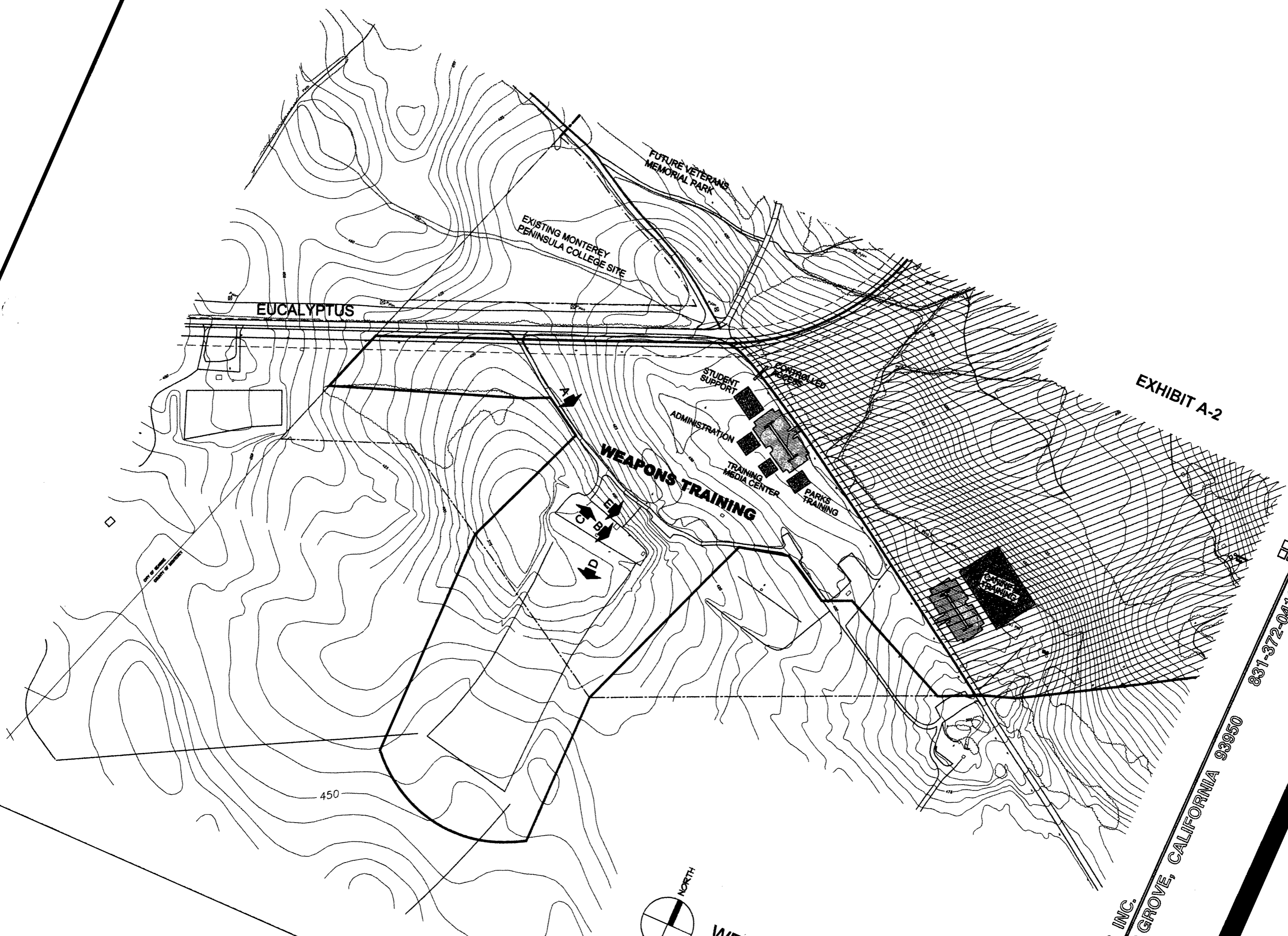
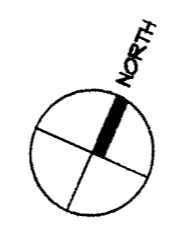


EXHIBIT A-2



**WEAPONS TRAINING SITE PLAN**

**ERIC MILLER, ARCHITECTS INC.**  
157 GRAND suite 106 PACIFIC GROVE, CALIFORNIA 93950  
831-372-0410

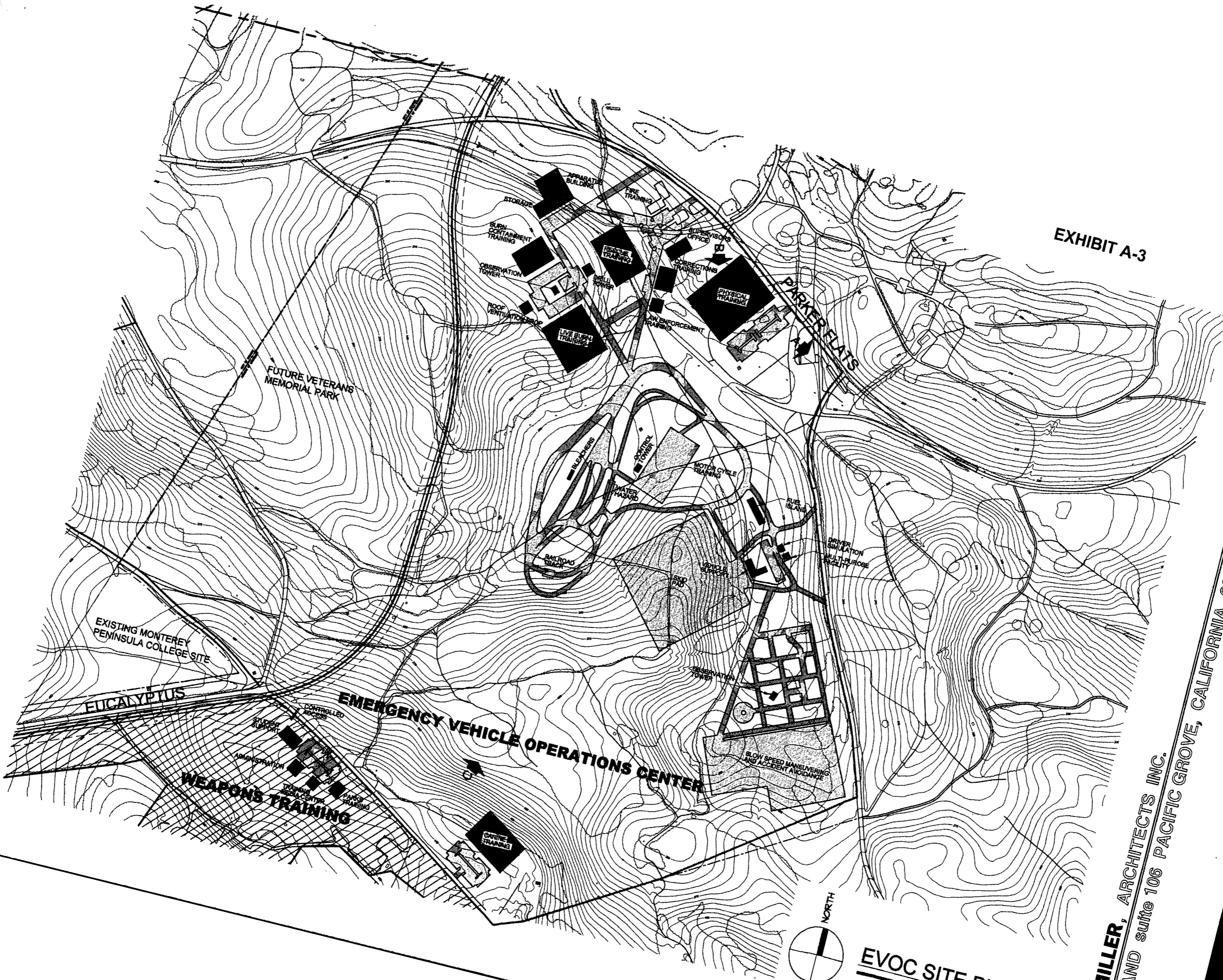
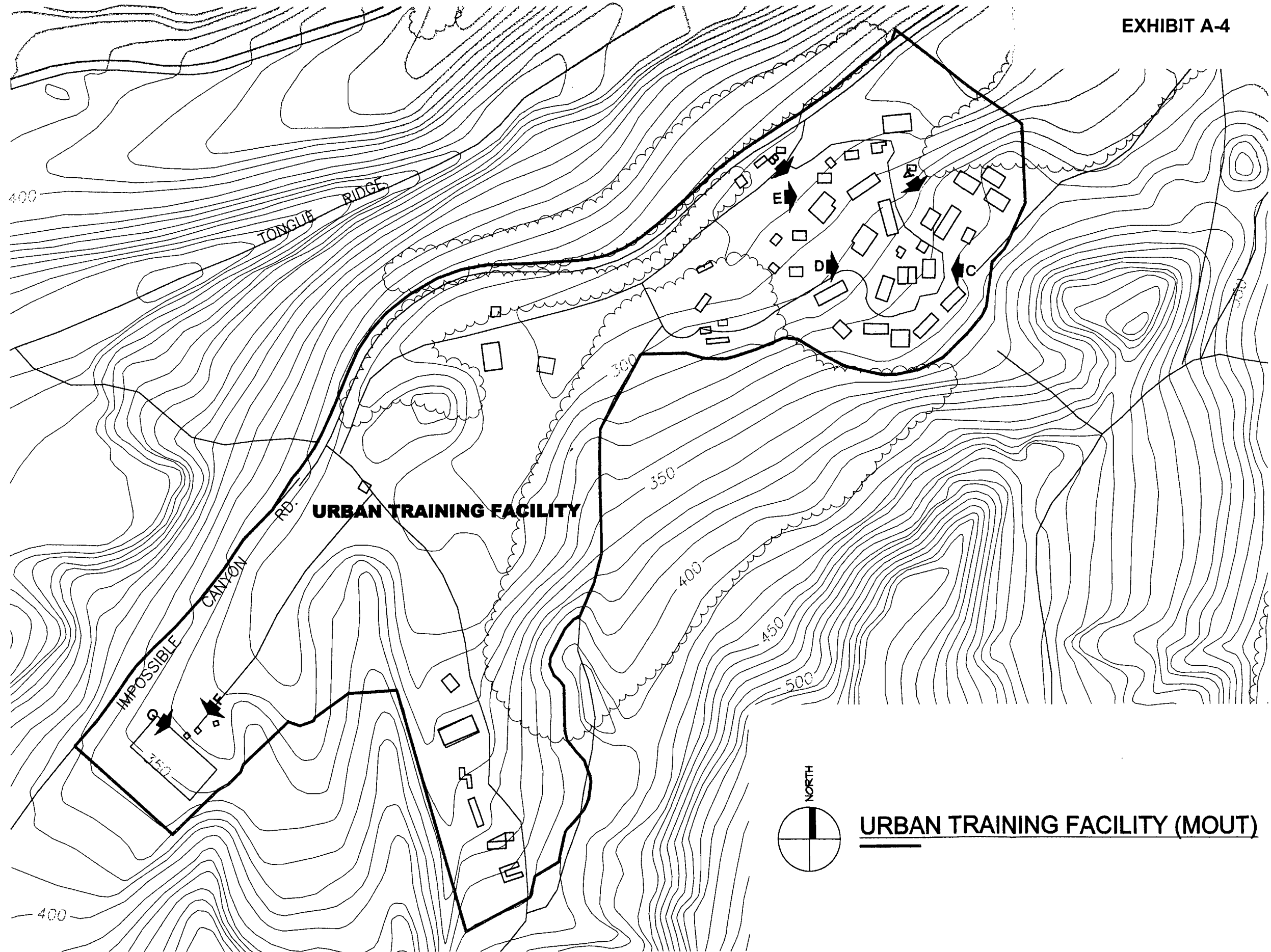


EXHIBIT A-3

**EVOC SITE PLAN**

**ERIC MILLER, ARCHITECTS INC.**  
 157 GRAND suite 106 PACIFIC GROVE, CALIFORNIA 93950

831-372-0410



ERIC MILLER, ARCHITECTS INC.  
157 GRAND suite 106 PACIFIC GROVE, CALIFORNIA 93950 831-372-0410



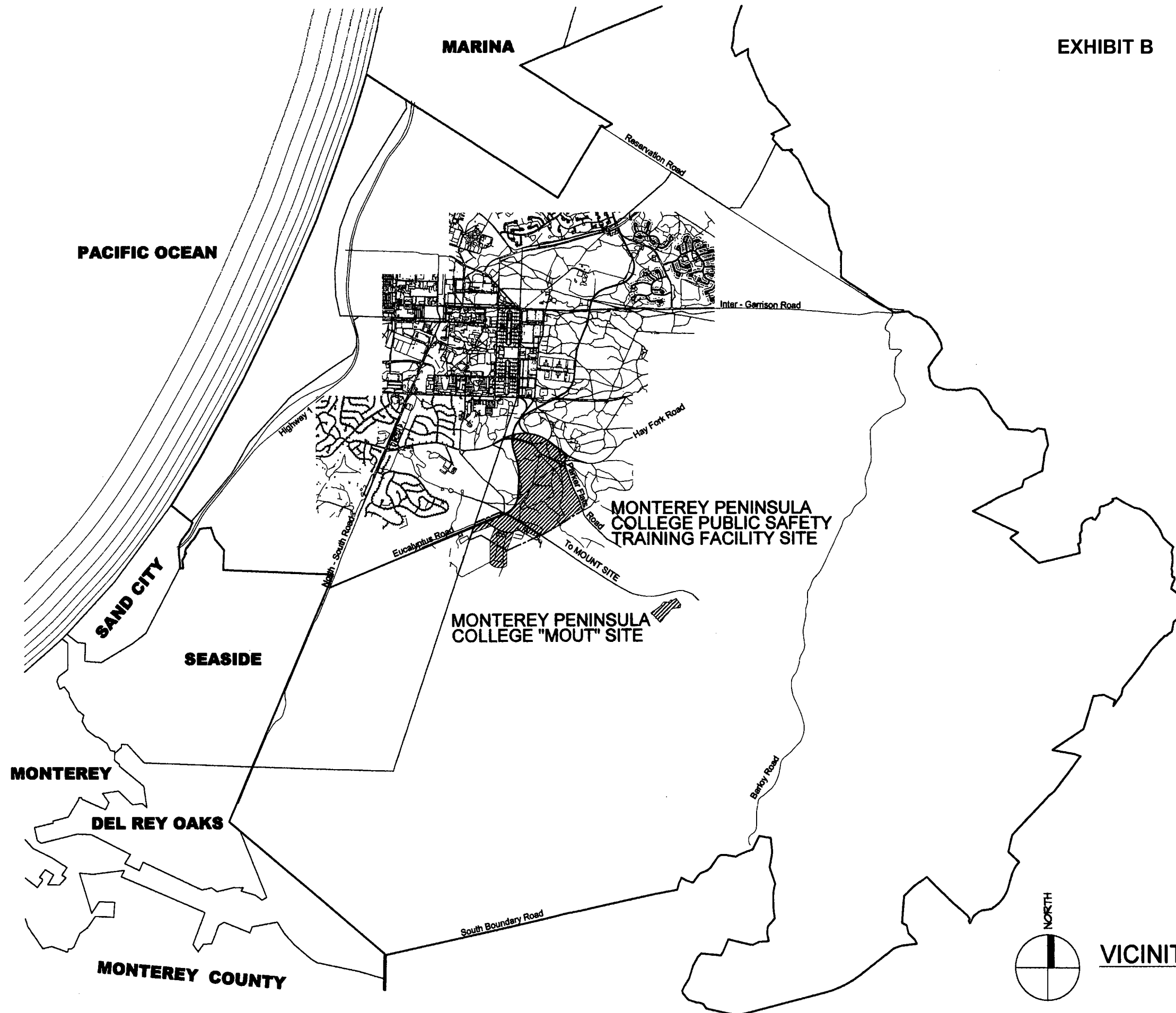
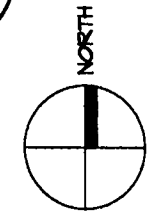


EXHIBIT B



VICINITY MAP



**ERIC MILLER, ARCHITECTS INC.**

157 GRAND suite 106 PACIFIC GROVE, CALIFORNIA 93950 831-372-0410

# Fort Ord Reuse Authority

## Capital Improvement Program (CIP) FY 2002/2003 through 2021/2022

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Final Version – FORA Board Approved 06/14/02

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Transportation Network Information					1995/1996 - 2001/2002 EDA Capital Improvement Program (Obligatory Transpo \$ Offsets)								
Project #	Project Title	Project Limits	Transportation Improvement Costs July 1997 TAMC Study (May 1995 dollars)	TAMC Preliminary Nexus Improvement Costs (July 1997 Study) Fort Ord Development Share (1995 dollars)	15.96% Improvement Cost Inflation (from May 1995 to January 2001)	Project #	1995/1997	1997/1998	1998/2000	2000/2001	2.9% Impr. Cost Inflation (1/01-1/02) on Net FORA Obligation	2001/2002	Net FORA Development Obligations
<b>On-Site Improvements</b>													
FO1	Gateway & Misc Safety Improvements/Rehab <i>Footnote [3]</i>	(PFIP T-15, T-16.1 thru T-16.13, T-17.1 thru T-17.5, T-18.1 thru T-18.5) Construct new gateway entrances to the former Fort Ord at 5 locations Light Fighter Drive east of Highway 1; Twelfth Street (11th Street) east of Highway 1; Imjin Road north of Reservation Road; East Garrison south of Reservation Road; General Jim Moore Boulevard at Highway 218. Safety improvements and rehabilitation of roadways suffering from deferred maintenance in various locations as defined in PFIP.	\$ 20,300,364	\$ 10,520,364	\$ 12,199,414	FO1		\$ 2,221,943 (Rehab & Safety)		\$ 1,200,000 (Imjin Gateway) \$993,304 (General Jim Moore/Hwy 218 Gateway)	\$ 8,009,908	\$1,009,212 (Lightfighter Drive)	7,000,696
FO2	Abrams	(PFIP T-39) Construct a new 2-lane arterial from intersection with the Second Avenue (link to Del Monte Boulevard, in Marina, (See project FO#8)) easterly to intersection with Crescent Court extension (See Project #8).	\$ 603,000	\$ 603,000	\$ 699,239	FO2					\$ 719,517		\$ 719,517
FO3	12th/Imjin <i>Footnote [4]</i>	(PFIP T-19, T-26) Realign Twelfth Street from Highway 1 to California Avenue as 4-lane arterial and widen Twelfth Street and Imjin Road from 2 lanes to 4-lane arterial from California Avenue to Reservation Road.	\$ 9,065,000	\$ 4,532,500	\$ 5,255,887	FO3				\$ 6,218,188	\$ (990,208)		\$ (990,208)
FO4	Blanco/Imjin Connector	(PFIP T-40) Construct new 4 lane arterial from Imjin Road (@ Abrams), northeasterly to Reservation Road (@ Blanco).	\$ 4,080,000	\$ 4,080,000	\$ 4,731,168	FO4					\$ 4,868,372		\$ 4,868,372
FO5	8th. Street	(PFIP T-21, T-31, & T-32) Upgrade/construct 2-lane arterial from Hwy 1 Overpass to Inter-Garrison (Eighth Street Cutoff).	\$ 3,821,000	\$ 3,248,615	\$ 3,767,094	FO5					\$ 3,876,340		\$ 3,876,340
FO6	Inter-Garrison	(PFIP T-38) Upgrade to 2-lane arterial from Eighth Street Cutoff easterly to Reservation Road.	\$ 4,480,000	\$ 3,808,000	\$ 4,415,757	FO6					\$ 4,543,814		\$ 4,543,814
FO7	Gigling	(PFIP T-23 & T-35) Upgrade/construct new 4-lane arterial from General Jim Moore Blvd. easterly to Eastside Road.	\$ 4,537,800	\$ 3,221,838	\$ 3,736,043	FO7					\$ 3,844,389		\$ 3,844,389
FO8	2nd. Avenue	(PFIP T-27, T-29) Upgrade/construct 4-lane arterial from Lightfighter Drive to Del Monte Blvd.	\$ 7,232,500	\$ 5,398,068	\$ 6,259,600	FO8					\$ 6,441,128		\$ 6,441,128
FO9	General Jim Moore Blvd.	(PFIP T-33, T-34) Widen from 2 lanes to 4 lanes from Normandy Road to Coe Avenue. Upgrade and reconstruct as 2-lane arterial from Coe Avenue to Highway 218.	\$ 6,160,600	\$ 3,326,724	\$ 3,857,669	FO9					\$ 3,969,542		\$ 3,969,542
FO10	California <i>Footnote [5]</i>	(PFIP T-20, T-30) Construct new 2-lane arterial from Third Avenue southerly to intersection with Eighth Street.	\$ 2,769,200	\$ 1,038,450	\$ 1,204,187	FO10				\$ 642,570	\$ 577,904	\$ 577,904	0
FO11	Salinas Avenue	(PFIP T-24) Construct new 2 lane arterial from Reservation Road southerly to Abrams Drive.	\$ 2,412,000	\$ 2,412,000	\$ 2,796,955	FO11					\$ 2,878,067		\$ 2,878,067
FO12	Eucalyptus Road	(PFIP T-37) Upgrade to 2-lane collector from General Jim Moore Boulevard to Parker Flats cut-off.	\$ 2,880,000	\$ 2,880,000	\$ 3,339,648	FO12					\$ 3,436,498		\$ 3,436,498
FO13	Eastside Road	(PFIP T-36) Construct new 2-lane arterial from intersection with Gigling Road (See Project #FO7) northeasterly to intersection with Imjin Road (See Project #FO3).	\$ 6,020,000	\$ 4,358,480	\$ 5,054,093	FO13					\$ 5,200,662		\$ 5,200,662
<b>Subtotal (On-Site Improvements)</b>			\$ 74,361,464	\$ 49,428,039	\$ 57,316,754			\$ 2,221,943		\$ 9,054,062	\$ 47,375,931	\$ 1,900,000	\$ 45,788,815
<b>Transit Capital Improvements</b>													
T3	Transit Vehicle Purchase & Replacement	15 busses	\$ 15,000,000	\$ 5,000,000	\$ 5,798,000	T3					\$ 5,966,142		\$ 5,966,142
T22	Intermodal Centers	(PFIP T-31) includes 3 elements: 1. Intermodal Transportation Center @ 1st. Avenue South of 8th. Street (\$2,061,000) 2. Park and Ride Facility @ 12th Street and Imjin (\$1,030,300) and 3. Park and Ride Facility @ 8th. Street and Gigling (\$1,259,500).	\$ 3,800,000	\$ 3,800,000	\$ 4,406,480	T22					\$ 4,534,268		\$ 4,534,268
<b>Subtotal (Transit Improvements)</b>			\$ 18,800,000	\$ 8,800,000	\$ 10,204,480						\$ 10,500,410		\$ 10,500,410
<b>TOTAL CAPITAL COSTS/SHARES</b>			\$ 856,550,164	\$ 116,644,830	\$ 135,261,345	Grand Totals by year		\$ 2,221,943		\$ 11,308,583			\$ 123,502,823

Footnote #	Project #	
(3)	On-Site FO1	\$5,424,459 of EDA Grant Numbers 07-49-04072 (\$3,215,247), 07-49-03853.01 (\$1,200,000) and 07-49-03853.02 (\$1,009,212) apply to these improvements.
(4)	On-Site FO3	\$4,818,188 of EDA Grant Number 07-49-03853.02 and \$1,400,000 from Revenue Bond apply to these improvements - FORA Development Obligation is met.
(5)	On-Site FO10	\$1,220,474 of EDA Grant No. 07-49-04072.03 applies to this improvement - FORA Development Obligation is met.

**APPENDIX F**

**State Covenant to Restrict Use of Property (CRUP)**

Stephen L. Vagnini  
Monterey County Recorder  
Recorded at the request of  
**Chicago Title**

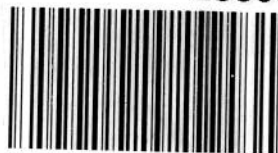
CRMELISSA  
5/08/2009  
8:00:00

RECORDING REQUESTED BY:

U. S. Army Corps of Engineers  
Real Estate Division, ATTN: CESP-K-RE-MC  
1325 J Street  
Sacramento, CA 95814-2922

DOCUMENT: **2009028273**

Titles: 1/ Pages: 55



Fees...  
Taxes...  
Other...  
AMT PAID \_\_\_\_\_

WHEN RECORDED, MAIL TO:

ATTN: Anthony J. Landis, P.E.  
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

(Space Above This Line For Recorder's Use Only)

**COVENANT TO RESTRICT USE OF PROPERTY  
ENVIRONMENTAL RESTRICTION**

**MONTEREY PENINSULA COLLEGE – MUNITIONS AND EXPLOSIVES OF  
CONCERN  
FORT ORD REUSE AUTHORITY (FORA) EARLY TRANSFER PARCELS**

Re: This Covenant and Agreement (“Covenant”) is for a portion of the former Fort Ord consisting of non-contiguous Parcels E19a.5, E21b.3, E38, E39, E40, E41, E42, F1.7.2, and L23.2 (the “Property”). The Property is described in the Finding of Suitability for Early Transfer, Former Fort Ord, California, Environmental Services Cooperative Agreement (ESCA) Parcels and Non-ESCA Parcels (Operable Unit Carbon Tetrachloride Plume) (FOSET 5). Portions of the Property lie within one or more “Munitions Response Sites” (MRSs). The Property, described below and shown on Exhibit A, is within the jurisdictions of the County of Monterey, California (Parcels E19a.5, E21b.3, E39, E40, E41, E42, F1.7.2, and L23.2) and the City of Seaside, California (Parcel E38).

This Covenant is made by and among The United States of America acting by and through the United States Department of the Army (also referred to herein as the “Covenantor”), the current owner of the herein described real property located in the County of Monterey, State of California, shown on Exhibit A and described in Exhibit B, attached hereto and incorporated herein by this reference (the “Property”), and the State of California acting by and through the Department of Toxic Substances Control (“Department”).

CRUP – FOSET 5 (ESCA and OUCIP Parcels): MEC  
Monterey Peninsula College Parcels E19a.5, E21b.3, E38, E39, E40, E41, E42, F1.7.2, and L23.2

The United States Environmental Protection Agency (U.S. EPA) placed Fort Ord on the National Priorities List (Superfund) in 1990. All of the former Fort Ord facility is subject to the requirements of the federal Comprehensive Environmental Compensation and Liability Act ("CERCLA"). The entire Property is undergoing the CERCLA remediation process, which will not be completed prior to transfer of the Property. Because the Covenantor intends to transfer this Property to the Fort Ord Reuse Authority ("FORA") prior to the end of the CERCLA remediation process, and FORA has agreed to receive the Property under those conditions, such transfer must be pursuant to the CERCLA Section 120(h)(3)(C) "early transfer process". CERCLA Section 120(h)(3)(A)(ii)(I) requires a separate federal deed covenant from the Covenantor warranting that all remedial action necessary to protect human health and the environment, with respect to any substances remaining on the Property, has been taken before the date of the transfer. The required covenant may be deferred when the federal deed or other agreements contain response action assurances, as specified in CERCLA Section 120(h)(3)(C)(ii)(I-IV), that:

1. Ensure the Property is suitable for the use intended by the transferee;
2. Use restrictions are in place to ensure the protection of human health and the environment;
3. Use restrictions will also ensure that transfer will not disrupt remedial activities; and
4. The federal deed or other agreements also contain an assurance from the Army that it will request adequate funds to address schedules for investigation and completion of all actions necessary to support the subsequent issuance of the required CERCLA 120(h)(3)(A)(ii)(I) covenant.

The Covenantor's statutory authority for transferring this Property is the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510, Title XXIX), as amended. As a part of the early transfer, the Covenantor issued FOSET 5 on November 15, 2007.

Pursuant to California Civil Code Section 1471, the Department has determined this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence of hazardous materials, as defined in the California Health and Safety Code Section 25260(d).

The Covenantor and the Department, collectively referred to as the "Parties," hereby agree that the use of the Property will be restricted as set forth in this Covenant.

## **ARTICLE I**

### **STATEMENT OF FACTS**

1.01 The Property, consisting of nine (9) non-contiguous parcels and totaling approximately 546.529 acres, is more particularly depicted in Exhibit A and described in Exhibit B. The Property is located on the former Fort Ord, California and within the jurisdictions of the County of Monterey, California (Parcels E19a.5, E21b.3, E39, E40, E41, E42, F1.7.2, and L23.2) and the City of Seaside, California (Parcel E38). The Property is summarized in the table below.

Parcel Number	Acres	Name on Legal Description in Exhibit B	Intended Reuse
E19a.5	226.464	EDC Parcel E19a.5	Monterey Peninsula College Emergency Vehicles Operation Center
E21b.3	31.627	EDC Parcel E21b.3	Small Arms Range
E38	17.734	Parcel C, EDC Parcel 38	Habitat Reserve
E39	208.926	Parcel 1, EDC Parcels E39, E40, E41 & E42	Habitat Reserve
E40			Small Arms Range Extension
E41			Habitat Reserve
E42			Habitat Reserve
F1.7.2	51.206	PBC Parcel F1.7.2	Law Enforcement Tactical Training
L23.2	10.572	EDC Parcel L23.2	Habitat Reserve

1.02 The Property includes all or portions of several Munitions Response Sites (MRSs) that have been evaluated for the presence of Munitions and Explosives of Concern (MEC). Based on a review of existing records and available information, as described in FOSET 5, there is evidence MEC are or may be present on the Property.

1.03 The Army and FORA entered into an Environmental Services Cooperative Agreement (ESCA), effective March 30, 2007, under which the Army will provide funds for FORA to conduct all response actions for the Property and obtain regulatory closure, except for those responsibilities the Army has retained.

1.04 The remedial action will be conducted pursuant to the Administrative Order on Consent (AOC) for Cleanup of Portions of the Former Fort Ord between FORA, the U.S. EPA, and the Department, finalized on April 18, 2007. After all remedial actions are completed, the U.S. EPA, with consultation with the Department, will issue a Certificate of Completion.

1.05 The County adopted Ordinance No. 5012, entitled "Digging and Excavation on the Former Fort Ord" amending the County Code to add Chapter 16.10, which addresses the potential MEC risk by prohibiting excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil on the former Fort Ord without a permit. A copy of County Code Chapter 16.10 is attached to this Covenant as Exhibit C.

1.06 The City adopted Ordinance No. 924, entitled "Digging and Excavation on the Former Fort Ord" amending the Municipal Code to add Chapter 15.34, which addresses the potential MEC risk by prohibiting excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil on the former Fort Ord without a permit. A copy of Municipal Code Chapter 15.34 is attached to this Covenant as Exhibit D.

1.07 The Parties recommend reasonable and prudent precautions be taken when conducting intrusive operations, including providing the Army's MEC recognition and safety training, or equivalent, to any persons conducting such activities. In accordance with the Army's Fort Ord Munitions Response Site Security Program, dated April 2005, the Army offers MEC recognition

and safety training to any persons conducting intrusive activities on the former Fort Ord. This training includes identification of MEC that might be found, the safety and notification procedures to follow if suspected MEC is found, and the distribution and explanation of "Safety Alert" brochures.

1.08 The Fort Ord Reuse Plan land use concept for Parcels E19a.5, E21b.3, E38, E39, E40, E41, E42, and F1.7.2 does not include potential sensitive land uses, including residential, hospital, school or day care. Such uses are restricted as set forth in this Covenant.

1.09 The Fort Ord Reuse Plan land use concept for Parcel L23.2 includes a school/university. A public or private school for persons under the age of 21, except for post-secondary schools, is restricted as set forth in this Covenant.

1.10 Pursuant to FOSET 5, all buildings on Parcels E19a.5, E21b.3, E40, and F1.7.2, 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. The FOSET provides that the federal deed include residential occupancy restrictions on these buildings until the Owner has performed, at its sole expense, the abatement required by all applicable federal, state and local laws pertaining to lead based paint and lead based paint hazards.

## ARTICLE II

### DEFINITIONS

2.01 AOC. "AOC" means the Administrative Order on Consent (AOC) for Cleanup of Portions of the Former Fort Ord between FORA, the U.S. EPA and the Department.

2.02 City. "City" means the City of Seaside.

2.03 County. "County" means the County of Monterey.

2.04 Covenantor. "Covenantor" means the United States of America acting through the Department of the Army.

2.05 Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.06 FORA. "FORA" means the Fort Ord Reuse Authority and includes its successor entities, if any.

2.07 FOSET 5. "FOSET 5" means Finding of Suitability for Early Transfer, Former Fort Ord, California, Environmental Services Cooperative Agreement (ESCA) Parcels and Non-ESCA Parcels (Operable Unit Carbon Tetrachloride Plume).



2.08 Jurisdictions. “Jurisdictions” means the County of Monterey, the City of Del Rey Oaks, the City of Marina, the City of Monterey, the City of Seaside, California State University Monterey Bay, University of California Santa Cruz, and Monterey Peninsula College.

2.09 MEC. “MEC” means Munitions and Explosives of Concern, which are military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 U.S.C., Section 101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C., Section 2710(e)(2); or (C) munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C., Section 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, MEC does not include small arms ammunition (i.e. ammunition without projectiles containing explosives, other than tracers, that is .50 caliber or smaller, or for shotguns).

2.10 MPC. “MPC” means Monterey Peninsula College.

2.11 Owner. “Owner” means the Covenantor’s successors in interest, and their successors in interest, including heirs and assigns, during their ownership of all or any portion of the Property.

2.12 Occupant. “Occupant” means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property after the Covenantor has conveyed the Property.

2.13 U.S. EPA. “U.S. EPA” means the United States Environmental Protection Agency.

### **ARTICLE III**

#### **GENERAL PROVISIONS**

3.01 Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as “Restrictions”), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Restriction: (a) runs with the land pursuant to Health and Safety Code Sections 25222.1, and 25355.5(a)(1)(c), and Civil Code Section 1471; (b) inures to the benefit of the Department and passes with each and every portion of Property; (c) is for the benefit of, and is enforceable by, the Department; and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02 Binding upon Owners/Occupants. Pursuant to Health and Safety Code Sections 25222.1 and 25355.5(a)(1)(C) and Civil Code Section 1471, this Covenant binds all Owners and Occupants of the Property, and their heirs, successors, and assignees, and their agents, employees, and lessees. Pursuant to Civil Code Section 1471, all successive Owners and Occupants of the Property are expressly bound hereby for the benefit of the Department.

3.03 Accompaniment to Deeds and Leases. This Covenant shall accompany all deeds and leases for any portion of the Property.

3.04 Conveyance of Property. The immediate past Owner shall notify the Department of the conveyance of the Property and the name and address of the new Owner within one year of such conveyance. This requirement will be deemed satisfied if the annual reporting agreed to for the Property in the Memorandum of Agreement (MOA) described in Paragraph 5.01 has been completed for the year the conveyance occurred. The Department shall not have, by reason of this Covenant, authority to approve, disapprove, or otherwise affect any proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

3.05 Costs of Administering this Covenant. The Department has incurred and will in the future incur costs associated with the administration of this Covenant. Pursuant to California Code of Regulations, title 22, section 67391.1(h), the Department's costs associated with the administration of this Covenant must be paid. The Department has entered into a Memorandum of Agreement (MOA) dated February 27, 2008 with FORA and the Jurisdictions to pay the Department's costs associated with Covenants at the former Fort Ord. The MOA provides that the Department's costs associated with administering this and other Covenants will be paid by FORA until FORA ceases to exist, and then by the County thereafter. Cost recovery may also be pursued by the Department under CERCLA, Health and Safety Code Section 25360, or any other applicable state or federal statute or common law. Pursuant to the MOA, the Department will invoice FORA and the County for the Department's costs on a quarterly basis.

## **ARTICLE IV**

### **RESTRICTIONS**

#### 4.01 Prohibited Uses Prior to Certification of Completion of Remedial Action under the AOC.

- (a) Except as provided below, Parcels E19a.5, E21b.3, and L23.2 shall not be used for any purposes other than activities associated with the investigation and remediation of MEC and installation of utilities and roadways until the U.S. EPA, in consultation with the Department, has certified the completion of remedial action in accordance with Section 58 of the AOC. This Restriction is not intended to limit use of existing public access roadways within the Property, including the limited use(s) associated with special events; provided that the use of roadways may be limited or restricted, as necessary, to provide the required minimum separation distance employed during intrusive MEC response actions, and in connection with prescribed burns that may be necessary for the purpose of MEC removal in adjacent areas.
- (b) Parcels E38, E39, E40, E41, and E42 shall not be used for any purposes other than activities associated with the investigation and remediation of MEC and installation of utilities and roadways until the U.S. EPA, in consultation with the Department, has certified the completion of remedial action in accordance with Section 58 of the AOC.
  - (1) Unauthorized personnel shall not be allowed access to the Property.
  - (2) Personnel authorized to access the Property shall:
    - i. Be provided MEC recognition training and a briefing on the potential explosive hazards present;

- ii. Be either UXO qualified personnel or escorted by such personnel or by EOD personnel; and
  - iii. Coordinate with FORA's designated qualified Ordnance and Explosives Safety Specialist during activities on the Property.
- (c) Parcel F1.7.2 shall not be used for any purposes other than activities associated with the investigation and remediation of MEC, a facility for law enforcement tactical training (Military Operations on Urbanized Terrain (MOUT) training area), and installation of utilities and roadways until the U.S. EPA, in consultation with the Department, has certified the completion of remedial action in accordance with Section 58 of the AOC.
- (1) Unauthorized personnel shall not be allowed access to the Property.
  - (2) Personnel authorized to access the Property shall:
    - i. Be provided MEC recognition training and a briefing on the potential explosive hazards present;
    - ii. Be either UXO qualified personnel or escorted by such personnel or by EOD personnel; and
    - iii. Coordinate with FORA's designated qualified Ordnance and Explosives Safety Specialist during activities on the Property.

4.02 Prohibited Uses. Continuing until this Covenant is terminated pursuant to Paragraph 6.02 herein, the Property shall not be used for any of the following purposes:

- (a) A residence, including any condominium, mobile home or factory built housing, constructed or installed for residential habitation.
- (b) A hospital (other than a veterinary hospital);
- (c) A public or private school for persons under the age of 21, except for post-secondary schools; and
- (d) A day care center for children.

4.03 Prohibited Activities/Soil Management Requirements. Prior to or after certification of completion of remedial action under the AOC, activities (including soil disturbance) in violation of County Code Chapter 16.10 (Exhibit C) or Municipal Code Chapter 15.34 (Exhibit D), as modified, are prohibited.

4.04 Written Notice of Presence of MEC. Prior to the sale, lease, or sublease of the Property, or any portion thereof; or the execution of a license or easement on the Property, the owner, lessor, or sub-lessor shall give the buyer, lessee, or sub-lessee written notice that there is the potential for the presence of MEC in the soil of the Property.

4.05 Access. The Department, Covenantor, and their contractors and agents shall have reasonable right-of-entry and access to the Property for inspection, monitoring, testing, sampling and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health and safety or the environment and oversee any required activities.

## ARTICLE V

### IMPLEMENTATION AND ENFORCEMENT

5.01 Implementation. Owner shall submit an annual report detailing compliance with Article IV of this Covenant, including an annual inspection, and check of county and city records. The submission of an annual report containing this information, as outlined in the MOA by FORA and the Jurisdictions, shall satisfy this requirement.

5.02 Enforcement. Failure of the Owner or Occupant to comply with any of the Restrictions specifically applicable to it shall be grounds for the Department, by reason of this Covenant, to require that the Owner or Occupant modify or remove any improvements ("Improvements" herein shall include, but are not limited to, all buildings, roads, driveways, and paved parking areas, water wells, and surface impoundments) constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant shall be grounds for the Department to file civil or criminal actions against the Owner or Occupant as provided by law.

## ARTICLE VI

### VARIANCE, TERMINATION AND TERM

6.01 Variance. The Covenantor, any Owner or, with the Owner's written consent, any Occupant of the Property, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code Section 25233. The Department shall allow the U.S. EPA and the Covenantor an opportunity to comment before any such variance is effective.

6.02 Termination. The Covenantor, any Owner and/or, with the Owner's written consent, any Occupant of the Property, or any portion thereof, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code Section 25234. The Department shall allow the U.S. EPA and the Covenantor an opportunity to comment before any such termination is effective.

6.03 Term. Unless ended in accordance with the termination paragraph above, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in perpetuity.

## ARTICLE VII

### MISCELLANEOUS

7.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication of the Property, or any portion thereof, to the general public or anyone else for any purpose whatsoever.

7.02 State of California References. All references to the State of California and the

Department include successor agencies/departments or other successor entity(ies) and delegated agencies.

7.03 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Monterey within ten (10) days of the Covenantor's receipt of a fully executed original and prior to transfer of the Property from the Department of the Army to another Owner.

7.04 Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

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

To Department:                    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

To U.S. EPA:                        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

To FORA:                            Executive Officer  
Fort Ord Reuse Authority  
100 12<sup>th</sup> Street  
Marina, CA 93933-6006

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05 Partial Invalidity. If any provision of this Covenant is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06 Exhibits. All exhibits referenced in this Covenant are deemed incorporated into this Covenant by reference.

7.07 Section Headings. The section headings set forth in this Covenant are included for convenience and reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Covenant.

7.08 Statutory References. All statutory references include successor provisions.

7.09 Representative Authority. The undersigned representative of each party to this Covenant certifies that he or she is fully authorized to enter into the terms and conditions of this Covenant and to execute and legally bind that party to this Covenant.

{Signatures follow}







NOTARY SEAL  
GOVERNMENT CODE SECTION 27361.7

I certify under penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary Kathleen C. Duncan

Commission Number ~~1628825~~ 1628825

Date of Commission Expires 12/9/09

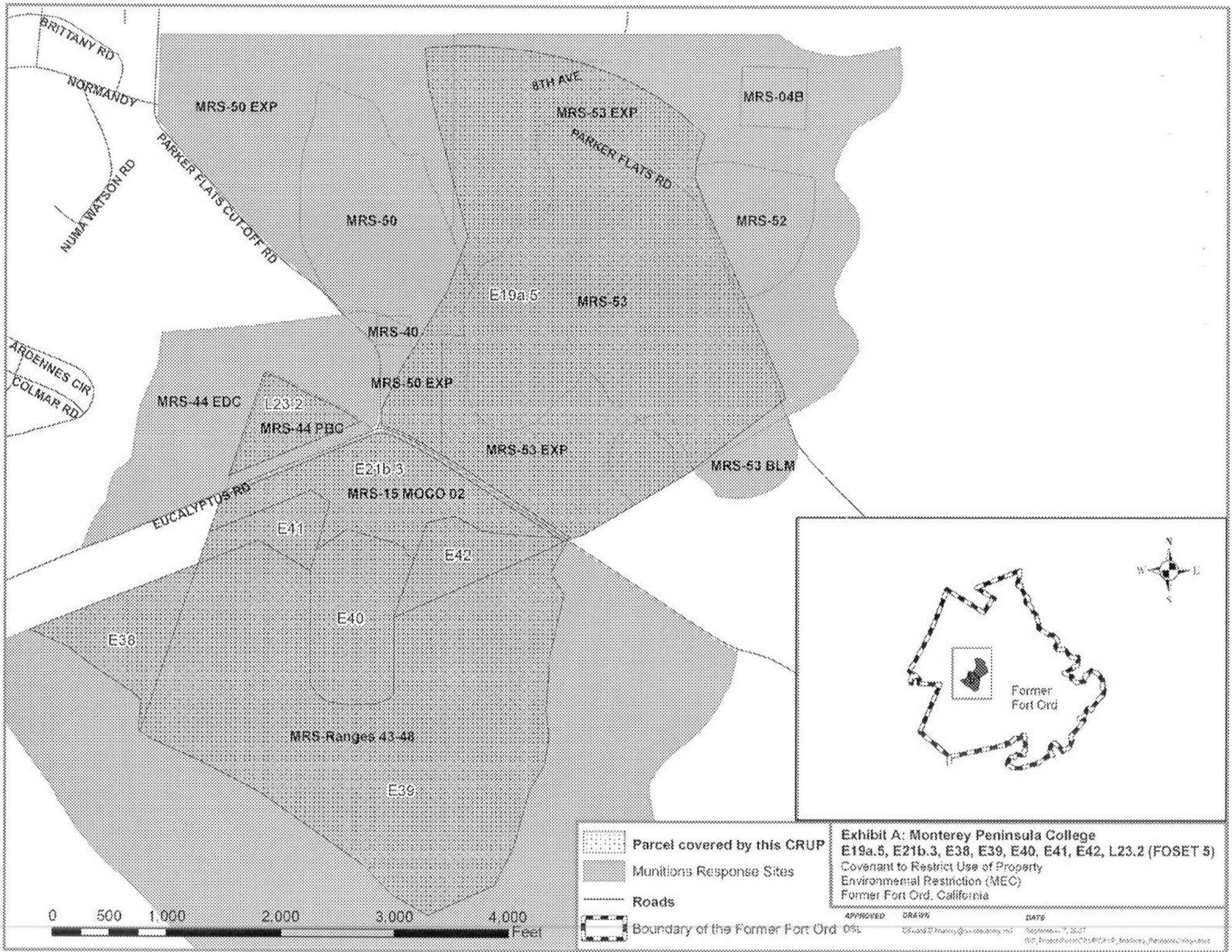
Place of Execution Sacramento Date 4/21/09





Signed Debra Smith

## **EXHIBIT A**

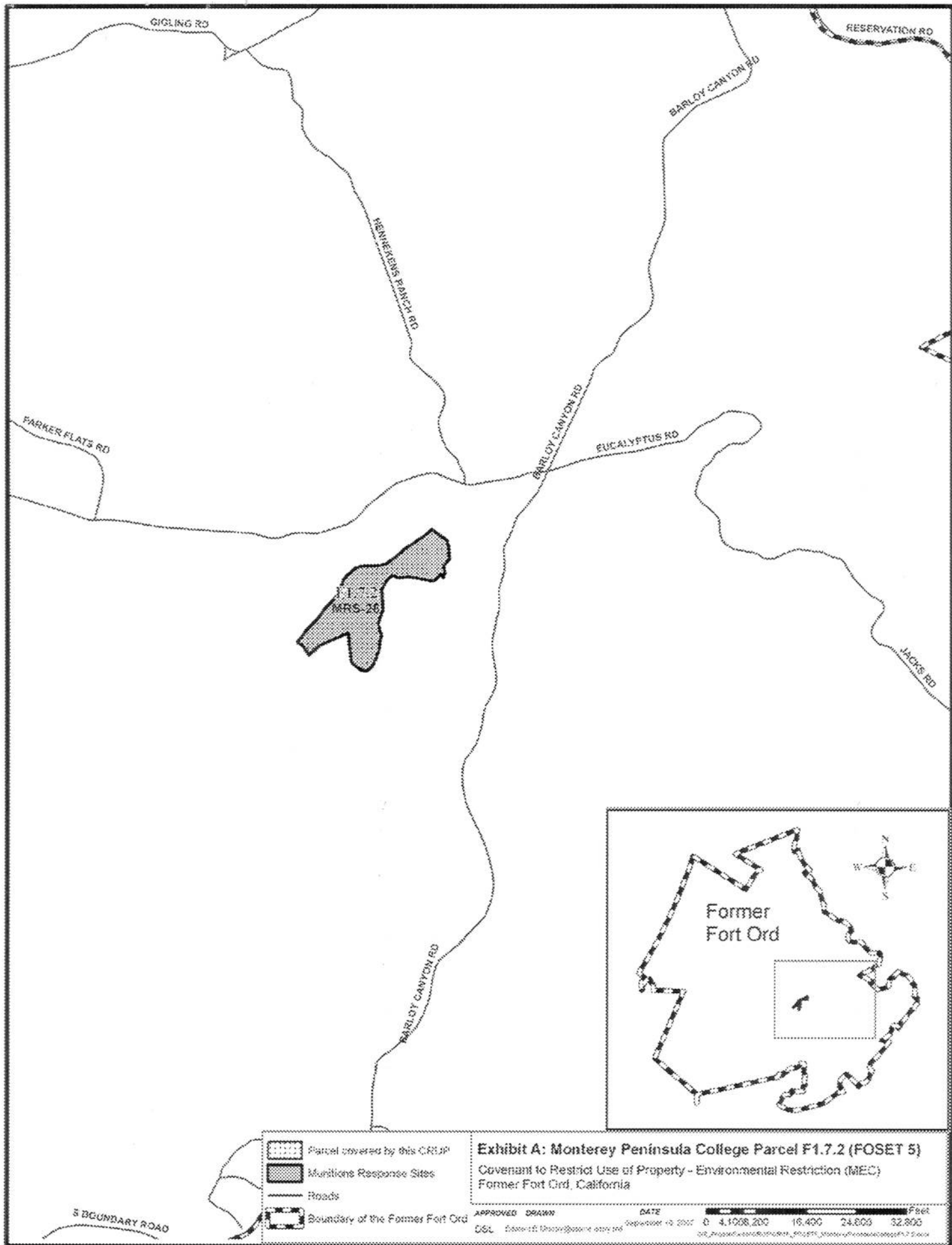
Plates showing the locations of the parcels to be restricted by this covenant and the locations of Munitions Response Sites.

**EXHIBIT A**



-  Parcel covered by this CRUP
-  Munitions Response Sites
-  Roads
-  Boundary of the Former Fort Ord

**Exhibit A: Monterey Peninsula College**  
 E19a.5, E21b.3, E38, E39, E40, E41, E42, L23.2 (FOSET 5)  
 Covenant to Restrict Use of Property  
 Environmental Restriction (MEC)  
 Former Fort Ord, California



**Exhibit A: Monterey Peninsula College Parcel F1.7.2 (FOSET 5)**  
 Covenant to Restrict Use of Property - Environmental Restriction (MEC)  
 Former Fort Ord, California

## **EXHIBIT B**

Legal descriptions and records of survey of the parcels restricted by this covenant.

Notes to Exhibit B:

1. The Covenantor intends to transfer the parcels to the Fort Ord Reuse Authority (FORA).
2. FORA intends to transfer the parcels to Monterey Peninsula College.

**EXHIBIT B**

EDC Parcel E19a.5  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

#### Legal Description

SITUATE in a portion of "Monterey County III (Parker Flats)," as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, 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 a point on the common boundary of said "Monterey County III" and Parcel 15, as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110, which bears North  $71^{\circ} 12' 11''$  East, 18.27 feet from a brass disk marked "BLM AP61D" at an angle point in said "Monterey County III", thence from said Point of Beginning, along the southerly boundary of said "Monterey County III"

1. North  $71^{\circ} 12' 11''$  East for a distance of 111.11 feet to a brass disk marked "BLM AP60D" at an angle point in said "Monterey County III"; thence continuing along the southerly boundary of said "Monterey County III"
2. North  $59^{\circ} 39' 37''$  East for a distance of 1,040.44 feet; thence leaving the southerly boundary of said "Monterey County III"
3. North  $52^{\circ} 52' 17''$  East for a distance of 1,103.36 feet to a 5/8" rebar with cap stamped LS 5321; thence
4. North  $12^{\circ} 53' 13''$  West for a distance of 90.03 feet to a 5/8" rebar with cap stamped LS 5321; thence
5. North  $23^{\circ} 03' 02''$  West for a distance of 1,755.77 feet to a 5/8" rebar with cap stamped LS 5321; thence
6. North  $20^{\circ} 08' 36''$  West for a distance of 268.73 feet to a 5/8" rebar with cap stamped LS 5321; thence
7. North  $06^{\circ} 42' 03''$  East for a distance of 153.53 feet to a 5/8" rebar with cap stamped LS 5321; thence
8. North  $17^{\circ} 38' 14''$  East for a distance of 226.03 to a 5/8" rebar with cap stamped LS 5321 feet; thence
9. North  $48^{\circ} 03' 46''$  West for a distance of 283.49 feet; thence

EDC Parcel E19a.5  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

10. North 55° 11' 28" West for a distance of 278.91 feet to a 5/8" rebar with cap stamped LS 5321; thence
11. North 62° 41' 36" West for a distance of 227.15 feet to a 5/8" rebar with cap stamped LS 5321; thence
12. North 65° 01' 11" West for a distance of 250.60 feet; thence
13. North 71° 11' 51" West for a distance of 335.15 feet to a 5/8" rebar with cap stamped LS 5321; thence
14. North 79° 30' 16" West for a distance of 483.47 feet to a 5/8" rebar with cap stamped LS 5321; thence
15. North 84° 57' 11" West for a distance of 320.10 feet; thence
16. South 89° 14' 18" West for a distance of 321.74 feet to a 5/8" rebar with cap stamped LS 5321; thence
17. South 85° 32' 01" West for a distance of 169.80 feet; thence
18. South 04° 34' 26" East for a distance of 338.58 feet; thence
19. South 14° 47' 14" East for a distance of 1,369.35 feet; thence
20. South 20° 28' 20" West for a distance of 520.37 feet; thence
21. South 30° 46' 05" West for a distance of 753.57 feet; thence
22. South 25° 53' 24" West for a distance of 427.12 feet; thence
23. South 01° 39' 30" West for a distance of 156.63 feet to a nail and washer stamped LS 5321 on the northerly line of Eucalyptus Road, being Parcel 14, as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence along the northerly line of said Parcel 14
24. Along a non-tangent curve to the right, the center of which bears South 00° 33' 41" East, 280.00 feet, through a central angle of 17° 14' 41", having a radius of 280.00 feet, for a length of 84.27 feet, and whose long chord bears South 81° 56' 20" East for a distance of 83.96 feet to the beginning of a tangent compound curve; thence

EDC Parcel E19a.5  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

25. Along a curve to the right, through a central angle of  $12^{\circ} 08' 00''$ , having a radius of 830.00 feet, for a length of 175.77 feet, and whose long chord bears South  $67^{\circ} 15' 00''$  East for a distance of 175.44 feet to the beginning of a compound tangent curve; thence
26. Along a curve to the right, through a central angle of  $04^{\circ} 00' 00''$ , having a radius of 10,030.00 feet, for a length of 700.23 feet, and whose long chord bears South  $59^{\circ} 11' 00''$  East for a distance of 700.08 feet to a point of intersection with a tangent line; thence
27. South  $57^{\circ} 11' 00''$  East for a distance of 948.60 feet to the beginning of a tangent curve; thence
28. Along a curve to the right, through a central angle of  $00^{\circ} 18' 36''$ , having a radius of 5,030.00 feet, for a length of 27.21 feet, and whose long chord bears South  $57^{\circ} 01' 42''$  East for a distance of 27.22 feet to the common northerly corner of Parcels 14 and 15, as they are shown on that certain map recorded in Volume 20 of Surveys at Page 110, being also the beginning of a compound tangent curve; thence along the northerly boundary of said Parcel 15
29. Along a curve to the right, through a central angle of  $00^{\circ} 14' 47''$ , having a radius of 5,030.00 feet, for a length of 21.63 feet, and whose long chord bears South  $56^{\circ} 45' 01''$  East for a distance of 21.62 feet to the POINT OF BEGINNING.

Containing an area of 226.464 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 E19a.5,  
Lying Within "MONTEREY COUNTY III"  
as shown on Vol. 23 of Surveys at Page 105  
MONTEREY COUNTY,  
CALIFORNIA**

SEASIDE  
IV-A  
23  
SURVEYS  
99

City of Seaside  
Monterey County

Parcel D  
EDC PARCELS  
E18.1.2, E19a.1,  
E19a.2, E19a.3,  
& E19a.4

MONTEREY  
COUNTY III  
23  
SURVEYS  
105



Parcel B  
EDC Parcel  
E19a.5  
226.464 Acres

20

15

10

5

25

Parcel A  
EDC PARCEL  
E21b.3

Parcel C  
EDC PARCEL L20.18  
Eucalyptus Road

Parcel 14  
20 Surveys 110

Vol. 1  
Surveys  
Pg. 1

1

POB  
Parcel 15  
20 Surveys 110

PREPARED BY:

**POLARIS CONSULTING**

P. O. BOX 1378  
CARMEL VALLEY, CA 93924

SCALE: 1" = 600' VIEW: E19.a5 DATE: 10-26-2007

FILE NAME: FORA FOSET 5 MPC2.DWG 26114



SCALE IN FEET

EDC Parcel E21.b3  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

#### Legal Description

SITUATE in a portion of "Monterey County III (Parker Flats)," as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, 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 a point on the common boundary of said "Monterey County III" and Parcel 1, "Seaside IV-A", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 99, which bears North 18° 59' 35" East (shown on said map as North 18° 59' 46" East), 298.42 feet from the common southerly corner of said "Monterey County III" and Parcel 1, "Seaside IV-A", thence from said Point of Beginning, along said common boundary

1. North 18° 59' 35" East for a distance of 325.58 feet to a point on the southerly boundary line of Eucalyptus Road, being Parcel 14, as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence along said southerly boundary line
2. North 67° 40' 00" East for a distance of 1,051.60 feet (shown on said map as 1028.50 feet) to the beginning of a tangent curve; thence
3. Along a curve to the right, through a central angle of 00° 58' 00", having a radius of 9,970.00 feet, for an arc length of 168.21 feet, and whose long chord bears North 68° 09' 00" East for a distance of 168.21 feet to a point of intersection with a tangent line; thence
4. North 68° 38' 00" East for a distance of 211.78 feet to the beginning of a tangent curve; thence
5. Along a curve to the right, through a central angle of 38° 03' 00", having a radius of 220.00 feet, for an arc length of 146.10 feet, and whose long chord bears North 87° 39' 30" East for a distance of 143.43 feet to the beginning of a tangent curve; thence
6. Along a compound curve to the right through a central angle of 12° 08' 00", having a radius of 770.00 feet, for an arc length of 163.06 feet, and whose long chord bears South 67° 15' 00" East for a distance of 162.76 feet to the beginning of a tangent curve; thence
7. Along a compound curve to the right, through a central angle of 04° 00' 00", having a radius of 9,970.00 feet, for an arc length of 696.04 feet, and whose long chord bears South 59° 11' 00" East for a distance of 695.90 feet to a point of intersection with a tangent line; thence

EDC Parcel E21.b3  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

8. South 57° 11' 00" East for a distance of 889.89 feet to the northerly boundary of EDC Parcels E39, E40, E41, & E42; thence leaving said southerly boundary line and following along said northerly boundary line
9. North 85° 51' 38" West for a distance of 595.99 feet; thence
10. North 76° 37' 26" West for a distance of 86.38 feet; thence
11. North 61° 54' 12" West for a distance of 267.56 feet; thence
12. South 77° 05' 31" West for a distance of 246.21 feet; thence
13. South 19° 14' 23" West for a distance of 336.79 feet; thence
14. North 68° 47' 10" West for a distance of 77.24 feet; thence
15. North 01° 56' 56" West for a distance of 59.05 feet; thence
16. North 65° 07' 58" West for a distance of 118.98 feet; thence
17. North 74° 05' 58" West for a distance of 430.52 feet; thence
18. South 54° 47' 09" West for a distance of 332.90 feet; thence
19. North 15° 42' 12" East for a distance of 450.85 feet; thence
20. North 59° 15' 04" West for a distance of 195.50 feet; thence
21. South 67° 46' 14" West for a distance of 963.07 feet to the POINT OF BEGINNING.

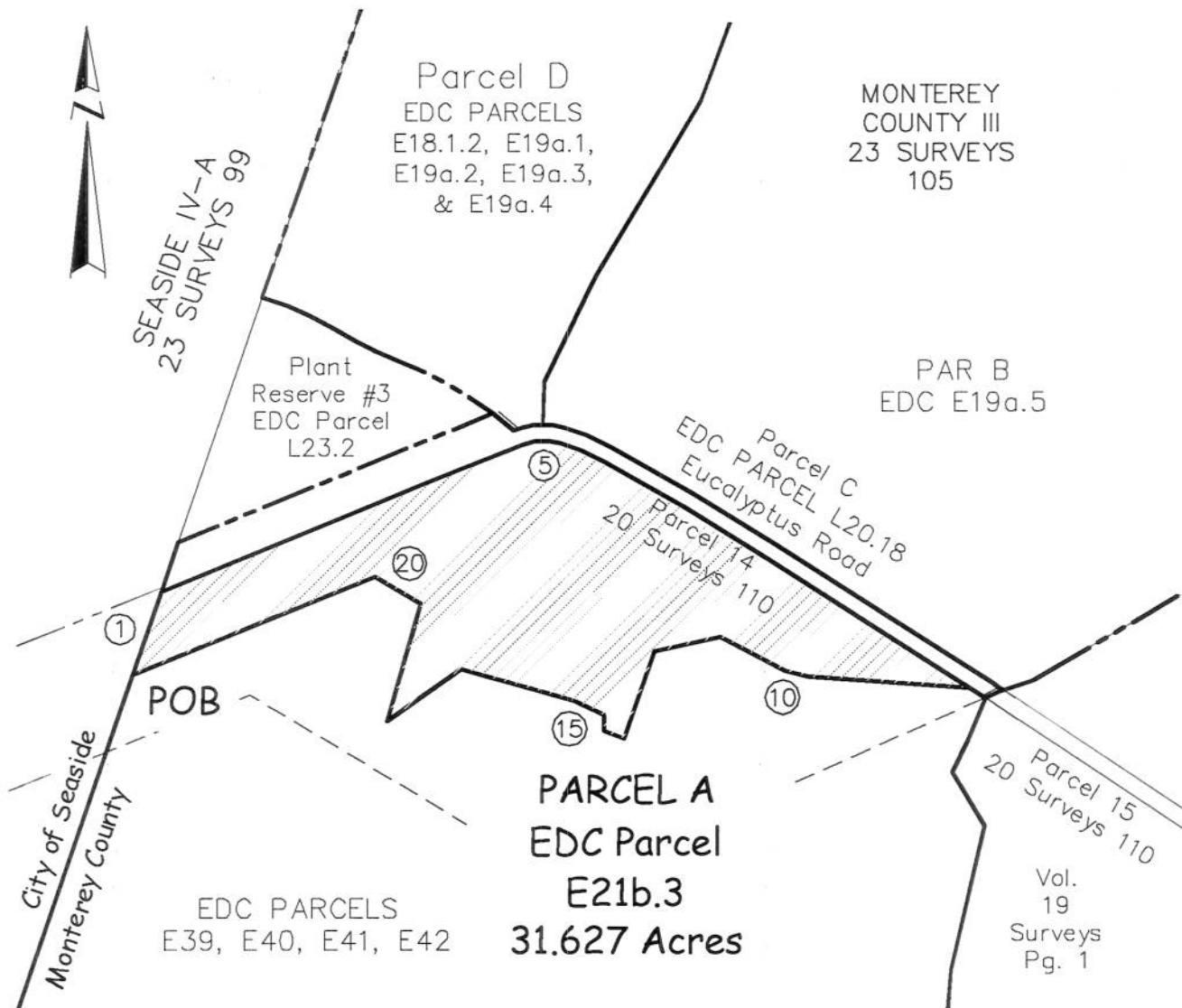
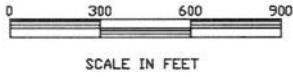
Containing an area of 31.627 acres, more or less.

This legal description was prepared by

---

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

**EXHIBIT** OF EDC Parcel E21b.3,  
Lying Within "MONTEREY COUNTY III"  
as shown on Vol. 23 of Surveys at Page 105  
MONTEREY COUNTY,  
CALIFORNIA



PREPARED BY:

*POLARIS CONSULTING*

P. O. BOX 1378  
CARMEL VALLEY, CA 93924

SCALE: 1" = 600' VIEW: E21b.3 DATE: 10-26-2007

FILE NAME: FORA FOSET 5 MPC2.DWG 26114

Parcel C  
EDC Parcel E38  
FOSET 5  
City of Seaside  
Fort Ord Military Reservation  
Monterey County, California

Legal Description

SITUATE within 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 southerly corner common to Parcel 1, "Seaside IV-A" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 99 and "Monterey County III", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, thence from said Point of Beginning along an extension southerly of the common boundary of said "Seaside IV-A" and "Monterey County III"

1. South 18° 59' 46" West a distance of 1549.04 feet; thence leaving said extended boundary
2. North 52° 57' 06" West for a distance of 20.33 feet; thence
3. North 05° 40' 08" East for a distance of 253.17 feet; thence
4. North 44° 56' 58" West for a distance of 103.26 feet; thence
5. North 56° 33' 32" West for a distance of 459.02 feet; thence
6. North 52° 21' 41" West for a distance of 226.05 feet; thence
7. North 66° 14' 49" West for a distance of 383.36 feet to a point on the southeasterly boundary of said "Seaside IV-A"; thence along said boundary
8. North 68° 33' 01" East for a distance of 1591.54 feet to the POINT OF BEGINNING.

Containing an area of 17.734 acres, more or less.

This legal description was prepared by

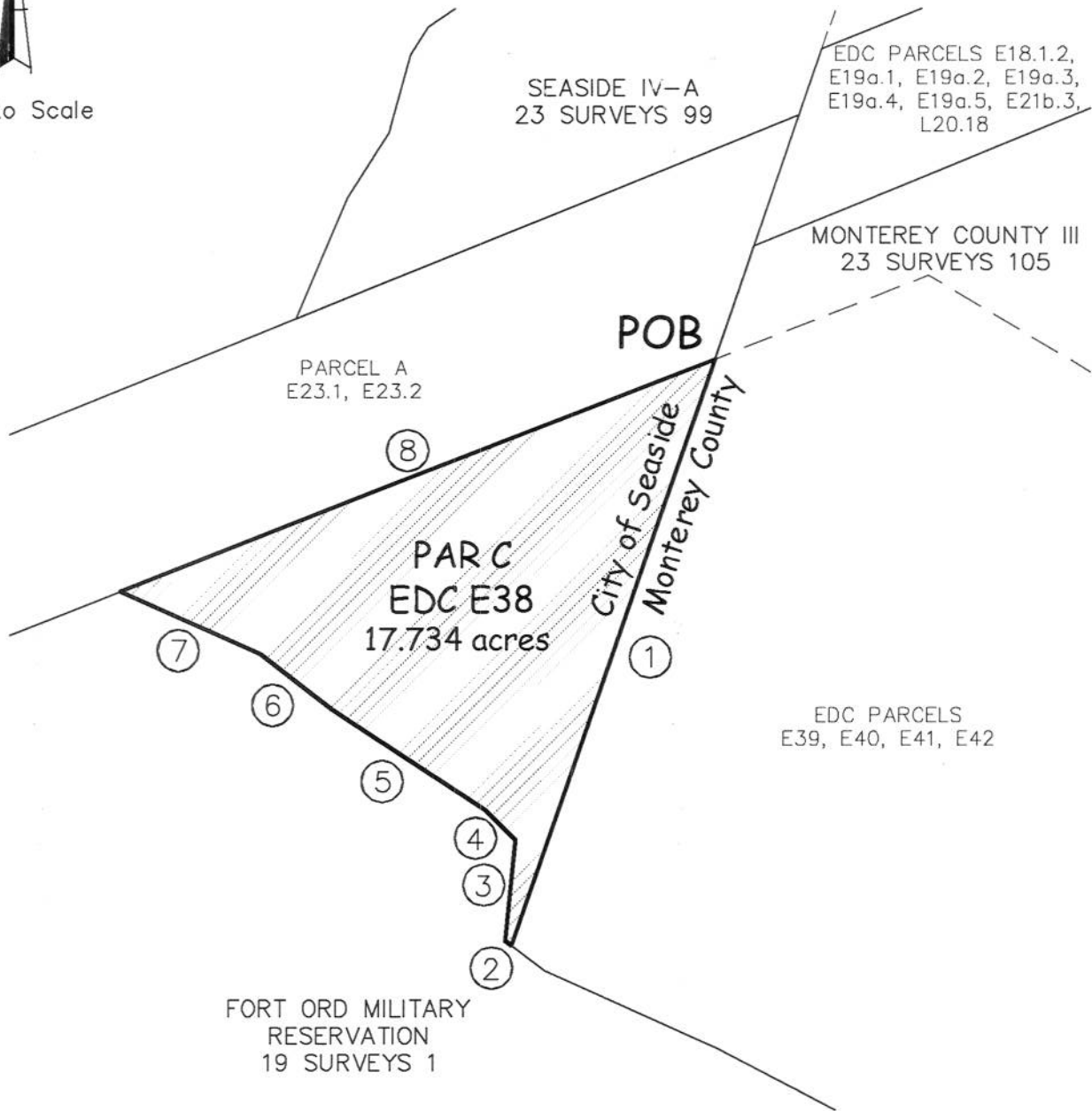
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Lynn A. Kovach      L.S. 5321  
My license expires December 31, 2007

EXHIBIT  
of  
Parcel C  
EDC Parcel E38  
Fort Ord FOSET 5  
City of Seaside Jurisdiction  
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



Not to Scale



Note: Course Numbers Refer to the Legal Description.

Parcel 1  
EDC Parcels E39, E40, E41 & E42  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

#### Legal Description

SITUATE in a portion of "Monterey County III (Parker Flats)," as it is shown on that certain map recorded in Volume 23 of Surveys at Page 105, 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 a point on the common boundary of said "Monterey County III" and Parcel 1, "Seaside IV-A", as it is shown on that certain map recorded in Volume 23 of Surveys at Page 99, which bears North 18° 59' 46" East, 298.43 feet from the common southerly corner of said "Monterey County III" and Parcel 1, "Seaside IV-A", thence from said Point of Beginning, leaving said common boundary

1. North 67° 46' 14" East for a distance of 963.05 feet; thence
2. South 59° 15' 04" East for a distance of 195.50 feet; thence
3. South 15° 42' 12" West for a distance of 450.85 feet; thence
4. North 54° 47' 09" East for a distance of 332.90 feet; thence
5. South 74° 05' 58" East for a distance of 430.52 feet; thence
6. South 65° 07' 58" East for a distance of 118.98 feet; thence
7. South 01° 56' 56" East for a distance of 59.05 feet; thence
8. South 68° 47' 10" East for a distance of 77.24 feet; thence
9. North 19° 14' 23" East for a distance of 336.79 feet; thence
10. North 77° 05' 31" East for a distance of 246.21 feet; thence
11. South 61° 54' 12" East for a distance of 267.56 feet; thence
12. South 76° 37' 26" East for a distance of 86.38 feet; thence
13. South 85° 51' 38" East for a distance of 595.51 feet; thence

Parcel 1  
EDC Parcels E39, E40, E41 & E42  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

14. South 57° 12' 02" West for a distance of 53.54 feet; thence
15. North 61° 55' 39" West for a distance of 34.00 feet; thence
16. South 53° 58' 21" East for a distance of 15.32 feet to a point on the boundary of said "Monterey County III" from which an angle point in said boundary bears North 66° 03' 27" East 19.66 feet; thence leaving said boundary
17. South 29° 37' 25" West for a distance of 190.95 feet; thence
18. South 24° 52' 08" West for a distance of 132.40 feet; thence
19. South 30° 53' 24" East for a distance of 225.90 feet; thence
20. South 13° 06' 23" West for a distance of 543.13 feet; thence
21. South 04° 07' 20" West for a distance of 483.32 feet; thence
22. South 06° 31' 33" East for a distance of 230.52 feet; thence
23. South 08° 45' 20" West for a distance of 241.64 feet; thence
24. South 29° 03' 59" West for a distance of 280.62 feet; thence
25. South 15° 38' 15" West for a distance of 515.65 feet; thence
26. South 26° 54' 57" West for a distance of 367.63 feet; thence
27. South 65° 46' 16" West for a distance of 641.08 feet; thence
28. North 60° 00' 53" West for a distance of 350.01 feet; thence
29. North 44° 43' 48" West for a distance of 368.70 feet; thence
30. North 55° 02' 55" West for a distance of 1130.89 feet; thence
31. North 62° 22' 55" West for a distance of 600.00 feet; thence
32. North 65° 56' 29" West for a distance of 467.91 feet; thence



Parcel 1  
EDC Parcels E39, E40, E41 & E42  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

33. North 52° 57' 06" West a distance of 102.50 feet to a point on the City of Seaside Corporate Boundary line; thence along said boundary line

34. North 18° 59' 46" East for a distance of 1847.47 feet to the POINT OF BEGINNING

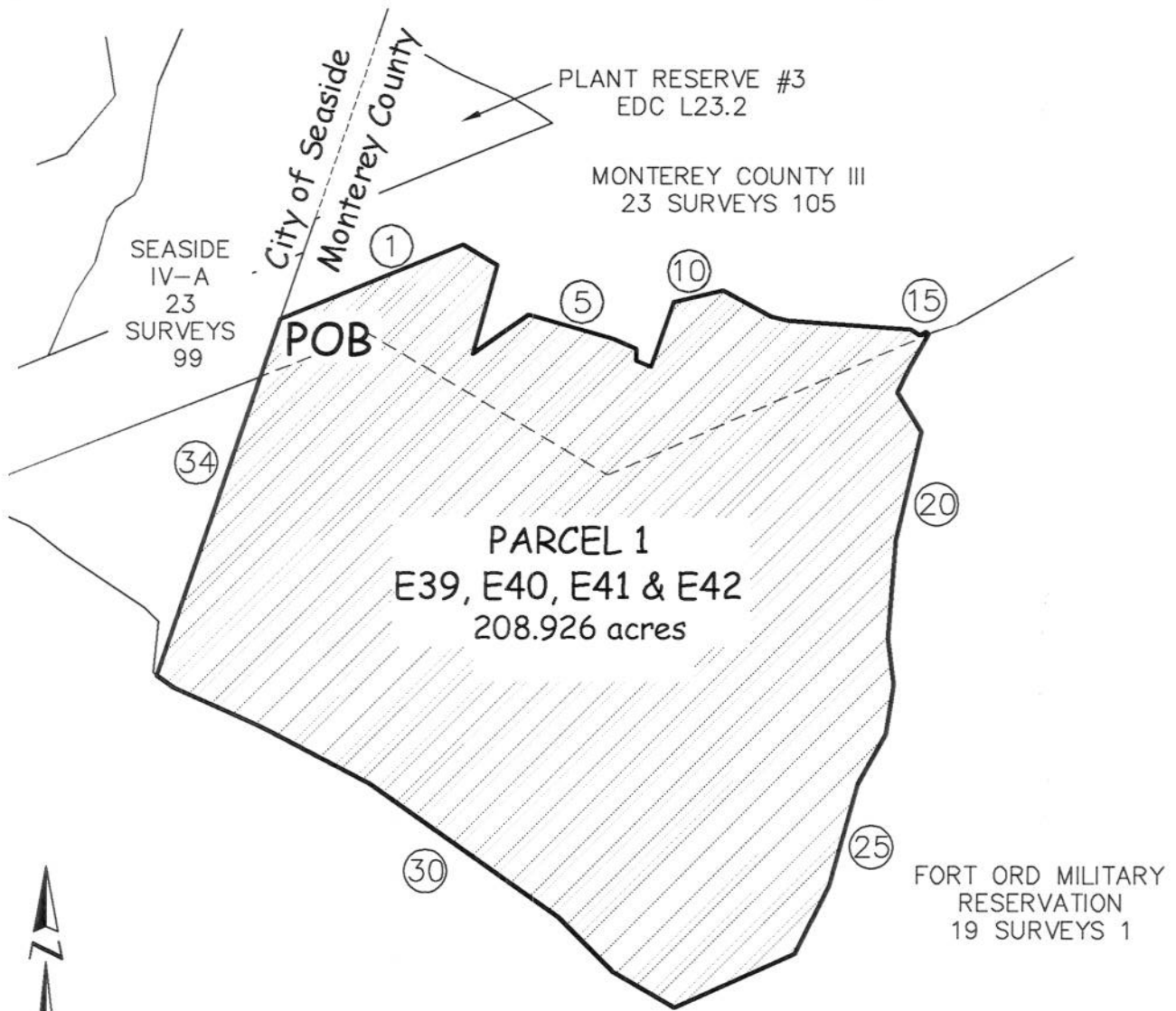
Containing an area of 208.926 acres, more or less.

This legal description was prepared by

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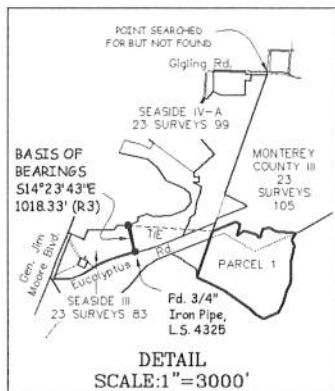
Lynn A. Kovach      L.S. 5321  
My license expires December 31, 2007

EXHIBIT  
 of  
 Parcel 1  
 EDC Parcels E39, E40, E41, & E42  
 Fort Ord FOSET 5  
 Being a Portion of  
 "Monterey County III (Parker Flats)" as shown on Vol. 23 of Surveys at Page 105 and  
 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

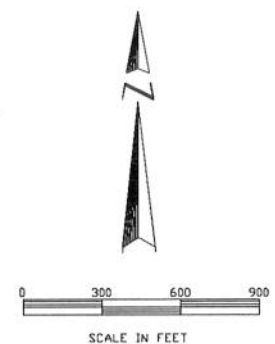
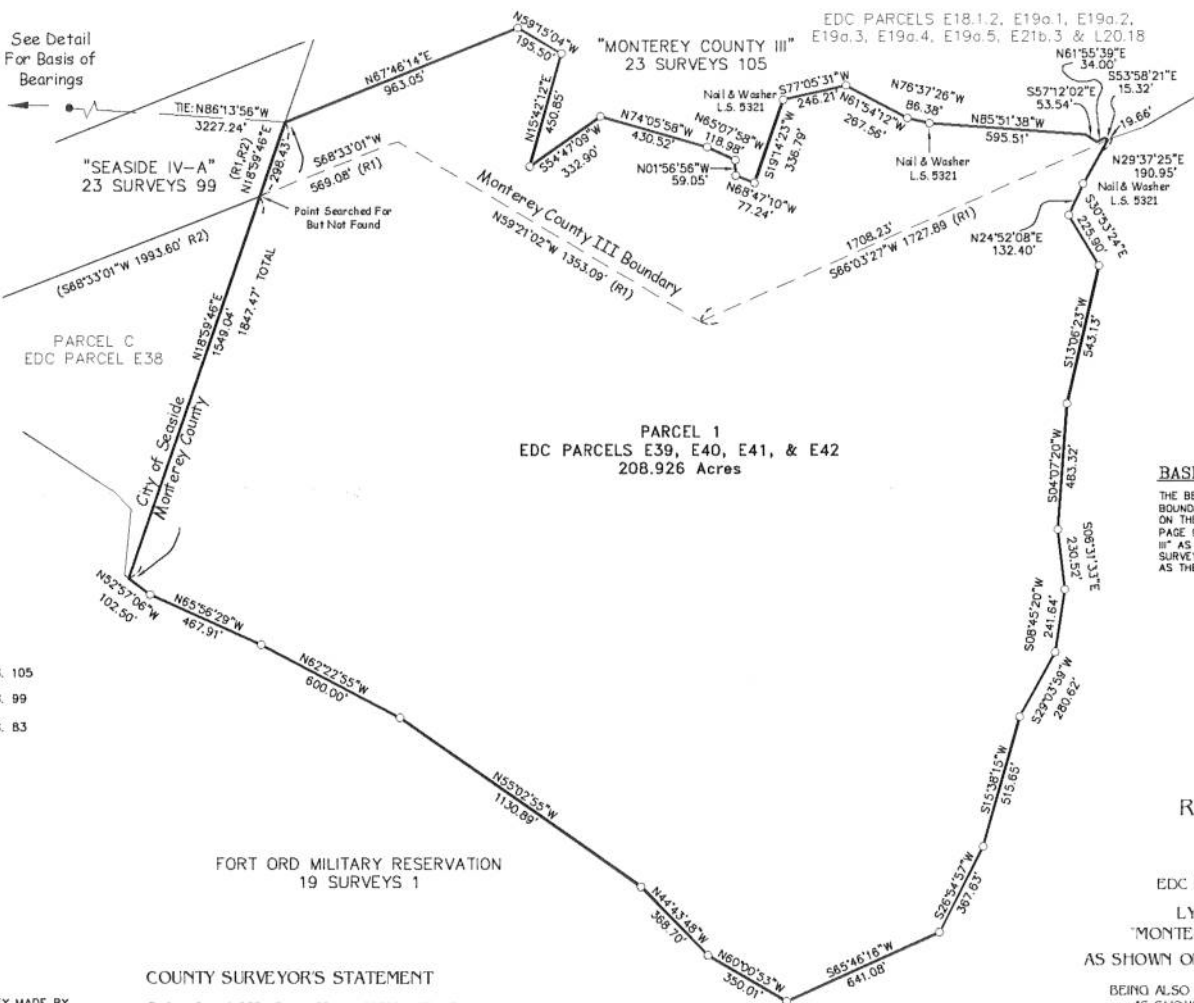


Not to Scale

Note: Course Numbers Refer to the Legal Description.



See Detail  
For Basis of  
Bearings



- LEGEND**
- SET 5/8" IRON ROD TAGGED L.S. 5321 UNLESS NOTED OTHERWISE
  - FOUND 1" IRON PIPE TAGGED R.C.E. 15310 UNLESS NOTED OTHERWISE
  - R1 RECORD DATA PER VOL. 23 - SURVEYS - PG. 105
  - R2 RECORD DATA PER VOL. 23 - SURVEYS - PG. 99
  - R3 RECORD DATA PER VOL. 23 - SURVEYS - PG. 83

**BASIS OF BEARINGS**  
THE BEARING OF S14°23'43"E ALONG THE WESTERLY BOUNDARY LINE OF PARCEL 1, "SEASIDE IV-A" AS SHOWN ON THE MAP RECORDED IN VOLUME 23 OF SURVEYS AT PAGE 99 AND THE EASTERLY BOUNDARY LINE OF "SEASIDE III" AS SHOWN ON THE MAP RECORDED IN VOLUME 23 OF SURVEYS AT PAGE 83, AS FOUND MONUMENTED, WAS TAKEN AS THE BASIS OF BEARINGS SHOWN UPON THIS MAP.

**NOTE**  
DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

**RECORD OF SURVEY**  
OF  
PARCEL 1  
EDC PARCELS E39, E40, E41, & E42  
LYING WITHIN A PORTION OF  
"MONTEREY COUNTY III (PARKER FLATS)"  
AS SHOWN ON VOL. 23 OF SURVEYS AT PAGE 105.

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. 1

MONTEREY COUNTY, CALIFORNIA

PREPARED FOR: FORT ORD REUSE AUTHORITY  
SURVEYED BY: POLARIS CONSULTING  
P. O. BOX 1378  
CARMEL VALLEY, CA 93924  
831-659-9564

SCALE: 1" = 300' VIEW: ROS PAR 1 DATE: APRIL 6, 2007  
FILE NAME: FORA FOSSET 5 E39D.W6 SHEET ONE OF ONE

**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 \_\_\_\_\_  
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.

RON LUNDQUIST  
COUNTY SURVEYOR  
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: \$ \_\_\_\_\_



PBC Parcel F1.7.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

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, County of Monterey, State of California; being more particularly described as follows:

BEGINNING at a point from which Monument No. 1, a granite monument marked "NB4A", on the Perimeter Boundary of the former Fort Ord Military Reservation, as it is shown on that certain map recorded in Vol. 19 of Surveys at Page 1, bears North  $81^{\circ} 45' 31''$  West a distance of 17,968.22 feet; thence from said Point of Beginning

1. North  $40^{\circ} 13' 06''$  East for a distance of 287.87 feet; thence
2. North  $43^{\circ} 01' 43''$  East for a distance of 227.34 feet; thence
3. North  $37^{\circ} 15' 12''$  East for a distance of 267.60 feet; thence
4. North  $41^{\circ} 10' 12''$  East for a distance of 332.51 feet; thence
5. North  $23^{\circ} 20' 24''$  East for a distance of 275.58 feet to the beginning of a tangent curve; thence
6. Along a curve to the right, through a central angle of  $64^{\circ} 24' 10''$ , having a radius of 419.00 feet, for an arc length of 470.97 feet, and whose long chord bears North  $55^{\circ} 32' 29''$  East for a distance of 446.57 feet to a point of intersection with a tangent line; thence
7. North  $87^{\circ} 44' 34''$  East for a distance of 14.60 feet; thence
8. North  $89^{\circ} 46' 29''$  East for a distance of 180.02 feet to the beginning of a tangent curve; thence
9. Along a curve to the left, through a central angle of  $37^{\circ} 50' 30''$ , having a radius of 461.00 feet, for an arc length of 304.47 feet, and whose long chord bears North  $70^{\circ} 51' 14''$  East for a distance of 298.97 feet to a point of intersection with a tangent line; thence
10. North  $51^{\circ} 55' 59''$  East for a distance of 7.01 feet; thence
11. North  $50^{\circ} 32' 05''$  East for a distance of 326.64 feet; thence
12. North  $54^{\circ} 38' 14''$  East for a distance of 396.86 feet; thence
13. North  $50^{\circ} 59' 24''$  East for a distance of 196.40 feet; thence

PBC Parcel F1.7.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

14. South  $51^{\circ} 23' 11''$  East for a distance of 331.15 feet; thence
15. South  $06^{\circ} 55' 36''$  East for a distance of 339.39 feet; thence
16. South  $40^{\circ} 05' 20''$  West for a distance of 166.04 feet; thence
17. South  $15^{\circ} 48' 13''$  East for a distance of 55.07 feet; thence
18. South  $07^{\circ} 42' 13''$  East for a distance of 81.71 feet; thence
19. South  $26^{\circ} 30' 43''$  West for a distance of 71.55 feet; thence
20. North  $29^{\circ} 46' 55''$  West for a distance of 64.55 feet; thence
21. South  $46^{\circ} 01' 07''$  West for a distance of 154.19 feet; thence
22. South  $72^{\circ} 19' 25''$  West for a distance of 52.51 feet; thence
23. North  $79^{\circ} 01' 05''$  West for a distance of 409.46 feet; thence
24. South  $83^{\circ} 05' 59''$  West for a distance of 208.51 feet; thence
25. North  $43^{\circ} 19' 16''$  West for a distance of 19.17 feet to the beginning of a tangent curve;  
thence
26. Along a curve to the left, through a central angle of  $104^{\circ} 56' 60''$ , having a radius of 100.00 feet, for an arc length of 183.17 feet, and whose long chord bears South  $84^{\circ} 12' 14''$  West for a distance of 158.62 feet to a point of intersection with a tangent line; thence
27. South  $31^{\circ} 43' 44''$  West for a distance of 224.42 feet; thence
28. South  $02^{\circ} 31' 11''$  East for a distance of 385.38 feet; thence
29. South  $19^{\circ} 01' 30''$  West for a distance of 248.61 feet; thence
30. South  $14^{\circ} 39' 17''$  East for a distance of 229.41 feet; thence
31. South  $23^{\circ} 50' 00''$  West for a distance of 37.21 feet; thence
32. South  $08^{\circ} 29' 01''$  West for a distance of 230.50 feet; thence
33. South  $18^{\circ} 40' 02''$  West for a distance of 156.18 feet; thence

PBC Parcel F1.7.2  
FOSET 5  
Fort Ord Military Reservation  
Monterey County, California

34. South 24° 51' 08" West for a distance of 152.10 feet to the beginning of a tangent curve; thence
35. Along a curve to the right, through a central angle of 120° 15' 38", having a radius of 153.00 feet, for an arc length of 321.14 feet, and whose long chord bears South 84° 58' 57" West for a distance of 265.35 feet to a point of intersection with a tangent line; thence
36. North 34° 53' 14" West for a distance of 22.16 feet; thence
37. North 47° 09' 19" West for a distance of 130.89 feet; thence
38. North 06° 16' 21" West for a distance of 522.12 feet; thence
39. South 66° 30' 03" West for a distance of 544.15 feet; thence
40. South 46° 52' 48" West for a distance of 256.14 feet; thence
41. North 37° 32' 29" West for a distance of 201.82 feet; thence
42. North 52° 34' 51" West a distance of 123.44 feet to the POINT OF BEGINNING.

Containing an area of 51.206 acres, more or less.

This legal description was prepared by



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



EXHIBIT  
of  
PBC Parcel F1.7.2  
Fort Ord FOSET 5  
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.



Not to Scale

19 SURVEYS 1

**F1.7.2**  
51.206 ACRES

IMPOSSIBLE CANYON ROAD

BARLOY CANYON ROAD

N81°45'31"W 17,968.22' (TIE)  
MONUMENT NO. 1  
FORT ORD  
PERIMETER BOUNDARY

POB

PARCEL 4  
VOL. 19 SURVEYS PG. 122

5

10

15

25

20

1

42

40

30

35

**BASIS OF BEARINGS**

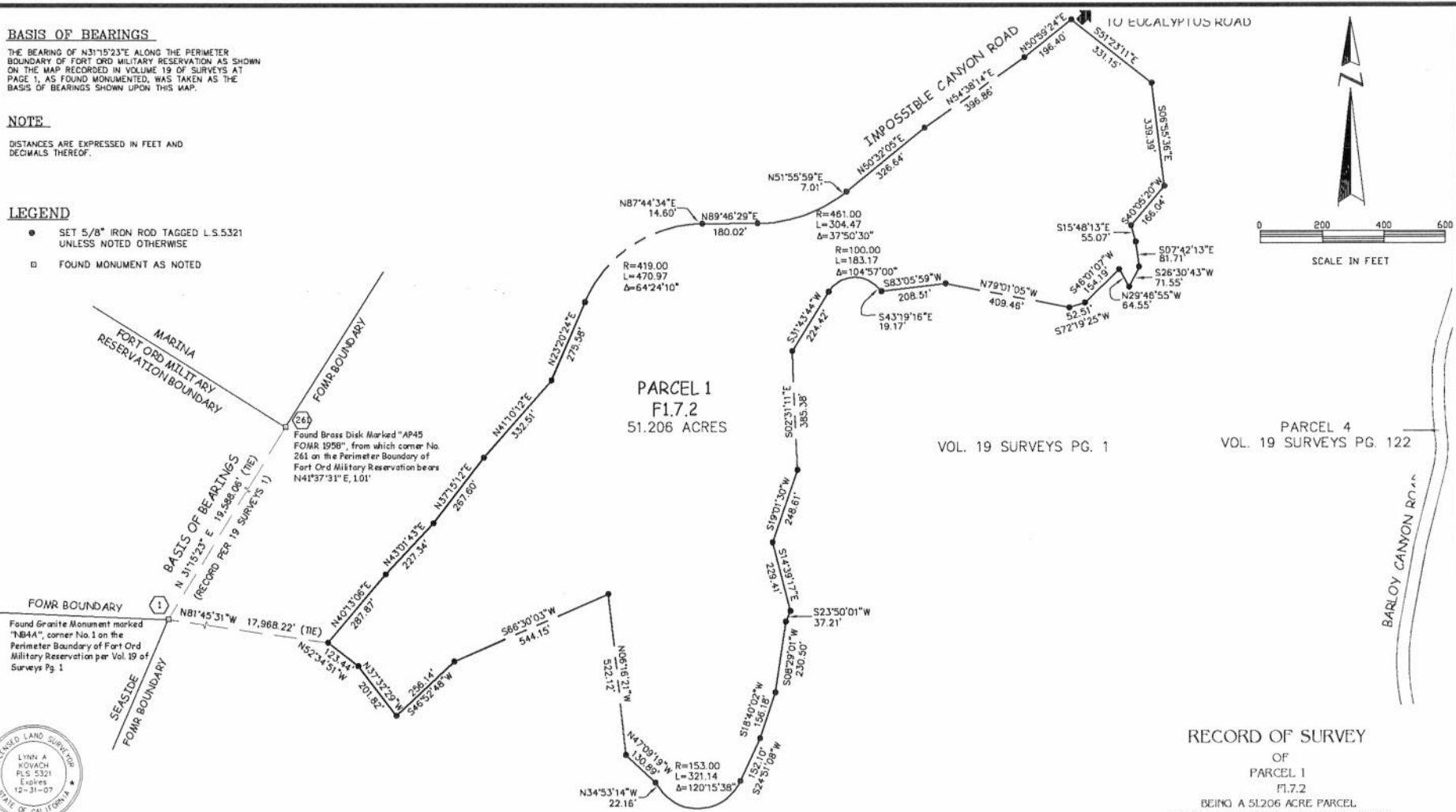
THE BEARING OF N31°15'23"E ALONG THE PERIMETER BOUNDARY OF FORT ORD MILITARY RESERVATION AS SHOWN ON THE MAP RECORDED IN VOLUME 19 OF SURVEYS AT PAGE 1, AS FOUND MONUMENTED, WAS TAKEN AS THE BASIS OF BEARINGS SHOWN UPON THIS MAP.

**NOTE**

DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

**LEGEND**

- SET 5/8" IRON ROD TAGGED L.S.5321 UNLESS NOTED OTHERWISE
- FOUND MONUMENT AS NOTED



**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 SURVEYOR'S ACT THIS DAY OF \_\_\_\_\_, 2006.

BY \_\_\_\_\_  
RON LUNDQUIST  
COUNTY SURVEYOR

BY \_\_\_\_\_  
JERRY COMBS  
DEPUTY COUNTY SURVEYOR

**COUNTY RECORDER'S STATEMENT**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006  
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  
PARCEL 1  
F1.7.2  
BEING A 51.206 ACRE PARCEL  
WITHIN 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

PREPARED FOR: FORT ORD REUSE AUTHORITY  
SURVEYED BY: POLARIS CONSULTING  
P. O. BOX 1378  
CARMEL VALLEY, CA 93924  
831-659-9564

SCALE: 1" = 200' VIEW: ROS 200 DATE: DECEMBER 12, 2006  
FILE NAME: FORA POSET 9 F1-7-2.DWG SHEET ONE OF ONE



EDC Parcel L23.2  
FOSET 5  
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, County of Monterey, State of California; being more particularly described as follows:

BEGINNING at an angle point on the westerly boundary of "Monterey County III" as shown on that certain map recorded in Volume 23 of Surveys at Page 105, from which the most southerly corner common to said "Monterey County III" and "Seaside IV-A" as it is shown on Volume 23 of Surveys at Page 99 bears South 18° 59' 46" West a distance of 817.41 feet; thence from said Point of Beginning leaving said westerly boundary

1. North 18° 59' 46" East for a distance of 949.84 feet to the beginning of a non-tangential curve, point also being an angle point on said westerly boundary of "Monterey County III"; thence following said westerly boundary
2. Along a curve to the right, the center of which bears South 15° 06' 21" West for a distance of 970.00 feet, through a central angle of 16° 42' 29", having a radius of 970.00 feet, for an arc length of 262.86 feet and whose long chord bears South 66° 32' 24" East for a distance of 281.86 feet to the beginning of a tangent reverse curve; thence
3. Along a curve to the left, the center of which bears North 31° 48' 50" East for a distance of 1430.00 feet, through a central angle of 10° 50' 30", having a radius of 1430.00 feet, for an arc length of 270.59 feet and whose long chord bears South 63° 36' 25" East for a distance of 270.19 feet to the beginning of a tangent reverse curve; thence
4. Along a curve to the right, the center of which bears South 20° 58' 20" West for a distance of 1370.00 feet through a central angle of 16° 36' 37", having a radius of 1370.00 feet, for an arc length of 397.17 feet, and whose long chord bears South 60° 43' 22" East for a distance of 395.78 feet to a point of intersection with a non-tangential line; thence
5. South 67° 45' 41" West a distance of 1247.79 feet to the POINT OF BEGINNING.

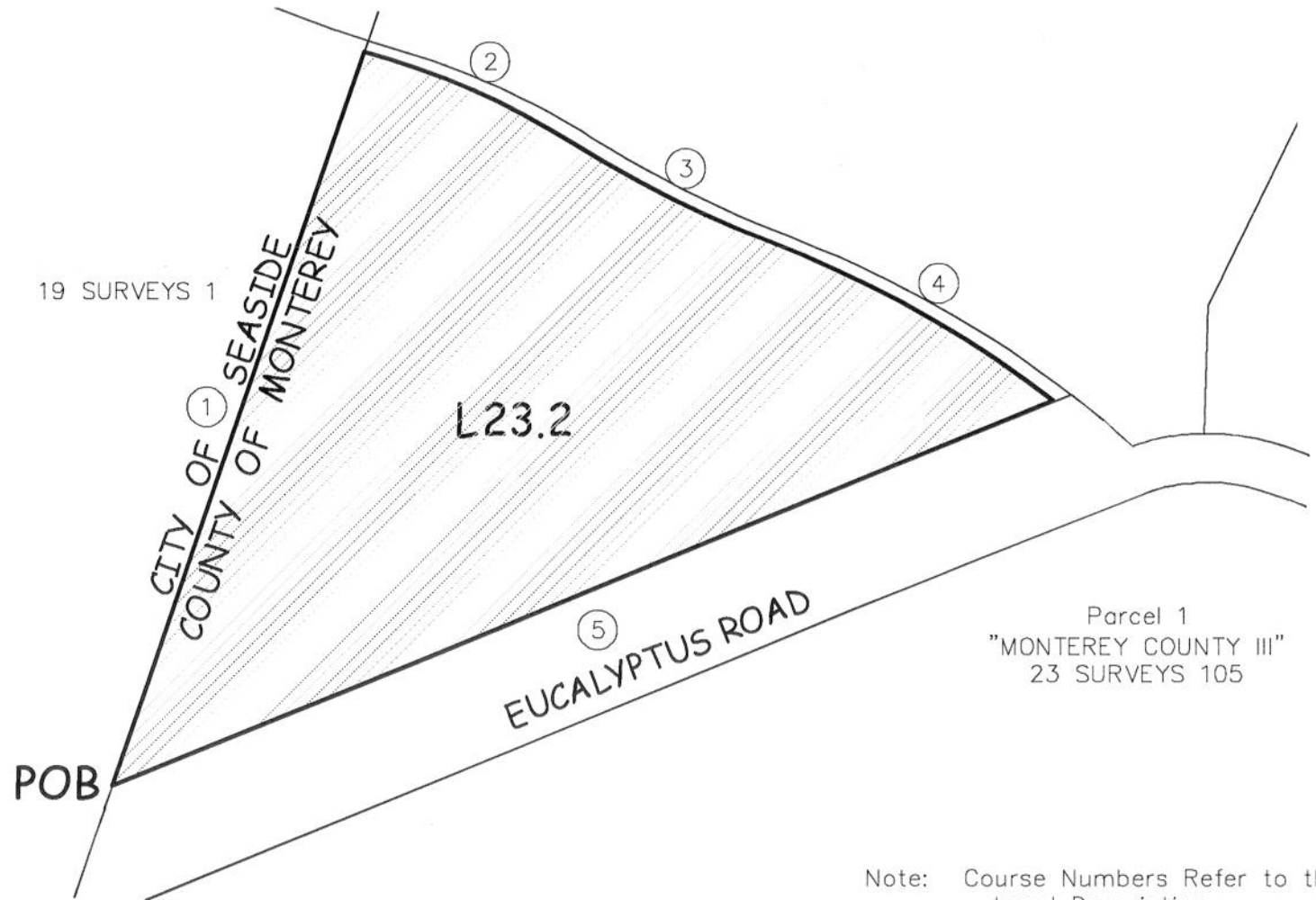
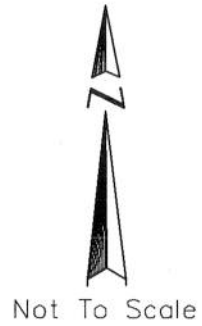
Containing an area of 10.572 acres, more or less.

This legal description was prepared by

---

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

EXHIBIT  
of  
EDC Parcel L23.2  
Fort Ord FOSET 5  
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.

## **EXHIBIT C**

County Code Chapter 16.10, titled "*Digging and Excavation on the Former Fort Ord*". Chapter 16.10 prohibits excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil on the former Fort Ord without a permit.

**EXHIBIT C**

## Monterey County Code Chapter 16.10

### Chapter 16.10 DIGGING AND EXCAVATION ON THE FORMER FORT ORD

- 16.10.010 Purpose and intent.
- 16.10.020 General.
- 16.10.030 Applicability.
- 16.10.040 Excavation and digging restrictions.
- 16.10.050 Permit requirements.
- 16.10.060 Permit procedure.
- 16.10.070 Term of permit.
- 16.10.080 Exceptions to permit conditions.
- 16.10.090 Performance bond.
- 16.10.100 Amendment to permits.
- 16.10.110 Appeals.
- 16.10.120 Notification to property owners and other land users.
- 16.10.130 Revision of Chapter.

#### **16.10.010 Purpose and intent.**

The United States Army (Army) is in the process of transferring various parcels of the former Fort Ord military installation (Fort Ord) to the County or to other entities within the County's land use jurisdiction. Some parcels of the former Fort Ord were contaminated with unexploded ordnance and explosives (UXO), which is a hazardous waste. The Army will not transfer those parcels until it has cleared those parcels of UXO to its standard. Even following the Army's completion of UXO response activities, it is possible that some UXO materials may remain on those parcels. The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) has statutory responsibility to oversee cleanup of releases of hazardous substances, which includes hazardous waste. DTSC cannot certify that all UXO has been cleared and it will require a land use covenant to be recorded with the Monterey County Recorder on those parcels to provide additional controls and restrictions to protect the public health and safety. The County will also enter into an Agreement with DTSC to provide additional safety measures and reporting. (Ord. 5012 § 1 (part), 2005)

#### **16.10.020 General.**

The Board of Supervisors finds and determines that those properties formerly included within the Fort Ord military installation that are suspected of containing UXO require special standards and procedures for digging and excavation in addition to those contained in the Building Code, to ensure that:

- A. Neither digging or excavation nor development of such properties occurs until ordnance or explosive remediation thereon is completed;
- B. Potential purchasers or developers of sites which may contain UXO and those persons whose work at such sites includes disturbing soil, are aware of the potential that UXO may be located on these properties and are aware of the requirements for UXO precautions prior to any digging, excavation or ground disturbance thereon; and
- C. DTSC should be continuously involved in the establishment of controls for those properties because it has statutory oversight responsibility with respect to hazardous substance response actions. (Ord. 5012 § 1 (part), 2005)

#### **16.10.030 Applicability.**

A. The Board of Supervisors, with the concurrence of DTSC, hereby designates all real property within the County's land use jurisdiction which was formerly part of Fort Ord and which have been identified in the Archives Search Report and supplement, dated 1997, or otherwise identified, as the possible location of unexploded ordnance or explosives as an Ordnance Remediation District (hereafter "district"). All such districts are defined as those areas of the unincorporated portions of the former Fort Ord, excepting therefrom the "Track 0" parcels as identified in the *Finding of Suitability to Transfer, Track 0 Parcels*,

## **Monterey County Code Chapter 16.10**

*Former Fort Ord, California* document, dated May 2003. The County shall notify DTSC of any change in the permitted land uses in any district within thirty (30) days after it adopts any change.

B. The regulations in this Chapter shall apply in all districts and shall be in addition and subject to all provisions of the County Code, including Titles 16, 18 and 21. (Ord. 5012 § 1 (part), 2005)

### **16.10.040 Excavation and digging restrictions.**

It shall be unlawful for any person, including utilities, to engage in any of the following activities on any property located within a district unless that person is acting pursuant to a valid excavation permit (hereafter "permit") issued pursuant to this Chapter: excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil. (Ord. 5012 § 1 (part), 2005)

### **16.10.050 Permit requirements.**

An owner or user of real property located within a district who desires to conduct the activities described in Section 16.10.040 shall apply to the Building Official for a permit. The application shall be on a form approved by the County, may be combined with an application for grading pursuant to County Code Chapter 16.08, shall be signed by the permit applicant and all owners of each parcel of property on which excavation will be done, and shall contain the following information:

- A. Six copies of a description of any previous UXO excavation or removal activity conducted on the property whose soil is proposed to be excavated, moved or graded;
- B. Six copies of a description of the property where soil is proposed to be excavated, moved or graded. The description shall include a drawing with dimensions to a scale which sets forth the size and details of all proposed excavation activity, including any proposed cut and fill, trenching, well drilling, mineral excavation, post hole drilling, or other activity of any sort whenever the applicant proposes to do either of the following: (1) disturb ten (10) cubic yards or more of soil; or (2) disturb soil in a manner inconsistent with restrictions placed on the property by the Army or as noted on the district map;
- C. Six copies of a statement that the person submitting the application acknowledges liability for removing all detected unexploded ordnance and explosives in accordance with this Chapter and the permit;
- D. Six copies of a statement by the person submitting the application that they have, within the preceding twelve (12) months, delivered a copy of the notice to everyone whose work at the property described in Subsection 16.10.050(B) includes disturbing soil;
- E. The expected completion date of the activities authorized by the permit;
- F. Any other information which the Building Official may require as pertinent to the determination of the adequacy of the proposed plan;
- G. Payment of the permit fee, as established by the Board of Supervisors, at the time of filing the application for the permit. (Ord. 5012 § 1 (part), 2005)

### **16.10.060 Permit procedure.**

The Building Official shall review the permit application and shall approve the permit unless evidence is available which indicates that the proposed grading or excavation will create an undue risk to the health and safety of the public at large. Prior to acting on any such application, the Building Official, in his/her sole discretion, may set and conduct a public hearing for the purpose of receiving comments on the proposed grading and excavation. Except as otherwise indicated in Section 16.10.080, any permit issued hereunder shall be subject to the following conditions:

- A. All excavation and grading shall be performed solely in accordance with the permit approved and issued by the County.
- B. Prior to movement of any soil on any property located within a district, the permittee or designee shall personally deliver to each person who intends to work on the property described in the permit the Safety Alert—Ordnance and Explosives at former Fort Ord, as prepared by the Directorate of Environmental and Natural Resources Management at the Presidio of Monterey, or its successor document, and explain to each such person the information set forth in that notice.

## **Monterey County Code Chapter 16.10**

C. The permittee may not move or disturb soil unless the permittee is in compliance with the requirements placed on the property by an Agreement executed between the County, Redevelopment Agency, FORA and DTSC. Said Agreement shall, at a minimum, include OE construction support ("Construction Support") and shall be attached to and become a part of any permit issued pursuant to this Chapter.

D. The permittee shall cease soil disturbance activities upon a discovery of any suspected unexploded ordnance. The permittee shall notify the Monterey County Sheriff, Directorate of Law Enforcement at the Presidio of Monterey, the Army and DTSC of any suspected unexploded ordnance discovered during any excavation or soil removal immediately upon discovery. The permittee shall coordinate appropriate response actions with the Army and DTSC.

E. No later than thirty (30) days following the completion of the permitted soil disturbance activity, the permittee shall prepare and file with the Building Official, the Army and DTSC an After Action Report that shall state whether and where UXO was detected and the extent and depth of UXO response actions undertaken and completed on the property that is the subject of the permit. The After Action Report shall be in the form provided in Exhibit "A" and shall include site maps to illustrate the information contained in the report. All After Action Reports prepared and filed in accordance with this Chapter shall be deemed public records.

F. In consideration for the issuance of a permit and project approval, permittee shall defend at its sole expense any action or proceeding brought against the County and its Agents, Officers, and employees because of the approval of said permit. In further consideration for the issuance of a permit and project approval, the permittee shall indemnify and hold harmless from any liability the County and its agents, officers and employees and reimburse the County for any expenses incurred resulting from or in connection with the approval of the project including any claim, suit or legal proceeding and any and all related litigation costs, court costs, and attorneys' fees which the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this Subsection.

G. The Building Official shall mail a notice of permit approval to the Army, DTSC, and all owners of property within three hundred (300) feet of the real property that is the subject of the permit application. (Ord. 5012 § 1 (part), 2005)

### **16.10.070 Term of permit.**

Every permit issued by the Building Official under the provisions of this Chapter shall expire if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date of such permit, or if the work authorized by such permit is commenced and then suspended or abandoned for a period of thirty (30) days, unless such suspension is approved by the Building Official. Before such work can be recommenced, a new permit shall first be obtained, and the fee therefor shall be as established from time to time by the Board of Supervisors for a new permit for such work, provided no changes have been made or will be made in the original plans and specification for such work. (Ord. 5012 § 1 (part), 2005)

### **16.10.080 Exceptions to permit conditions.**

Following consultation with and approval by DTSC, the Board of Supervisors may, upon a finding that the requirements of Section 16.10.060(C) are no longer necessary, designate by ordinance or resolution any district as a Limited Control District and/or no longer subject to the provisions of this Chapter. The holder of any permit issued for any Limited Control District shall not be subject to Section 16.10.060(C). (Ord. 5012 § 1 (part), 2005)

### **16.10.090 Performance bond.**

Upon a finding by the Building Official that a permit should be issued for excavation or grading on the proposed site, a surety bond, in the form prescribed by the Monterey County Code Section 16.08.290, conditioned upon the faithful performance and completion of the permitted excavation activity, shall be filed with the County. Such surety shall be executed in favor of the County and shall be maintained in an

## **Monterey County Code Chapter 16.10**

amount prescribed by the Building Official sufficient to ensure the completion of the ordnance remediation and excavation of the site as prescribed in the approved permit. (Ord. 5012 § 1 (part), 2005)

### **16.10.100 Amendment to permits.**

Request for amendments to an approved excavation permit may be submitted to the Building Official at any time, detailing proposed changes from the original permit. Deviations from the original permit shall not be undertaken until such amendment has been approved by the County in writing. Amendments to an approved permit shall be approved by the same procedure as prescribed for the approval of the original excavation permit. (Ord. 5012 § 1 (part), 2005)

### **16.10.110 Appeals.**

Any person aggrieved by any determination of the Building Official in exercise of the authority granted in this Chapter shall have the right to appeal pursuant to Monterey County Code Sections 16.08.460 through 16.08.510, inclusive. (Ord. 5012 § 1 (part), 2005)

### **16.10.120 Notification to property owners and other land users.**

A. The County shall notify the owners of property designated as Ordnance Remediation Districts, and those utilities known to be providing service within the County, of the requirements of this Chapter and provide those persons with the Safety Alert—Ordnance and Explosives at Former Fort Ord, as identified in Section 16.10.060(B), above. The County shall annually notify the owners of said property as shown on the equalized tax rolls of the requirements of this Chapter and provide those persons with a copy of the notice. Failure of any owner, occupant or user of such land to receive said notification shall not relieve them from responsibility for compliance with this Chapter.

B. All owners, occupants or users of land subject to this Chapter, including utilities, shall notify any subsequent owners, assigns, lessees or users of such land of the requirements of this Chapter. Notification shall be made prior to transfer of the property in question.

C. All persons identified in Subsection 16.10.120(A) above shall deliver, at least annually, a copy of the notice to everyone whose work at UXO sites includes disturbing soil and shall explain the contents thereof to those persons. (Ord. 5012 § 1 (part), 2005)

### **16.10.130 Revision of Chapter.**

This Chapter shall not be revised without prior written notice to the DTSC. (Ord. 5012 § 1 (part), 2005)

## **EXHIBIT D**

Municipal Code Chapter 15.34, titled "*Digging and Excavation on the Former Fort Ord*". Chapter 15.34 prohibits excavation, digging, development or ground disturbance of any type that involves the displacement of ten (10) cubic yards or more of soil on the former Fort Ord without a permit.

**EXHIBIT D**



## City of Seaside Municipal Code

### Title 15 BUILDINGS AND CONSTRUCTION

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#### Chapter 15.34 DIGGING AND EXCAVATION ON THE FORMER FORT ORD

- 15.34.010 Citation and authority.
- 15.34.020 Purpose and intent.
- 15.34.030 General.
- 15.34.040 Designation and applicability.
- 15.34.050 Excavation and digging restrictions.
- 15.34.060 Permit requirements.
- 15.34.070 Permit procedure.
- 15.34.080 Term of permit.
- 15.34.090 Exceptions.
- 15.34.100 Performance bond.
- 15.34.110 Amendments to permits.
- 15.34.120 Appeals.
- 15.34.130 Notification to property owners and other land users.
- 15.34.140 Revision of chapter.

##### **15.34.010 Citation and authority.**

The ordinance codified in this title is adopted to establish a regulatory framework for subsequent agreements between the city of Seaside (“city”), the redevelopment agency of the city of Seaside (“City RDA”), the Fort Ord Reuse Authority (“FORA”) and the California environmental protection agency, department of toxic substances control (“DTSC”) related to digging and excavation on approximately one thousand five hundred eighty-one acres of the former Fort Ord military installation (“Fort Ord”) that are known or suspected to be contaminated with ordnance and explosives (“OE”) (Exhibit “A”). This chapter may be cited as the “Ordnance Remediation District Regulations of the City.” (Ord. 924 (part), 2004).

##### **15.34.020 Purpose and intent.**

The United States Army (“Army”) is in the process of transferring portions of the former Fort Ord to the city. Some parcels of the former Fort Ord were contaminated with OE, which is a hazardous waste. The Army will not transfer those parcels until it has cleared those parcels of OE to its standard. Even following the Army’s completion of OE response activities, it is possible that some OE materials may remain on those parcels. The DTSC has statutory responsibility to oversee cleanup of releases of hazardous substances, which includes hazardous waste. DTSC cannot certify that all OE has been cleared and it will require a land use covenant to be recorded with the Monterey county recorder on these parcels to provide additional controls and restrictions to protect the public health and safety. The city will also enter into an agreement with DTSC to provide additional safety measures, reporting, etc. (Ord. 924 (part), 2004).

##### **15.34.030 General.**

The city council finds and determines that those properties formerly included within the Fort Ord military installation which are suspected of containing OE require special standards and procedures for digging and excavation in addition to those contained in the Building and Construction Code, to ensure that:

## City of Seaside Municipal Code

- A. Neither digging or excavation nor development of such properties occurs until ordnance or explosive remediation thereon is completed;
- B. Potential purchasers or developers of sites which may contain OE and those persons whose work at such sites includes disturbing soil, are aware of the potential that OE may be located on these properties and are aware of the requirements for OE precautions prior to any digging, excavation or ground disturbance thereon; and
- C. DTSC should be continuously involved in the establishment of controls for those properties because it has statutory oversight responsibility with respect to hazardous substance response actions. (Ord. 924 (part), 2004).

### 15.34.040 Designation and applicability.

The city council, with the concurrence of DTSC, designates all real property within the city's land use jurisdiction which was formerly part of Fort Ord and which has been identified in the archives search report and supplement, dated 1997, or otherwise identified, as the possible location of unexploded ordnance or explosives as an "ordnance remediation district" ("District"). Such district is depicted on the map included as Exhibit "A" to this chapter and includes all areas on the map that are within map legend designations "OE sites in Seaside" and "first tee boundary," except those OE areas located within map legend designation "parcels retained by DOD."

- A. Such district shall be depicted on the city zoning map by an "ORD" suffix to indicate the existence of ordnance precaution remediation obligations on such property. The city shall notify DTSC of any change in the permitted land uses in the district within thirty days after it adopts any change.
- B. The regulations in this chapter shall apply throughout the district and shall be in addition and subject to all provisions of the Municipal Code including Title 17 -- Zoning and Title 15 -- Building and Construction, Chapter 15.32 -- Standards to Control Excavation, Grading, Clearing and Erosion. (Ord. 924 (part), 2004).

### 15.34.050 Excavation and digging restrictions.

It is unlawful for any person, including utilities, to engage in any of the following activities on any property located within a district unless that person is acting pursuant to a valid permit issued pursuant to this chapter: excavation, digging, development or ground disturbance of any type involving the displacement of ten cubic yards or more of soil. (Ord. 924 (part), 2004).

### 15.34.060 Permit requirements.

An owner or user of real property located within the district who desires to conduct the activities described in Section 15.34.050 of this chapter shall apply to the director of community development for a permit. The application shall be on a form approved by the city, may be combined with an application for grading pursuant to Chapter 15.32 of this code, shall be signed by the permit applicant, and shall contain the following information:

- A. A description of any previous OE excavation or removal activity conducted other than by the Army on the property whose soil is proposed to be excavated, moved or graded;
- B. A description of the property, whose soil is proposed to be excavated, moved or graded. The description shall include a drawing with dimensions to a scale which sets forth the

## City of Seaside Municipal Code

- size and details of all proposed excavation activity, including any proposed cut and fill, trenching, well drilling, mineral excavation, post hole drilling, or other activity of any sort whenever the applicant proposes to disturb ten cubic yards or more of soil;
- C. A statement that the person submitting the application acknowledges liability if the person removes any detected unexploded ordnance or otherwise violates this chapter and/or the permit. The Army will continue to have the liability to remove any ordnance items found. The person submitting the application is responsible to follow the procedures for notification of DTSC and the Army upon finding an ordnance item set out in Section 15.34.070 of this chapter;
  - D. A statement by the person submitting the application that he or she has, within the preceding twelve months, delivered a copy of the safety alert required by Section 15.34.130 of this chapter to everyone whose work at the property described in subsection B of this section includes disturbing soil;
  - E. Any other information which the director of community development may require as pertinent to the determination of the adequacy of the proposed plan;
  - F. Payment of the permit fee, as established by the city council, at the time of filing the application for the permit. (Ord. 924 (part), 2004).

### 15.34.070 Permit procedure.

The director of community development shall review the permit application and shall approve the permit unless evidence is available which indicates that the proposed grading or excavation will create an undue risk to the health and safety of the public at large. Prior to acting on any such permit, the director of community development, in his or her sole discretion, may set and conduct a public hearing for the purpose of receiving comments on the proposed grading and excavation. Any permit issued hereunder shall be subject to the following conditions:

- A. All excavation and grading shall be performed solely in accordance with the permit approved by the city and in accordance with the permit as issued by the city;
- B. Prior to movement of any soil on any property located within the district, the permittee or designee shall personally deliver to each person who intends to work on the property described in the permit the Safety Alert -- Ordnance and Explosives at former Fort Ord which is referenced hereto as Exhibit "C," and explain to each such person the information set forth in that notice;
- C. The permittee may not move or disturb any soil unless the permittee is in compliance with the requirements placed on the property by an agreement executed between the city, the city RDA, FORA and DTSC. The agreement shall, as a minimum, include OE construction support ("construction support") and shall be attached to and become a part of any permit issued pursuant to this chapter;
- D. The permittee shall cease soil disturbance activities upon discovery of any suspected unexploded ordnance. The permittee shall notify the Seaside police department, the Directorate of Law Enforcement at the Presidio of Monterey, the Army and DTSC of any suspected unexploded ordnance discovered during any excavation or soil removal immediately upon discovery. The permittee shall coordinate appropriate response actions with the Army and DTSC;
- E. No later than thirty days following the completion of the permitted soil disturbance activity, the permittee shall prepare and file with the director of community development, the Army and DTSC an after action report that shall state whether and where OE was

## **City of Seaside Municipal Code**

detected and the extent and depth of OE response actions undertaken and completed on the property that is the subject of the permit. The after action report shall be in the form provided as referenced in Exhibit "B" and shall include site maps to illustrate the information contained in the report. All after action reports prepared and filed in accordance with this chapter shall be deemed public records;

- F. The permittee agrees that as a condition of issuance of a permit to defend at its sole expense, indemnify and hold harmless from any liability the city, and reimburse the city for any expenses incurred resulting from or in connection with the approval of the project including any claim, suit or legal proceeding. The city may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this subsection. (Ord. 924 (part), 2004).

### **15.34.080 Term of permit.**

The permit shall be valid for one year from the date it is issued. (Ord. 924 (part), 2004).

### **15.34.090 Exceptions.**

Following consultation with and approval by DTSC, the city council may, upon a finding that the requirements of Section 15.34.070(C) are no longer necessary, designate by resolution any portion of the district as a "limited control district" and/or no longer subject to the provisions of this chapter. The holder of any permit issued for any limited control district shall not be subject to Section 15.34.070(C). (Ord. 924 (part), 2004).

### **15.34.100 Performance bond.**

Upon a finding by the director of community development that a permit should issue for excavation or grading on the proposed site, the director of community development may require that a surety bond, lien or other security guarantee conditioned upon the faithful performance and completion of the permitted excavation activity be filed with the city. Such surety shall be executed in favor of the city and shall be maintained in an amount prescribed by the director of community development sufficient to ensure the completion of the excavation of the site as prescribed in the approved permit. (Ord. 924 (part), 2004).

### **15.34.110 Amendments to permits.**

Request for amendments to an approved excavation permit may be submitted to the director of community development at any time, detailing proposed changes from the original permit. Deviations from the original permit shall not be undertaken until such amendment has been approved by the city in writing. Amendments to an approved permit shall be approved by the same procedure as prescribed for the approval of the original excavation permit. (Ord. 924 (part), 2004).

### **15.34.120 Appeals.**

Any person aggrieved by any determination of the director of community development in exercise of the authority granted in this chapter shall have the right to appeal to the city council.

## **City of Seaside Municipal Code**

Any appeal setting forth the contested decision and the reasons for contesting same must be filed within ten working days after the posting of the director of community development's decision at the places designated by Section 1.08.020 of this code. The city council shall render its decision within sixty days following the filing of the notice of appeal. The council may affirm, reverse or modify the decision of the director of community development. The council action shall be final upon issuance of its decision. (Ord. 924 (part), 2004).

### **15.34.130 Notification to property owners and other land users.**

- A. The city shall notify the owners of property designated as ordnance remediation districts and those utilities known to be providing service within the city, of the requirements of this chapter and provide those persons with the Safety Alert -- Ordnance and Explosives at Former Fort Ord, which is referenced hereto as Exhibit "C." The city shall annually notify the owners of the property as shown on the equalized tax rolls of the requirements of this chapter and provide those persons with a copy of the notice. Failure of any owner, occupant or user of such land to receive the notification shall not relieve that person from responsibility for compliance with this chapter.
- B. All owners, occupants or users of land subject to this chapter, including utilities, shall notify any subsequent owners, assigns, lessees or users of such land of the requirements of this chapter. Notification shall be made prior to transfer of the property in question.
- C. All persons identified in subsection A of this section shall deliver, at least annually, a copy of the safety alert to everyone whose work at OE sites includes disturbing soil and shall explain the contents thereof to those persons. (Ord. 924 (part), 2004).

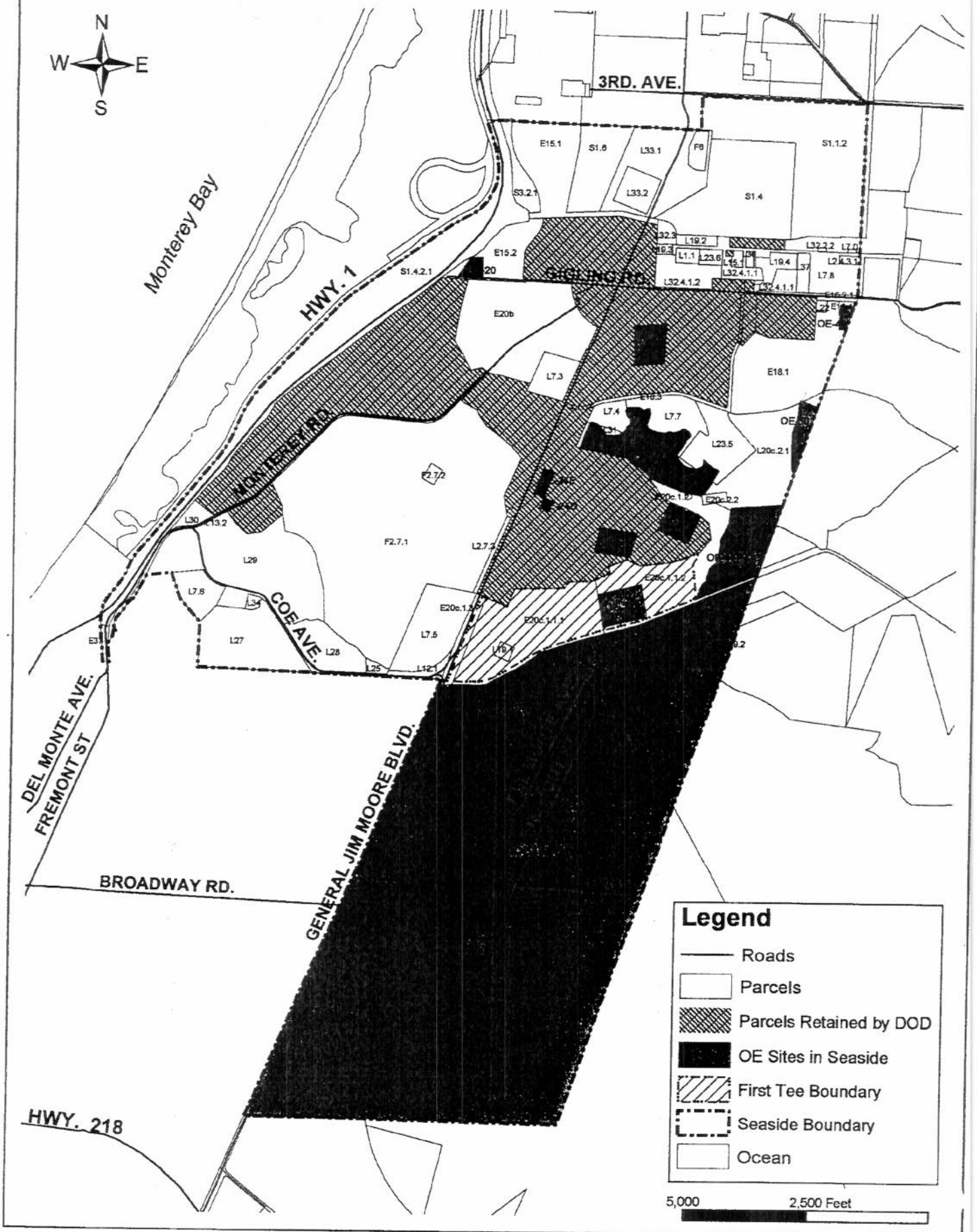
### **15.34.140 Revision of chapter.**

This chapter shall not be revised without prior written notice to the DTSC. (Ord. 924 (part), 2004).

Exhibit A

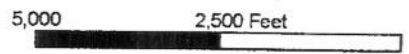
Ordnance Remediation ("ORD") District Map

The Ordnance Remediation District includes all areas on the following map that are designated "OE Sites in Seaside" and "First Tee Boundary", except those OE areas located within areas designated "Parcels Retained by DOD"



**Legend**

- Roads
- Parcels
- ▨ Parcels Retained by DOD
- OE Sites in Seaside
- ▧ First Tee Boundary
- - - Seaside Boundary
- Ocean



**Exhibit B**

**City of Seaside**  
**OE Construction Support After Action Report Form**

1. Date \_\_\_\_\_.
2. Date Soil Disturbance occurred \_\_\_\_\_.
3. Were OE items or items suspected to be OE items found during the period of excavation?

No \_\_\_\_ If no, please skip to No. 7 below.

Yes \_\_\_\_ Please continue, and complete Part A of the attached Ordnance and Explosives Incident Reporting Form and deliver to the Presidio of Monterey Police Department.

4. Describe the OE items and suspected OE items below. If necessary, attach additional sheet.

Description of item found. Include whether the item was live, or whether the item was suspected OE, and proven not to be.	Depth below original round surface at which the item was found.	GPS coordinated of the item

5. Attach a site map with GPS coordinates describing items listed in #4 above.
6. Describe the final disposition of the items found.
7. By my signature below, I certify that the above information is true.

\_\_\_\_\_  
(Signed and dated by the UXO technician)



Exhibit C

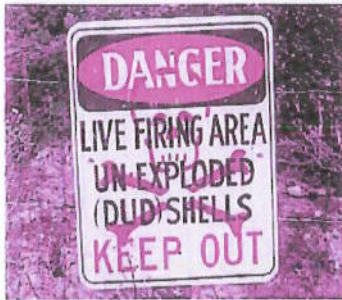
Safety Alert – Ordnance and Explosives at Former Fort Ord

## DANGER

Areas where unexploded ordnance may be present are posted with DANGER signs. Do not enter areas where you see signs like the ones below. Off-road vehicular traffic is prohibited on the former Fort Ord.

## PELIGRO

Las zonas donde podría estar presente material de artillería que aún no ha explotado están marcadas con letreros de PELIGRO. No entre en zonas donde vea letreros como los que se muestran abajo. El tráfico automotor fuera de la vía principal está prohibido en el antiguo Fort Ord.



*If you have questions regarding the ordnance and explosives cleanup at the former Fort Ord, please contact:*

*Si tiene preguntas relacionadas con los armamentos y la erradicación de explosivos en el antiguo Fort Ord, por favor póngase en contacto con:*

Directorate of Environmental and Natural Resources  
Management at the Presidio of Monterey **(831) 242-7924**

## SAFETY ALERT

### Ordnance and Explosives at former Fort Ord

If you discover any object that resembles those shown inside this brochure

**DO NOT TOUCH IT!**

Instead, **MARK THE LOCATION**, and  
**CALL THE FEDERAL POLICE**

at (831) 242-7851 or 242-7852 to report what you've found.

## ALERTA DE SEGURIDAD

### Material de artillería y explosivos en el antiguo Fort Ord

Si descubre cualquier objeto que se asemeje a los que se muestran en este folleto

**¡NO LO TOQUE!**

En su lugar, **MARQUE LA UBICACIÓN**, y  
**LLAME A LA POLICÍA FEDERAL**

al (831) 242-7851 ó 242-7852 para reportar lo que encontró.



# HISTORY

As an active U.S. Army post, Fort Ord's mission was to train soldiers to protect the interests of the United States. An important part of the mission was infantry and artillery training. As a result of this training, unexploded ordnance remains on portions of the now-closed Fort Ord.

After reviewing the records of past training activities, the Army identified areas where ordnance may still remain and began conducting investigations and removing ordnance from those areas. Cleanup of all identified areas will not be completed for many years.

END OF DOCUMENT

If you find an object (or even a piece of one) that resembles those shown in the photograph —

**Don't Touch It  
Mark the Location  
Call the Federal Police**

at (831) 242-7851 or 242-7852

Si descubre cualquier objeto que se asemeje a los que se muestran en este photographía —

**¡NO LO TOQUE!  
MARQUE LA UBICACIÓN  
LLAME A LA POLICÍA FEDERAL**

al (831) 242-7851 ó 242-7852.



**APPENDIX G**

**Safety Alert – Ordnance and Explosives at former Fort Ord Pamphlet**

## DANGER

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*Si tiene preguntas relacionadas con los armamentos y la erradicación de explosivos en el antiguo Fort Ord, por favor póngase en contacto*

**Fort Ord Base Realignment and Closure Field Office  
831-393-1284**

## SAFETY ALERT

### Ordnance and Explosives at former Fort Ord

If you discover any object that resembles those shown inside this brochure

#### **DO NOT TOUCH IT!**

Instead, **MARK THE LOCATION,**  
and **CALL THE POLICE - 911**

to report what you've found.

## ALERTA DE SEGURIDAD

### Material de artillería y explosivos en el antiguo Fort Ord

Si descubre cualquier objeto que se asemeje a los que se muestran en este folleto

#### **¡NO LO TOQUE!**

En su lugar, **MARQUE LA UBICACIÓN,**  
y **LLAME A LA POLICÍA - 911**



# HISTORY

As an active U.S. Army post, Fort Ord's mission was to train soldiers to protect the interests of the United States. An important part of the mission was infantry and artillery training. As a result of this training, unexploded ordnance remains on portions of the now-closed Fort Ord.

After reviewing the records of past training activities, the Army identified areas where ordnance may still remain and began conducting investigations and removing ordnance from those areas. Cleanup of all identified areas will not be completed for many years.

If you find an object (or even a piece of one) that resembles those shown in the photograph —

**Don't Touch It  
Mark the Location  
Call 911**

Si descubre cualquier objeto que se asemeje a los que se muestran en este photographía —

**¡NO LO TOQUE!  
MARQUE LA UBICACIÓN  
LLAME AL 911**



75mm Projectile



40mm Projectile



MK2 Hand Grenade



M18 Smoke Grenade



M67 Hand Grenade



37mm Projectile



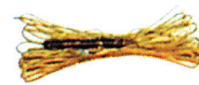
M127 Slap Flare



Rifle Smoke Grenade



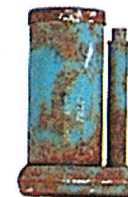
M1 Firing Device



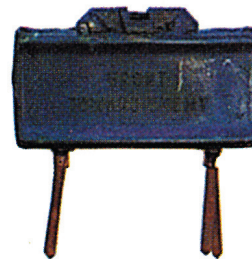
Electric Firing Device



Grenade Fuse



Bounding Anti-Personnel Mine



Claymore Mine



Firing Device



3.5" Rocket



60mm Mortar



3" Anti-Tank Rifle Grenade



22mm Sub Cal for 81mm Mortar



81mm Mortar



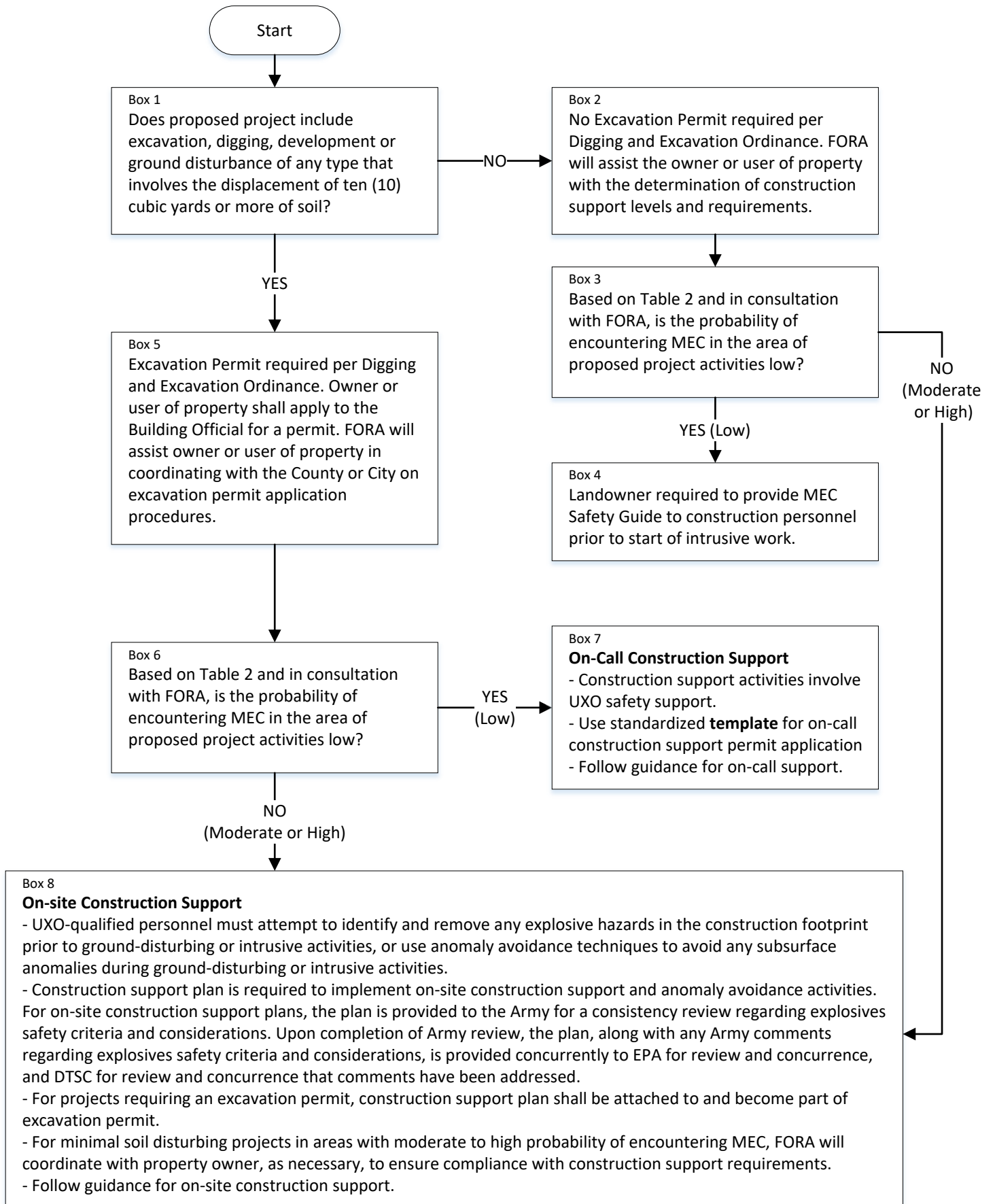
2.36" Rocket

## APPENDIX H

### Decision Trees

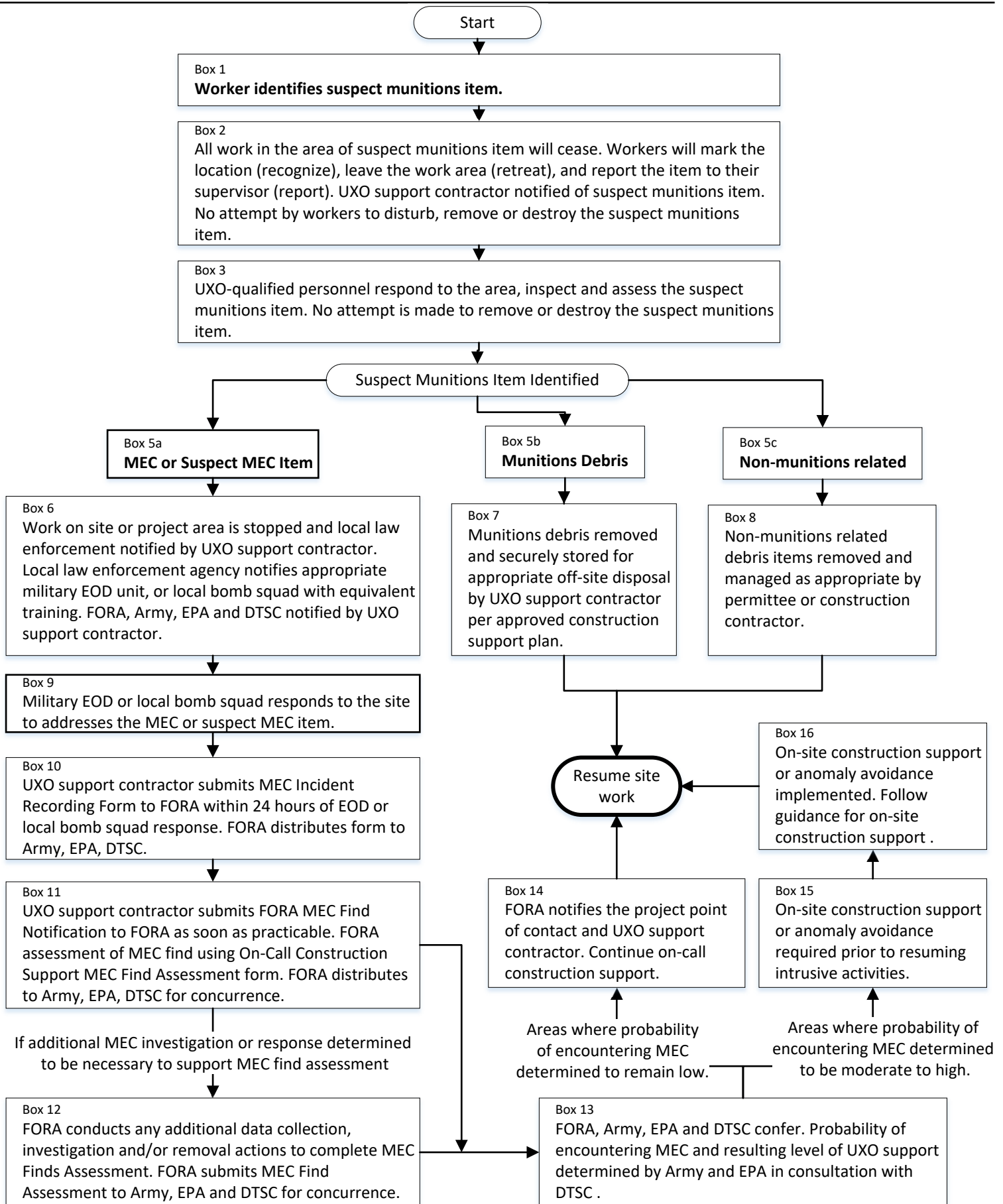
Construction Support Implementation Requirements  
On-site Construction Support Process  
Response to Suspect Munitions during On-Call Construction Support

# Decision Tree: Construction Support Implementation Requirements

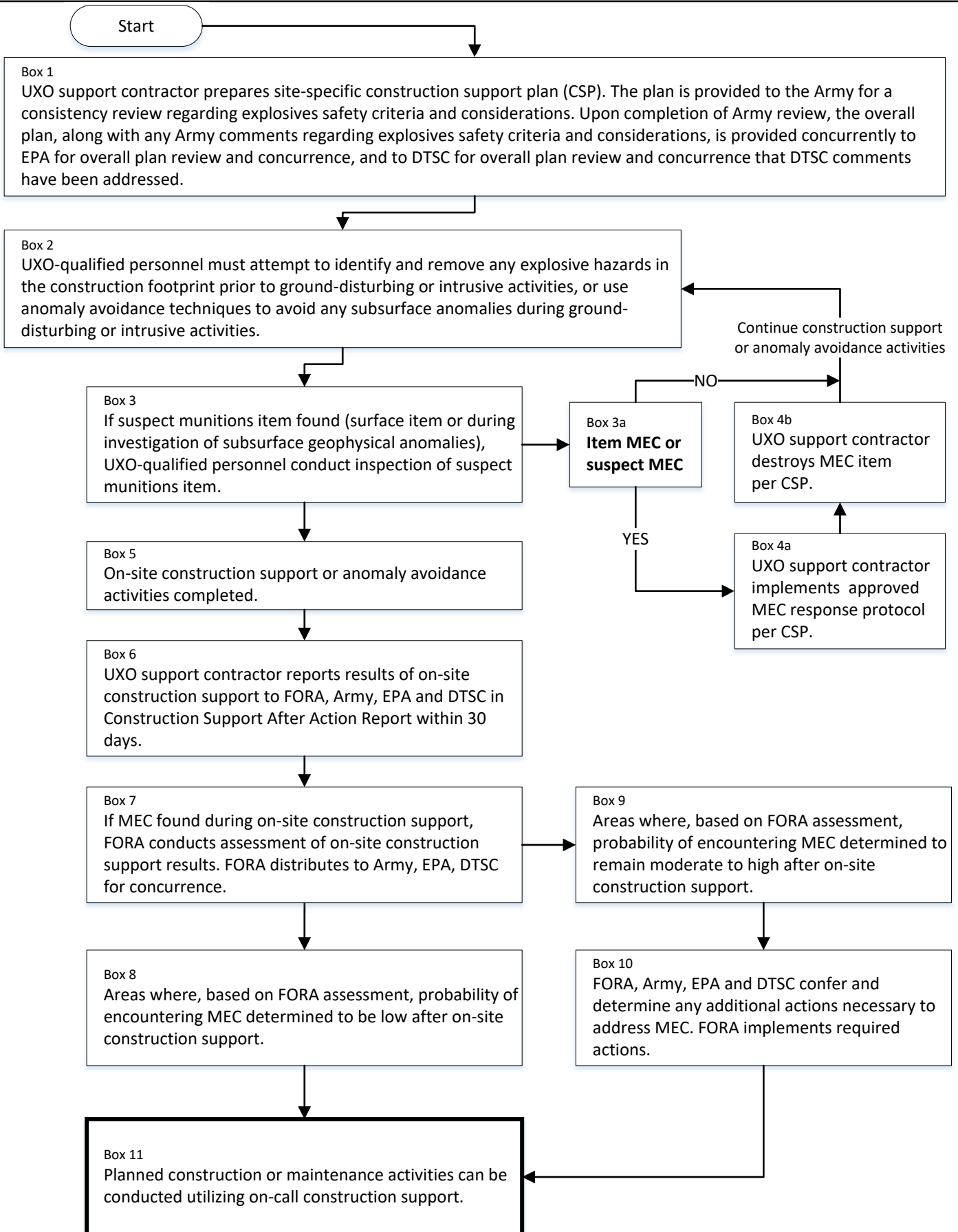




# Decision Tree: Response to Suspect Munitions during On-Call Construction Support



# Decision Tree: On-site Construction Support Process



## APPENDIX I

### Templates and Forms

On-call Construction Support Plan Template

MEC Find Notification to FORA Form

FORA MEC Finds Assessment Form

Construction Support After Action Report Form

Army's Fort Ord MEC Incident Recording Form

## On-Call Construction Support Plan

[Project Name]

[Plan Date]

Prepared for:

[Property Owner / Excavation Permit Holder Names & Addresses]

Prepared by:

[UXO Support Contractor Name & Address]

Instructions: This template has been developed to facilitate the development of Construction Support Plans to implement on-call construction support to fulfill the requirement for UXO construction support on certain areas of the Former Fort Ord, Monterey County, California. Construction support is required on those properties formerly within the Fort Ord military installation that are suspected of containing UXO.

This template is specifically designed for projects at sites where the probability of encountering MEC is low and on-call construction support is appropriate. The template is intended to be completed by UXO support contractors to guide the development of UXO Construction Support Plans. However, the template is only a guide. The appropriate level of construction support and procedures to implement support are both project- and site-specific. It is anticipated that project-specific requirements and procedures may vary from those identified in this template.

The template includes instruction boxes to provide guidance in developing each section of the plan; black text as suggested basic text and blue text to be replaced with project-specific information.

On-call construction support plans must be provided to the Army, EPA and DTSC for review and comment. Upon resolution of comments, the final construction support plan must be provided to the Army, EPA and DTSC for concurrence that comments have been resolved. The on-call construction support plan will be final upon resolution of Army, EPA, and DTSC comments.

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## 1. INTRODUCTION

Instructions: In this section, provide general project identification information along with confirmation that the current probability of encountering MEC on the site is low and on-call construction support is appropriate. Suggested text documents the purpose of the plan, regulatory authorities, plan submission and finalization, and general disclaimer on the use of this template.

This On-Call Construction Support Plan (CSP) has been prepared to support the [project name]. The [project name] is being conducted by the [property owner name/permittee name] on [enter Former Fort Ord Munitions Response Area (MRA) name]. The [MRA name] is shown in Figure 1 [Project Location Map]. The [project name] is located in [local jurisdiction name(s)] jurisdictional boundaries and subject to excavation permit requirements as identified in [enter local jurisdiction(s) municipal digging and excavation on Former Fort Ord Ordinance code] (i.e., the digging and excavation ordinance). The purpose of this plan is to identify the construction support requirements and activities for ground-disturbing and intrusive activities conducted within the [MRA name] MRA boundaries during the [project name] in accordance with the digging and excavation ordinance.

The project site occupies land that is formerly part of the former Fort Ord Army Installation and was historically used for military training. Because of the former military use at the project site, munitions response actions were completed to remove detected Munitions and Explosives of Concern (MEC). Even with completion of munitions response actions, there is potential for MEC to be encountered.

The probability of encountering MEC on the project site is considered low; therefore, on-call construction support is appropriate for this construction project (Section 2). Under certain circumstances, anomaly avoidance techniques will be implemented by Unexplode Ordnance (UXO)-qualified personnel to avoid subsurface anomalies during specific ground-disturbing or intrusive activities (e.g., [specific activities were anomaly avoidance techniques can be implemented]), if appropriate (Section 3.2). The basis for the low probability of encountering MEC was determined through review of the of [reference source of low probability determination (Remedial Investigation / Feasibility Study [RI/FS]), Land Use Control Implementation Plan and Operation and Maintenance Plan [LUCIP/OMP], etc.), including determinations made by the County or City in consultation with DTSC and any FORA assessments or determinations].

The federal, state and local government agencies (i.e., U.S. Department of the Army [Army], U.S. Environmental Protection Agency [EPA], and California Department of Toxic Substances Control [DTSC]) and other interested parties involved with this CSP for the [project name] are summarized below:

- Army – Ensures FORA [or FORA’s Successor in Interest name] compliance with the ESCA
- EPA – Provides regulatory review of this CSP
- DTSC – Provides regulatory review of this CSP

- Property Owner – Ensures [permittee name] is in compliance with the [local jurisdiction name(s)] digging and excavation ordinance requirements; and provides the UXO support contractor to support preparation and submittal of this CSP, and associated reporting, to regulatory agencies and the Army for comment and/or concurrence
- FORA [or FORA’s Successor in Interest name] (as party to the ESCA and Administrative Order on Consent [AOC]) – Conducts MEC find assessment for the probability of encountering MEC in the event confirmed MEC or suspect MEC find is encountered during activities related to this CSP and any additional requirements to ensure that the probability of encountering MEC is low prior to construction activities resuming following a confirmed MEC or suspect MEC find
- [local jurisdiction name(s)] – Enforces the digging and excavation ordinance
- [permittee name] – Complies with the [local jurisdiction name(s)] digging and excavation ordinance
- [construction contractor] – Complies with this CSP on behalf of [permittee name] in support of the [project name]

This plan is limited to on-call construction support [and anomaly avoidance, if applicable] during [project name] ground-disturbing and intrusive activities to be conducted in the [insert general area; i.e., north, south, central, etc.] of the [MRA name] (Figure 2). In addition, this plan describes the munitions recognition and safety training program to be provided to construction workers conducting ground-disturbing and intrusive activities, the procedures for conducting construction support, and the procedures for initiating a response if a suspect munitions is encountered. The construction support requirements that will be implemented for the [project name] include:

- Munitions recognition and safety training – to ensure that workers involved in ground-disturbing or intrusive activities are educated about the possibility of encountering munitions and to ensure that workers involved in ground-disturbing or intrusive activities know to stop the activity if a suspect munitions is encountered and report the suspect munitions to the appropriate personnel.
- On-call construction support and anomaly avoidance – to ensure ground-disturbing or intrusive activities are coordinated with UXO-qualified personnel, ensure that encountered suspect munitions items are evaluated as confirmed or suspect MEC, munitions debris (MD) or non-munitions debris (e.g., metal scrap), and that suspect munitions items are reported and managed appropriately. No attempt will be made by workers to disturb, remove, or destroy a suspect munitions item. UXO-qualified personnel may visually assess the suspect munition item to determine whether it poses or may pose an explosive hazard. Under certain circumstances, anomaly avoidance techniques will be implemented by UXO-qualified personnel to avoid subsurface anomalies during specific ground-disturbing or intrusive activities (e.g., [specific activities were anomaly avoidance techniques can be implemented]), if appropriate.

This CSP will be present at the project site with the [project name] construction contractor responsible personnel during ground-disturbing or intrusive activities on former FORA ESCA property. This CSP will also be present with the UXO-qualified personnel at all times during ground-disturbing or intrusive activities on former FORA ESCA property. Copies of the CSP will be provided to responsible personnel for [property owner name/permittee name], [local jurisdiction name(s)], [UXO Support Contractor], FORA [or FORA's Successor in Interest name], Army, EPA and DTSC. This CSP will be amended as site conditions change, if determined to be necessary.

## 1.1. Site Description

**Instructions:** In this section provide a brief description of the location of the property on which the project will occur including: 1) a locator map (see Figure 1) and 2) project site map (Figure 2). Provide a description of the project footprint and detailed description of the areas where intrusive or ground-disturbing activities will occur. Identify any building, roadway or utility demolition activities anticipated during the project. Identify any areas where temporary ground-disturbing activities may occur during the project. Provide any additional Figures necessary to identify the extent of the project and locations of all potential intrusive or ground-disturbing activities, including impacts to adjacent property.

The project site is located in the [MRA name and parcel number], which is located in the [insert general area; i.e., north, south, central, etc.] portion of the former Fort Ord (Figure 1). The project site is within the boundaries of the [MRA name] [insert designated land use area] (Figure 2), which is wholly contained within the jurisdictional boundaries of the [local jurisdiction name(s)]. The [MRA name] is bordered by [insert bordering land marks (i.e., city name, road name, MRAs, etc.)].

The portion of the project site located on former FORA ESCA property generally consists of [insert types of vegetation habitats identified for the area (i.e., maritime chaparral with patches of non-native grassland and scattered stands of coastal and inland coast live oak woodlands)] [reference source (i.e., RI/FS, LUCIP/OMP, etc.)].

## 1.2. Construction Project Description

**Instructions:** In this section provide a brief overview of the construction project that this UXO Construction Support Plan will be supporting. Describe the footprint of the project, general construction sequence, construction schedule and any other project-specific information pertinent to providing UXO construction support. Describe major intrusive or ground-disturbing activities, the soil management plan, and their timing within the construction sequence. Describe any vegetation cutting or removal activities to be conducted.

[Property owner name/permittee name] is constructing [insert what is being constructed; i.e., housing development, commercial development, well development, etc.] as part of the [project name] (Figures 2 and 3). The [project name] will be conducted [insert brief project description]. A description of the ground-disturbing and intrusive activities, which will exceed 10 cubic yards, and the soil management plan are provided below in Sections [insert relevant section number(s)] and in



Attachment A, if applicable. The [project name] is anticipated to start in [insert anticipated start month and year] and be completed in [insert anticipated completion month and year].

### 1.2.1 Ground-Disturbing and Intrusive Activities

[Insert type of ground-disturbing and intrusive activities to be conducted (i.e., vegetation clearing, grading, drilling, etc.)] to include the following (Figure 3):

- [insert bullet list of specific ground-disturbing and intrusive activities to be conducted (i.e., surveying and boundary staking, grading of existing access roads, if necessary, and clearing, grubbing and grading of work area, etc.)]

[Permittee name anticipates having UXO-qualified personnel provide anomaly avoidance for [insert specific activities where anomaly avoidance techniques can be implemented, if applicable] to ensure potential subsurface anomalies are avoided (Section 3.2)]. On-call construction support will be provided for the ground-disturbing and intrusive activities (Section 3). No attempt will be made by workers to disturb, remove, or destroy a suspect munitions item.

### 1.2.2 Soil Management Plan

Ground-disturbing and intrusive activities within the former FORA ESCA property are subject to the following soil management practices [examples are provided below, but practices are project- and site-specific]:

- Soils within the project site may not leave the [MRA name], with the exception of small quantities of soil to allow for laboratory analysis under a chain-of custody protocol, for purposes of well design
- Importing fill material, if needed, will be conducted in accordance with the Department of Toxic Substance Control (DTSC) Information Advisory for Clean Imported Fill Material.
- Separate soil management practices are established for the residential reuse areas and non-residential development reuse areas ensuring that soils from non-residential development reuse areas are not staged, stockpiled or spread within the designated residential reuse areas
- Grading and compacting of soil along access routes will remain within the designated reuse areas
- Excess soils and cuttings generated during ground-disturbing and intrusive operations will be stockpiled on the ground surface within the designated work area.
- Best management practices will be implemented to avoid erosion
- Prior to project completion stockpiles will be spread evenly within the designation work area insuring soils are not relocated outside the designated reuse area.

### 1.3. Organizational Roles and Responsibilities

[Property owner name/permittee name] and their construction contractors are the primary organizations involved with construction activities and have their own construction-related roles and responsibilities. [Property owner name/permittee name] and their construction contractors will require site visitors and subcontractors to check in with the field office prior to entering the project site and will ensure that all project person expected to conduct ground-disturbing and intrusive activities have received munitions recognition and safety training prior to allowing site access.

The following table identifies and documents the general roles and responsibilities of both the construction support contractor (i.e., UXO-qualified personnel) and [property owner name/permittee name] and their construction personnel during ground-disturbing and intrusive activities on the project site.

Project Personnel	Role	Responsibilities
[Construction contractor] On-Site Construction Supervisor	Site Access  On-call construction support plan compliance  Primary contact to coordinate UXO-qualified personnel response	<ul style="list-style-type: none"> <li>• Maintain site access restrictions</li> <li>• Coordinate and ensure munitions recognition and safety training has been received by any and all workers expected to conduct ground-disturbing and intrusive activities</li> <li>• Maintain munitions recognition and safety training records</li> <li>• If a suspect munitions item is encountered, ensure area of item is secured and clearly marked to prevent unauthorized access to the location, and all site workers have vacated the area</li> <li>• Contact UXO-qualified personnel when a suspect munitions item is encountered</li> <li>• Notify construction workers when work can resume</li> </ul>
Ground-disturbing and/or Intrusive Site Workers	Munitions recognition and safety training  Suspect munitions item notification to Site Construction Supervisor	<ul style="list-style-type: none"> <li>• Receive and acknowledge an understanding of the munitions recognition and safety training</li> <li>• Stop work if a suspect munitions item is encountered, retreat to a safe location, and report encounter to the site construction supervisor</li> <li>• Do not re-enter the area of the suspect munitions item until authorized by the site construction supervisor</li> </ul>
UXO Support Contractor	Munitions recognition and safety training confirmation	<ul style="list-style-type: none"> <li>• Confirm munitions recognition and safety training was provided to workers expecting to conduct ground-disturbing or intrusive activities</li> </ul>

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	<p>Identify construction support requirements</p> <p>Construction support plan implementation and compliance</p>	<ul style="list-style-type: none"> <li>• Review munitions-related background and munitions use information to verify probability of encountering MEC</li> <li>• Identify appropriate construction support requirements for ground-disturbing and intrusive activities</li> <li>• Develop construction support plan</li> <li>• Ensure proper implementation and compliance of the construction support plan</li> <li>• Complete Army MEC Incident Recording Form for confirmed or suspect MEC items</li> <li>• Complete FORA MEC Notification Form for confirmed or suspect MEC items</li> <li>• Complete FORA MEC Assessment Form for confirmed or suspect MEC items</li> <li>• Complete Construction Support After Action Report</li> </ul>
<p>UXO-Qualified Personnel (UXO Technician II or III) – [UXO Contractor]</p>	<p>Construction support during ground-disturbing or intrusive activities</p> <p>Notify Local Law Enforcement Agency of confirmed or suspect MEC</p>	<ul style="list-style-type: none"> <li>• Respond to suspect munitions items, ensure that suspect munitions items are evaluated and classified as confirmed or suspect MEC, MD or non-munitions debris (e.g., scrap metal). No attempt will be made to disturb, remove, or destroy a suspect munitions item.</li> <li>• Manage removal, storage, and appropriate off-site disposal of MD finds</li> <li>• Notify [local jurisdiction name(s)] Local Law Enforcement Agency of confirmed or suspect MEC finds</li> <li>• Notify UXO Support Contractor and [property owner name/permittee name] of confirmed or suspect munitions finds</li> </ul>
<p>[Property Owner Name/Permittee Name]</p>	<p>Construction support plan compliance</p>	<ul style="list-style-type: none"> <li>• Ensure compliance of the construction support plan</li> <li>• Review and submit the Army MEC Incident Recording Form for confirmed or suspect MEC items</li> <li>• Review and submit FORA MEC Notification Form for confirmed or suspect MEC items</li> <li>• Review and submit FORA MEC Assessment Form for confirmed or suspect MEC items</li> <li>• Review and submit Construction Support After Action Report</li> </ul>
<p>FORA [or FORA's Successor in Interest name]</p>	<p>Munitions recognition and safety training</p>	<ul style="list-style-type: none"> <li>• Provides munitions recognition and safety training to workers expecting to conduct ground-disturbing or intrusive activities</li> </ul>

	materials and access  Construction support plan compliance	<ul style="list-style-type: none"><li>• Ensure compliance of the construction support plan</li><li>• MEC find and probability of encountering MEC assessment for confirmed MEC or suspect MEC find, and document the assessment and proposed determination on the FORA MEC Find Assessment Form for submittal to Army, EPA, and DTSC.</li></ul>
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Additional information on construction support, including on-call construction support after-action reporting, and responses to suspect munitions items is provided in Sections 3 and 4 of this CSP, respectively.

## 2. MILITARY MUNITIONS BACKGROUND

Instructions: Section provides a summary of the military munitions background information considered by the UXO construction support contractor in preparing this plan. The purpose of this section is to document the known historical military training on the site, types of munitions known to be used at the site and the munitions investigation and removal actions conducted. Information on the types of munitions previously used and removed from the site, along with the level of previous investigation and MEC removal actions. This information provides the basis for the UXO Construction Support Plan. This information is available in various document contained in the Fort Ord Administrative Record, including the Remedial Investigation / Feasibility Study, Proposed Plan, and Record of Decision documents.

The [project name] is located within the [general area; i.e., north, south, central, etc.] portion of the [MRA name] where MEC were found and MEC removal actions were completed. The [general area; i.e., north, south, central, etc.] portion of the [MRA name] contains portions of munitions response sites (MRSs) that were used for military training with military munitions (Section 2.1). These MRSs were the subject of investigations and removal actions with all detected MEC removed (Section 2.2). In addition, the previous military use of the area and effectiveness of the MEC removal actions to reduce MEC risks to levels acceptable for construction and maintenance personnel with the appropriate levels of construction support has been documented for the [MRA name], which encompasses the [project name] site (Section 2.2).

### 2.1. Historical Military Training

Instructions: Provide a brief summary of the types of military training that historically occurred on the project site, the types of munitions used as these are items most likely to be encountered during construction. Include in the summary identification of Munitions Response Sites (MRS) present on or near the project site and provide a brief description of each. Provide a Table or listing identifying the types of munitions and munitions related debris most likely to be encountered during the project. Do not submit a full accounting of every munitions item removed from the site.

The [MRA name] is approximately [insert acreage of MRA] acres in size and had previously been used for [insert historical military use of the MRA per the reference source (RI/FS, LUCIP/OMP, etc.)]. [insert number munitions response sites (MRSs) located within the MRA and identify by name (ex: MRS-42)] with historical ranges and uses were identified in the project site (Figure 4) and are as follows:

- [insert bullet points identifying ranges and types of historical training conducted (i.e., troop training, practice hand grenade training, etc.)]

The types of MEC items most likely to be encountered within [X feet] of the project site include, but are not limited to, the following:

- [List types of MEC items encountered at the site]

## 2.2. Summary of Previous Munitions Response Actions

Instructions: Provide a brief summary of the munitions response actions conducted on the site, including the date of the action, objective of the action and MEC detection instruments used. Identify any areas where previous MEC removal actions were not completed (i.e., under roadways, building or other obstructions) and any areas with potential for uncertainty or elevated concern regarding potential for residual MEC to be present (i.e., tree roots, steep slopes or other potential technical challenges). Provide a scale map of the project site with plots of recovered MEC items and description. Map should ideally include an overlay of the Army 100x100 foot grid system with reference grid numbers. This map will be used to plot and report any MEC items found during construction efforts and by FORA for MEC find assessment.

The [reference source of MEC data and MEC-related risks (RI/FS, LUCIP/OMP, etc.)] summarized the available data and evaluated MEC-related risks for the [MRA name]. The following bullet points summarize the MEC investigation and removal actions conducted at the project site based on the following referenced documents and shown on Figure 4:

- [list and provide brief description of all relevant MEC investigations conducted for the project site]

The MEC recovered during previous investigation and removal actions within the project site are shown in Figure 5.

Based on an evaluation of the [reference source of MEC data and MEC-related risks (RI/FS, LUCIP/OMP, etc.)], the following conclusions support a low probability of encountering MEC determination in the [project name] construction areas:

- [use bullet points to summarize the reference source probability of encountering MEC determination conclusions]

### 3. CONSTRUCTION SUPPORT PROCEDURES

Instructions: This section identifies activities to be conducted during on-call construction support and procedures for conducting them. The template provides minimum requirements and should be considered a baseline. The determination of UXO construction support procedures is site- and project-specific and must be made by the UXO support contractor with review and concurrence from the Army, EPA and DTSC. Additional procedures and requirements may be added to those identified in this template, based on site-specific considerations including the desire to minimize potential disruptions to project field activities and construction schedules.

Training and construction support will be provided for ground-disturbing and intrusive activities to fulfill the requirements of the excavation permit under the [local jurisdiction name(s)] Excavation and Digging on the Former Fort Ord Ordinance [insert jurisdiction name(s) ordinance code], and includes:

- Munitions Recognition and Safety Training (Section 3.1)
- On-Call Construction Support (Section 3.2)
- After-Action Reporting (Section 3.3)

#### 3.1. Munitions Recognition and Safety Training

Excavation permitting requirements indicate that all personnel involved in ground-disturbing or intrusive activities obtain munitions recognition and safety training. Site workers involved in ground-disturbing or intrusive activities will be provided munitions recognition and safety training by FORA [or FORA's Success in Interest name] in English and Spanish (translation of additional languages may be available upon request). The objective of munitions recognition and safety training is to ensure that site workers involved in ground-disturbing or intrusive activities are educated about the possibility of encountering MEC and ensure that they stop ground-disturbing or intrusive activities when suspect munitions are encountered.

The munitions recognition and safety training is provided through a web-based training video that covers the below topics:

- Background Information
  - Who is the training for and why is training needed?
  - What are munitions and types of munitions used on Fort Ord?
  - What was done to remove munitions?
  - If munitions cleanup occurred, why training is still needed?
  - What should you do if you find a suspect munitions item?
- Munitions recognition and hazard awareness
  - Dangerous items may not look dangerous

- Fort Ord specific munitions recognition (by type)
- Munition hazard identification
- Details of munitions safety – emphasizing the 3Rs
  - Recognize (when you may have encountered a munitions item and that munitions are dangerous)
  - Retreat (do not approach, touch, remove, or disturb it, but carefully leave the area)
  - Report (notify your site supervisor to contact the UXO-qualified personnel)

[Property owner name/permittee name] and their construction contractors will ensure that site workers conducting ground-disturbing or intrusive activities have received the required munitions recognition and safety training from FORA [or FORA's Successor in Interest name]. Site workers receiving munitions recognition and safety training will be required to log-in to the web-based training acknowledging their attendance and successful completion of the training and associated knowledge checks to demonstrate an understanding of the training material. The training records are required to be maintained by each contractor on site and be available for inspection upon request by the Army, EPA and/or DTSC. Copies of the training records will also be maintained by [property owner name/permittee name] and provided to the UXO-qualified personnel for tracking and on-call construction support after-action reporting.

### 3.2. On-Call Construction Support

Instructions: In this section identify the activities to be conducted by UXO-qualified personnel to complete the construction support requirements. Provide standard operating procedures (SOPs) where appropriate as Attachments to the Construction Support Plan.

This section presents procedures for implementing on-call construction support for a project site where the probability of encountering MEC is low (Section 2). On-call construction support is being provided by UXO-qualified personnel consistent with safety criteria and considerations provided in Department of Defense (DoD) and Army explosives safety standards and guidelines and will consist of UXO-qualified personnel (UXO Technician II or III. UXO-qualified personnel will possess the appropriate training to include 40-hour Hazardous Waste Operations and Emergency Response and associated 8-hour Hazardous Waste Operations and Emergency Response refresher course (within the past 12 months), and appropriate qualifications of an UXO Technician II or III. UXO-qualified personnel will comply with any [permittee name] and their construction contractors approved safety plans and also conduct responses in accordance with applicable company health and safety requirements.

UXO-qualified personnel will be on standby (i.e., on call) and available to assist if a suspect munitions item is encountered. Support can be from offsite when called or be on location and available to provide immediate support if a suspect munitions item is encountered. [permittee and their construction contractors may elect to have UXO-qualified personnel available on-location for a portion of the ground-disturbing and intrusive activities to expeditiously facilitate a response if a



suspect munitions item is encountered (Section 4.1).] The UXO-qualified personnel responsibilities will include the following tasks:

- Maintain a copy of this CSP while on-location and in-hand at all times while on-call
- Maintain a copy of Munitions Recognition and Safety Training attendance logs
- Conduct anomaly avoidance activities if applicable
- If on the project site, attend daily informational and/or tailgate safety briefings conducted by [permittee name] and their construction contractors
- Respond to suspect munitions items as described below and in Section 4 of this CSP
- Produce daily field reports of on-call/on-location activities and submit to the [property owner name/permittee name] on a weekly basis
- After-action reporting to construction support contractor [UXO support contractor name] as described in Section 3.3

[insert example, if applicable: Anomaly avoidance will consist of a technology-aided surface inspection using a handheld geophysical detection instrument (e.g., magnetometer and Whites All-Metals detector) for certain ground-disturbing/intrusive activities to avoid contact with potential subsurface anomalies. If an anomaly is detected, the anomaly location will be cordoned off, if necessary, to prevent disturbance and ground-disturbing/intrusive activities will be relocated in coordination with project personnel.]

If a suspect munitions item is encountered during ground-disturbing or intrusive activities, it is imperative that the item not be disturbed and be reported immediately to the site construction supervisor. Workers should:

- Mark or otherwise note the location of the suspect munitions item (Recognize)
- Stop work, take a photograph of the item, if possible, but do not approach the item to get a better view, and leave the work area (Retreat)
- Report the suspect munitions item to their on-site construction supervisor (Report)

The site construction supervisor will ensure that all construction-related activities within a [X-foot area] of the suspect munitions item cease, the [X-foot area] area is cleared of all workers, and the [X-foot area] area is secured from unauthorized entry. The on-site construction supervisor will then contact the UXO-qualified personnel for support. [Insert rationale for specified stop work area.]

UXO-qualified personnel will respond to the area, and inspect and assess the suspect munitions item. No attempt will be made by workers to disturb, remove, or destroy the suspect munitions item. UXO-qualified personnel will ensure that encountered suspect munitions items are evaluated and classified as confirmed or suspect MEC, MD or non-munitions related debris (e.g., scrap metal). UXO-qualified personnel may visually assess the suspect munitions item during inspection and will follow the appropriate procedure identified in Section 4 of this CSP, which generally include:

- If the encountered item is classified as confirmed or suspect MEC by UXO-qualified personnel, the procedures presented in Section 4.2 will be implemented.
- If the encountered item is classified as MD by UXO-qualified personnel, the item will be removed from the project site by the UXO-qualified personnel and securely stored for appropriate off-site disposal at project conclusion. Following removal of the MD, the UXO-qualified personnel will notify the site construction supervisor that ground-disturbing or intrusive activity may resume at the site. The UXO-qualified personnel will contact FORA as an informational notification of any MD finds. Recovered MD will be certified as materials documented as safe (MDAS) and free from explosives (FFE) by the construction support contractor using Form 1348 prior to releasing the MD to an appropriate foundry or recycler at project conclusion (Section 3.3).
- If the encountered item is classified as non-munitions related debris (e.g., scrap metal) by the UXO-qualified personnel, the item will be removed from the project site by the construction contractor and managed as appropriate. Following removal of the non-munitions related debris, the UXO-qualified personnel will notify the site construction supervisor that ground-disturbing or intrusive activity may resume at the project site. Notification to FORA regarding non-munitions related debris or inclusion of non-munitions related debris in the on-call construction support after-action report is not required.

### 3.3. After-Action Reporting

Instructions: In this section identify the activities to be conducted to complete the on-call construction support notification and reporting requirements. Provide standard operating procedures (SOPs) where appropriate as Attachments to the Construction Support Plan.

Following completion of the construction support activities conducted on former FORA ESCA property, [UXO support contractor name] will submit an on-call construction support after-action report to the [property owner name/permittee name] excavation permitting agency, Army, EPA, and DTSC (Attachment B). The on-call construction support after-action report will be submitted within 30 days of project completion and will include at a minimum: a map of the excavation footprint with any MEC finds plotted; table summarizing any MEC, munitions debris, or military training related items recovered from the project site; applicable munitions recognition and safety training logs; and applicable UXO construction support daily reports.

## 4. RESPONSE TO SUSPECT MUNITIONS ITEM PROCEDURES

Instructions: In this section provide a concise description of the actions, roles and responsibilities for response to suspect munitions items and confirmed MEC finds. The intent is for this section to provide a single point of reference and clearly communicate the actions to be taken in response to a suspect munitions item find on the project site. Several of the procedures discussed in this section were also presented in Section 3 UXO Support Procedures. They may be repeated here for ease of reference and clarity in suspect munitions and MEC response protocol.

Response to suspect munitions items will only be conducted by the UXO-qualified personnel. The suspect munitions item response procedures are presented in this section and are summarized as follows:

- Response to Suspect Munitions Item (Section 4.1) – In the event a suspect munitions item is encountered by site workers (i.e., Recognize), work within a [X-foot area] will immediately cease (i.e., Retreat) and the UXO-qualified personnel will be notified (i.e., Report).
- Response to Confirmed or Suspect MEC Item (Section 4.2) – In the event the encountered item is classified by the UXO-qualified personnel as a confirmed or suspect MEC item work outside the [X-foot area] may continue; however, work should not interfere with security measures set in place for the suspect munitions item or authority's response to the suspect munitions item. UXO-qualified personnel will immediately notify the [local jurisdiction name(s)] Local Law Enforcement Agency (Table 1) followed by [property owner name] of the confirmed or suspect MEC find. [Property owner name] will immediately contact the Army, EPA and DTSC of the confirmed or suspect MEC find.
- MEC Find Notification Form (Section 4.3) – If, after disposal, the suspect item is confirmed to be MEC or remains a suspect MEC by Explosive Ordnance Disposal (EOD) personnel, or local bomb squad with equivalent training, the UXO-qualified personnel will complete the Army MEC Incident Recording Form (Attachment C) and MEC Find Notification to FORA Form (Attachment D) and transmit the two forms to [property owner].
- MEC Find Assessment Form (Section 4.4) – If, after disposal, the suspect MEC item is confirmed to be MEC or remains a suspect MEC by EOD personnel, or local bomb squad with equivalent training, FORA [or FORA's Successor in Interest name] will assess the probability of encountering MEC and will submit the assessment to Army, EPA and DTSC for concurrence using the FORA MEC Find Assessment Form (Attachment E).
- Restart of Work after MEC Find (Section 4.5) – Work will not resume within the [X-foot area, entire project site, or other; to be determined based on project- and site-specific information] exclusion zone until any additional necessary investigation is completed based on the MEC find assessment and Army, EPA and DTSC concurrence that the probability of encountering MEC is low.

#### 4.1. Response to Suspect Munitions Item

Instructions: In this section, provide a concise description of the actions, roles, and responsibilities for response to suspect munitions items. The intent is for this section to provide a single point of reference and clearly communicate the actions to be taken in response to suspect munitions items on the project site. Several of the procedures discussed in this section were also presented in Section 3 UXO Support Procedures. They are repeated here for ease of reference and clarity in MEC response protocol.

Each individual is responsible for reporting suspect munitions items discovered during construction activities. If a suspect munitions item is discovered at the project site (i.e., Recognize), all work activities will cease within a [X-foot area] of the suspect munitions item and all site workers will vacate the [X-foot area] area (i.e., Retreat). No attempt should be made by workers to disturb, remove, or destroy the suspect munitions item. The site workers will notify their on-site construction supervisor, who will contact the UXO-qualified personnel to mobilize to the project site and assess the suspect munitions item (i.e., Report). Contact information is provided in Table 1.

The general sequence of work stoppage in response to a suspect munitions item is as follows:

- Ground-disturbing and intrusive activities will cease, heavy equipment and/or site vehicles are to stay in place, and site workers are to vacate the area within a [X-foot area].
  - If feasible and safe to do, the general location of the suspect munitions item should be marked, global position system (GPS) coordinates should be recorded and pictures of the item taken.
- Site personnel will immediately contact the on-site construction supervisor to report the suspect munitions item.
- site construction supervisor will confirm that all work has stopped within a [X-foot area] of the suspect munitions item and all site workers have retreated to a safe location at least [X feet] from the suspect munitions item.
- site construction supervisor will immediately contact the on-call UXO-qualified personnel (Table 1) and provide GPS coordinates and/or pictures of the suspect munitions item, if available.
  - If the UXO-qualified personnel cannot respond within the normal work day, [property owner name/permittee name] and their construction contractors will maintain control of the [X-foot area] area to prevent unauthorized entry.
- On-call UXO-qualified personnel will mobilize to the location of the suspect munitions item and ensure the item is evaluated and classified as confirmed or suspected MEC, MD, or non-munitions related debris (e.g., scrap metal).
  - If feasible, a visual assessment of any photographs will be conducted by the UXO-qualified personnel prior to mobilization to the site to determine if the item is munitions-related or non-munitions-related debris (e.g., metal scrap).

- **If the item is classified by the UXO-qualified personnel as confirmed or suspect MEC, the UXO-qualified personnel will implement the procedures outlined in Section 4.2.**
- If the item is classified by the UXO-qualified personnel as MD, the item will be removed from the project site by the UXO-qualified personnel and securely stored for appropriate off-site disposal at project conclusion.
  - Following removal of the MD, the UXO-qualified personnel will notify the site construction supervisor that ground-disturbing and intrusive activities may resume at the project site.
  - Following notification that ground-disturbing and intrusive activities may resume, the UXO-qualified personnel will contact [property owner] within 24 hours as an informational notification of the MD find. A summary of the recovered MD will be provided in the on-call construction support after-action report (Section 3.3).
- If the item is confirmed to be non-munitions-related debris (e.g., scrap metal), the item will be removed from the project site by the construction contractor and managed as appropriate.
  - Following removal of the non-munitions-related debris, the UXO-qualified personnel will notify the on-site construction supervisor that ground-disturbing and intrusive activities may resume at the project site.
  - Notification to [property owner] regarding non-munitions-related debris or inclusion of non-munitions-related debris in the on-call construction support after-action report is not required.

#### 4.2. Response to Confirmed or Suspect MEC Item

Instructions: In this section provide a concise description of the actions, roles and responsibilities for response to confirmed or suspect MEC items. The intent is for this section to provide a single point of reference and clearly communicate the actions to be taken in response to an item which cannot be verified as safe by UXO-qualified personnel (i.e., MEC or suspect MEC) on the project site. Several of the procedures discussed in this section were also presented in Section 3 UXO Support Procedures. They are repeated here for ease of reference and clarity in MEC response protocol.

At no time should a confirmed or suspect MEC item be disturbed, removed, or destroyed by unauthorized personnel. If an item is classified as a confirmed or suspect MEC item by the UXO-qualified personnel, all work within the [X-foot area] may not resume until further notice. If it is determined that the confirmed MEC or suspect munitions item requires detonation by EOD personnel, or local bomb squad with equivalent training, all work on the entire project site will immediately cease and all site workers will gather at a location designated by the construction contractor under their emergency evacuation plan.

The general sequence of work stoppage and construction support actions in response to a confirmed or suspect MEC item is as follows:

- All work activities within a [X-foot area] of the confirmed or suspect MEC item will stop and all affected site workers will retreat to a safe location at least [X feet] from the confirmed or suspect MEC item. Work outside the [X-foot area] may continue; however, work should not interfere with security measures set in place for the confirmed or suspect MEC item or authority's response to the item.
- UXO-qualified personnel will secure the location of the confirmed MEC or suspect munitions item to prevent unauthorized access.
- UXO-qualified personnel will record the GPS location and take photographs of the confirmed or suspect MEC item.
- UXO-qualified personnel will immediately contact the [local jurisdiction name(s)] Local Law Enforcement Agency to mobilize to the project site and secure the location of the confirmed or suspect MEC item.
- Upon arrival, the [local jurisdiction name(s)] Local Law Enforcement Agency will secure the area, consult with the UXO-qualified personnel on confirmed or suspect MEC item identification and request EOD personnel, or local bomb squad with equivalent training, respond to address the item.
  - If the [local jurisdiction name(s)] Local Law Enforcement Agency and/or EOD personnel, or local bomb squad with equivalent training, cannot respond within the normal work day, [property owner name/permittee name] and their construction contractors will maintain control of the [X-foot area] area to prevent unauthorized entry.
- UXO-qualified personnel will immediately contact [property owner name] and [UXO support contractor name] of the confirmed or suspect MEC item and provide status of the [local jurisdiction name(s)] Local Law Enforcement Agency/EOD personnel or local bomb squad response.
- [Property owner name] will immediately contact the Army, EPA, and DTSC regarding the confirmed or suspect MEC item.
- If the confirmed or suspect MEC item requires detonation by EOD personnel, or local bomb squad with equivalent training, all work activities within the project site will stop and affected site workers will gather at a location designated by the construction contractor under their emergency evacuation plan for accurate head-count.
- After the confirmed or suspect MEC item has been addressed by EOD personnel, or local bomb squad with equivalent training, the UXO-qualified personnel will assist [UXO support contractor name] with completion of necessary notifications and reporting (Section 4.3).
  - If determined to be MEC, or remains a suspect MEC, by EOD personnel, or local bomb squad with equivalent training, site work may not resume within the [X-foot area, entire project site, or other; to be determined based on project- and site-specific information] of the item location until the appropriate reporting in accordance with Section 4.3 has been completed; any additional necessary investigation is completed based on the MEC find assessment; and Army, EPA and DTSC concurrence that the probability of encountering MEC remains low to support

continuation of activities within the [X-foot area, entire project site, or other; to be determined based on project- and site-specific information].

- If determined to be MD by EOD personnel, or local bomb squad with equivalent training, site work may resume within the [X-foot] area as described in Section 4.1.

#### 4.3. MEC Find Notification to FORA Form

Instructions: In this section provide a concise description of the actions, roles and responsibilities for notification and reporting of MEC item finds. The intent of this section is to provide a single point of reference and clearly communicate MEC find notification and reporting requirements. Several of the procedures discussed in this section were also presented in Section 3 UXO Support Procedures. They may be repeated here for ease of reference and clarity in MEC response protocol.

If after disposal, the item is confirmed to be MEC or determined by EOD personnel, or local bomb squad with equivalent training, to remain a suspect MEC and, therefore, assumed to be MEC, the construction support contractor (i.e., [UXO support contractor name]) in coordination with the UXO-qualified personnel will complete an Army MEC Incident Recording Form (Attachment C) and a MEC Find Notification to FORA Form (Attachment D), and submit the forms to [property owner] for distribution to FORA [or FORA's Successor in Interest], Army, EPA, and DTSC. The Army MEC Incident Recording Form will be submitted to [property owner] within 24 hours of MEC item disposal. [Property owner] will distribute the completed MEC Incident Recording Form to FORA [or FORA's Successor in Interest], Army, EPA and DTSC with 48 hours of MEC item disposal. The construction support contractor will provide FORA [or FORA's Successor in Interest] with the MEC Find Notification to FORA Form within 48 hours of MEC item disposal to support the MEC find assessment (Section 4.4).

#### 4.4. MEC Find Assessment Form

Instructions: In this section provide a concise description of the actions, roles and responsibilities for the UXO Support Contractor to provide information to FORA in support of a FORA MEC Finds Assessment. The intent of this section is to provide a single point of reference and clearly communicate the information and actions to be conducted to support the FORA MEC Finds Assessment. Several of the procedures discussed in this section were also presented in Section 3 UXO Support Procedures. They may be repeated here for ease of reference and clarity in MEC response protocol.

After a MEC find, the probability of encountering MEC will be reassessed by FORA [or FORA's Successor in Interest]. FORA [or FORA's Successor in Interest] will assess the probability of encountering additional MEC. FORA [or FORA's Successor in Interest] will propose to the Army, EPA, and DTSC an appropriate probability of encountering MEC (low or moderate/high) and a recommendation for the level of construction support (on-call or on-site) appropriate for the site conditions. FORA [or FORA's Successor in Interest] will document the MEC find assessment and proposed determination on the FORA MEC Find Assessment Form (Attachment E) and will submit

the form with required attachments to the Army, EPA, and DTSC for review within 20 days of a MEC find.

The probability of encountering MEC and the resulting level of construction support will be jointly determined by the Army, EPA, and DTSC. If determined that additional investigation is required as part of the assessment, FORA [or FORA's Successor in Interest] will conduct the investigation in accordance with an approved work plan, if within the scope of its obligations. Army, EPA, and DTSC will review the results of the investigation to support the MEC find assessment.

If the probability of encountering MEC is determined to remain low, ground-disturbing and intrusive activities may resume using on-call construction support and this CSP (Section 4.5). FORA [or FORA's Successor in Interest] will receive written determination from the Army, EPA, and DTSC on the MEC finds assessment completion and provide a copy of the written determination to [property owner name/permittee name] and their construction contractors prior to resuming ground-disturbing and intrusive activities.

If the probability of encountering MEC is determined to be moderate to high, on-site construction support or other actions may be required prior to resuming ground-disturbing and intrusive activities. [Property owner name/permittee name] will prepare an on-site CSP consistent with the explosives safety criteria and considerations provided in DoD and Army explosives safety standards and guidelines for Army, EPA, and DTSC review and comment, as necessary, or FORA [or FORA's Successor in Interest] will conduct any additional investigation required by Army, EPA, and DTSC in accordance with an approved work plan, if within the scope of its obligations. Army, EPA, and DTSC will jointly evaluate the results of the additional investigation. The agency consultation process will be completed as expeditiously as practicable. Site work on the former FORA ESCA property may not restart until the assessment is completed, the Army, EPA, and DTSC have made a determination of the probability of encountering MEC, and any required additional action has been conducted by FORA [or FORA's Successor in Interest]. FORA [or FORA's Successor in Interest] will receive written determination from the Army, EPA, and DTSC on the MEC finds assessment completion and provide a copy of the determination to [property owner name/permittee name] and their construction contractors prior to resuming ground-disturbing and intrusive activities on the former FORA ESCA property using on-call construction support and this CSP (Section 4.5).

#### 4.5. Restarting Work after a MEC Find

Instructions: In this section provide a concise description of the actions, roles and responsibilities for restarting work after completion of a FORA MEC Finds Assessment. The intent of this section is to provide a single point of reference and clearly communicate the information and actions to be conducted before restarting work. Several of the procedures discussed in this section were also presented in Section 3 UXO Support Procedures. They are repeated here for ease of reference and clarity in MEC response protocol.

Site work may not resume within a [X-foot area, entire project site, or other; to be determined based on project- and site-specific information] of the MEC item until the MEC find assessment has



been completed, the Army, EPA and DTSC have concurred with the assessment, and any required addition actions have been conducted. FORA [or FORA's Successor in Interest] will receive written determination from the Army, EPA, and DTSC on the MEC finds assessment completion and provide a copy of the determination to the [property owner name/permittee name] prior to resuming ground-disturbing or intrusive site activities using on-call construction support and this CSP.

## 5. REFERENCES

## 6. ATTACHMENTS [EXAMPLES]

Table 1 – List of Contacts

Figure 1 – Site locator map

Figure 2 – Munitions Response Area project site map with project footprint showing the designated future land uses

Figure 3 – Project Site map providing details of the project site showing the designated future land uses.

Figure 4 – Project vicinity map identifying MRS present on or near the project site. Map should also identify areas where MEC removal were completed.

Figure 5 – Construction site grading map showing past MEC finds plotted. Map should identify the project site with plots of recovered MEC items and descriptions. This map will be used to plot and report any MEC items found during construction efforts and for an MEC find assessment.

- A Project Site Grading and Soil Management Specifications (as applicable)
- B On-Call Construction Support After-Action Report
- C Army MEC Incident Recording Form (<http://www.fodis.net/mec/public>)
- D FORA MEC Find Notification Form
- E FORA MEC Find Assessment Form
- F Regulatory Concurrence Letters

# FORM LUC-02

## MEC Find Notification to FORA

### During Construction Support Projects

**Application:** This form shall to be utilized by UXO Construction Support contractors to notify FORA of MEC finds during construction support activities pursuant to a final Construction Support Plan. The form is to be finalized as soon as possible after the MEC incident response is complete and the MEC item removed by military EOD, or local bomb squad with equivalent training. This form is in addition to the Army MEC Incident Recording form, which must be submitted to FORA within 24 hours of a MEC find. This form documents the MEC find in support of FORA’s MEC Finds Assessment.

Suspect munitions items should be inspected and assessed by UXO-qualified personnel. No attempt should be made by UXO support contractor to disturb, remove or destroy a suspect munitions item. Non-MEC items do not require a MEC Find Notification to FORA Form. If a suspect munitions item cannot be verified as safe (i.e., MEC or suspect MEC items) by UXO-qualified personnel, all intrusive or ground-disturbing work on site must remain stopped and local law enforcement notified by the UXO support contractor. Local law enforcement immediately notifies appropriate military EOD personnel, or local bomb squad with equivalent training, who will respond to the site and remove the suspect munitions item. Upon completion of military EOD or local bomb squad response, if the suspect munitions item is determined to be MEC, the UXO support contractor must submit this MEC Find Notification to FORA Form, along with the Army’s MEC Incident Recording Form, to FORA documenting the MEC incident and initiating FORA’s MEC Find Assessment. An assessment of MEC finds must be completed and approved prior to restarting work on the site.

**Instructions:** Line-by-line instructions are provided at the end of this form. UXO support contractor must complete the required MEC Find Notification to FORA Form and submit to FORA as soon as practicable after a MEC find incident. If all information is not immediately available, a partially completed form may be submitted, however all required information must be submitted to support the FORA MEC Finds Assessment. A copy of the completed FORA MEC Finds Assessment and Army, EPA and DTSC concurrence must be received by FORA prior to providing permission to resume intrusive site work. For purposes of this form, the terminology of “FORA” refers to obligations or requirements that are currently assigned to FORA, but will eventually transfer to FORA’s successor in interest.

#### PROJECT DESCRIPTION AND CONTACT INFORMATION (Use information from Construction Support Plan)

Project Name		Excavation / Grading Permit Number	
Project Support Start Date		Monterey County Real Estate Parcel	
Project Support End Date		COE Real Estate Parcel Number	
Project Contact		Contact Phone	

Project Location

Brief Project Description (attach project site map from Construction Support Plan):

Construction Support Contractor		UXO Safety Officer Name / Contact Phone	
Construction Support Contractor Address			

#### MEC INCIDENT RESPONSE SUMMARY INFORMATION

Person Reporting Date & Time		Contact Phone	
Final MEC Item Description		MEC Find Date & Time	
Law Enforcement Response Date & Time		EOD Response Date & Time	

**FORM LUC-02**  
**MEC Find Notification to FORA**  
**During Construction Support Projects**

Final MEC Disposition:			
CONSTRUCTION SUPPORT ACTIVITY DETAILS			
Construction Support Plan / Date		Probability of Encountering MEC	
Level of soil disturbance at time of MEC find	<input type="checkbox"/> Shallow surface disturbances (less than 6-inches); Maximum depth: _____ <input type="checkbox"/> Isolated hand digging / post holes / drilling or bore holes <input type="checkbox"/> Linear trench excavation or underground utilities <input type="checkbox"/> Excavation of construction footprint (building foundation, roadway, etc.) <input type="checkbox"/> Site wide grading / large scale excavation <input type="checkbox"/> Other _____		
Description of soil disturbance at time of MEC find:			
Level of Construction Support utilized at time of MEC find	<input type="checkbox"/> On-call UXO-qualified personnel support <input type="checkbox"/> On-site construction support by UXO-qualified personnel <input type="checkbox"/> Anomaly avoidance by UXO-qualified personnel <input type="checkbox"/> Other _____		
Description of actions taken by UXO-qualified personnel in response to MEC find:			
Actions taken to secure site:			
Current Site Status	<input type="checkbox"/> Work currently stopped on entire project site as result of MEC find. <input type="checkbox"/> Work currently stopped on following portion of project site as result of MEC find: _____		

**FORM LUC-02  
 MEC Find Notification to FORA  
 During Construction Support Projects**

Other information regarding Construction Support Activities:

**MEC FIND DETAILED INFORMATION**

MEC item found (include model number, if known):

Brief description of MEC find (attach applicable UXO contractor field notes and use map from Construction Support Plan Section 2.2, Summary of Previous Munitions Response Actions with plot identifying location of current MEC item):

MEC find type of munition:  UXO     DMM     ISD

- Pyrotechnic
- Projectile
- Mortar

- Hand Grenade
- Rifle Grenade
- Rocket

- Pre-WWII munition item
- Mine & Booby Trap
- Other \_\_\_\_\_

Total number of MEC items recovered during this project to date: \_\_\_\_\_

List items and dates recovered:

Other munitions related items or evidence of munitions use recovered in the area during construction support:

**FORM LUC-02**  
**MEC Find Notification to FORA**  
**During Construction Support Projects**

Description of any follow-on actions conducted by construction support personnel in response to MEC find (attach applicable data, maps, and reports):

**DETAILED MEC INCIDENT RESPONSE INFORMATION**

Responding Local Law Enforcement Agency		Incident / Report Number	
Responding Officer		Date / Time of Response	

Description of Local Law Enforcement Response (attach report if available):

Responding EOD Unit		EOD Incident / Report Number	
Responding EOD Unit Leader / Contact		Date / Time of Response	

Description of EOD Response (attach EOD report if available):

Final Disposition of Item(s) (include disposition of any munitions debris):

**FINAL MEC ITEM IDENTIFICATION DETAILS**

Person making final identification:  
 Position / Company  
 Contact phone/email:

Final Identification of Item(s) Found (provide make and model if available):

**FORM LUC-02**  
**MEC Find Notification to FORA**  
**During Construction Support Projects**

Rationale in Support of Final MEC Item Determination (If identification is revised from preliminary identification, provide reason for revision.):

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Unexploded Ordnance (UXO) | <input type="checkbox"/> Discarded Military Munitions (DMM) | <input type="checkbox"/> Insufficient Data to make determination (ISD) |
|--|---|--|

MEC find type of munition:

- |                                      |  |   |
|--------------------------------------|--|---|
| <input type="checkbox"/> Pyrotechnic | <input type="checkbox"/> Hand Grenade  | <input type="checkbox"/> Pre-WWII munition item |
| <input type="checkbox"/> Projectile  | <input type="checkbox"/> Rifle Grenade | <input type="checkbox"/> Mine & Booby Trap      |
| <input type="checkbox"/> Mortar      | <input type="checkbox"/> Rocket        | <input type="checkbox"/> Other _____            |

**REQUIRED ATTACHMENTS**

Attachments to report (check all that apply)

- Map of extent of ground-disturbing or intrusive activity (i.e., excavation footprint) indicating completed areas and planned areas with excavation depths
- UXO Daily Reports and field logs for MEC find response
- Map of location of MEC find
- Local law enforcement MEC response report
- Military EOD MEC response report
- Army's Fort Ord MEC Incident Recording Form
- Other \_\_\_\_\_

**REPORT DISTRIBUTION**

Report Distribution list:

- Local Building Department, Attention: Fort Ord Excavation Permit Point of Contact
- Fort Ord Reuse Authority, Attention: ESCA Program Manager
- U.S. Army – BRAC Office
- U.S. Environmental Protection Agency, Region IX, Superfund Division, Attention: Fort Ord Project Manager
- State of California, Department of Toxic Substances Control, Attention: Fort Ord Project Manager
- Other \_\_\_\_\_



# FORM LUC-03

## FORA MEC Finds Assessment Report

### On-Call Construction Support Projects

**Application:** This form shall be utilized by FORA to document required evaluation of MEC finds reported during construction support activities. An assessment of MEC finds must be completed by FORA with concurrence by the Army, EPA and DTSC prior to restarting work on the site.

**Instructions:** Line-by-line instructions are provided at the end of this form. FORA must complete the required MEC find assessment and submit FORA recommendation to Army, EPA and DTSC within 20 days of a MEC find. Form must be submitted with all attachments to the Army, EPA and DTSC. FORA must receive written concurrence with assessment findings before work can resume on the site. A copy of the completed assessment and Army, EPA and DTSC concurrences will be provided prior to receiving permission to resume intrusive site work. For purposes of this form, the terminology of "FORA" refers to obligations or requirements that are currently assigned to FORA, but will eventually transfer to FORA's successor in interest.

#### PROJECT DESCRIPTION AND CONTACT INFORMATION (Use information from MEC Find Notification Report)

Project Name		Excavation / Grading Permit Number	
Project Support Start Date		Monterey County Real Estate Parcel	
Project Support End Date		COE Real Estate Parcel Number	
Project Contact		Contact Phone	

Project Location

Brief Project Description (attach project site map from MEC Find Notification Report):

Construction Support Contractor		UXO Safety Officer Name / Contact Phone	
---------------------------------	--	---	--

Construction Support Contractor Address			
---	--	--	--

#### CONSTRUCTION SUPPORT ACTIVITIES (Use information from MEC Find Notification Report)

Level of Construction Support utilized at time of MEC find	<input type="checkbox"/> On-call UXO-qualified personnel support <input type="checkbox"/> On-site construction support by UXO-qualified personnel <input type="checkbox"/> Anomaly avoidance by UXO-qualified personnel <input type="checkbox"/> Other _____
Level of Soil Disturbance at time of MEC find	<input type="checkbox"/> Shallow surface disturbances (less than 6-inches); Maximum depth: _____ <input type="checkbox"/> Isolated hand digging / post holes / drilling or bore holes <input type="checkbox"/> Linear trench excavation or underground utilities <input type="checkbox"/> Excavation of construction footprint (building foundation, roadway, etc.) <input type="checkbox"/> Site wide grading / large scale excavation <input type="checkbox"/> Other _____
Current Site Status	<input type="checkbox"/> Work currently stopped on entire project site as result of MEC find. <input type="checkbox"/> Work currently stopped on following portion of project site as result of MEC find: _____

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FORA MEC Finds Assessment Report  
On-Call Construction Support Projects**

MEC FIND INFORMATION		
MEC item found (include model number if known):		
Probability of Encountering MEC at time of MEC find: [ ] Low [ ] Moderate to High Rationale supporting probability of encountering MEC:		
Brief description of MEC find (attach applicable MEC Find Notification to FORA Form and map of item location with past finds):		
MEC find type of munition: [ ] UXO [ ] DMM [ ] ISD		
<input type="checkbox"/> Pyrotechnic <input type="checkbox"/> Projectile <input type="checkbox"/> Mortar	<input type="checkbox"/> Hand Grenade <input type="checkbox"/> Rifle Grenade <input type="checkbox"/> Rocket	<input type="checkbox"/> Pre-WWII munition item <input type="checkbox"/> Mine & Booby Trap <input type="checkbox"/> Other _____
MEC item disposal information (attach local law enforcement and EOD incident reports):		
Total number of MEC items recovered during this project to date: _____ List items and dates recovered:		
Other munitions related items or evidence of munitions use recovered in the area during construction support:		
Description of any follow-on actions conducted by construction support personnel in response to MEC find (attach applicable data, maps, and reports):		

**FORM LUC-03  
FORA MEC Finds Assessment Report  
On-Call Construction Support Projects**

MUNITIONS SITE BACKGROUND INFORMATION		
Historical military training in project area and/or Munitions Response Sites (see RI/FS):		
List previous MEC removal actions in project area and detection equipment used for removals (see RI/FS):		
Historical types of munitions recovered from site (check all that apply):		
<input type="checkbox"/> Pyrotechnic <input type="checkbox"/> Projectile <input type="checkbox"/> Mortar	<input type="checkbox"/> Hand Grenade <input type="checkbox"/> Rifle Grenade <input type="checkbox"/> Rocket	<input type="checkbox"/> Pre-WWII munition item <input type="checkbox"/> Mine & Booby Trap <input type="checkbox"/> Other _____
Is MEC find consistent with previous site use? (Yes / No) Explain:		
Historical evidence of use of this type of munitions in the vicinity of the site:		
Is there specific evidence or reason to believe that additional residual MEC of this type may be present? (Yes / No) Explain:		
FORA RECOMMENDATION BASED ON MEC FIND		
Based on this MEC find, is the current level of construction support appropriate? (Yes / No)		
Current construction support level: _____		
Revised construction support level: _____		

**FORM LUC-03**  
**FORA MEC Finds Assessment Report**  
**On-Call Construction Support Projects**

FORA MEC find assessment recommendation:

- Probability of encountering MEC determined to remain low. Work can resume with current level of construction support.
- Probability of encountering MEC determined to be moderate to high. On-site construction support required prior to resuming any intrusive activities.
- Additional MEC investigation or response determined to be necessary.
- Other: \_\_\_\_\_

Assessment Form Distribution:

- U.S. Army – BRAC Office
- U.S. Environmental Protection Agency, Region IX, Superfund Division, Attention: Fort Ord Project Manager
- State of California, Department of Toxic Substances Control, Attention: Fort Ord Project Manager
- Other: \_\_\_\_\_

**FORM REVIEW AND APPROVAL DOCUMENTATION**

FORA MEC Finds Assessment Tracking:

- Completed form submitted by FORA to Army, EPA, and DTSC (Date: \_\_\_\_\_)
- Agency Concurrence Received (attach documentation)
- Approved to resume work with current construction support level
- Approved to resume work with additional conditions  
Required additional conditions: \_\_\_\_\_
- Other: \_\_\_\_\_

**FORM LUC-03  
FORA MEC Finds Assessment Report  
On-Call Construction Support Projects**

<b>Line-by-Line Instructions</b>	
<b>PROJECT DESCRIPTION AND CONTACT INFORMATION (From Construction Support Plan)</b>	
Project Name	Enter the name for the Project (or portion thereof) for which this FORA MEC Find Assessment Report is being submitted.
Excavation Permit Number	This is the Excavation Permit number provided by the Permitting Authority under the applicable local building code (i.e., Digging and Excavation on Fort Ord)
Monterey County Real Estate Parcel	Provide the Monterey County Real Estate Parcel number(s) for the property for which this FORA MEC Find Assessment Report is being submitted.
COE Real Estate Parcel	Provide the U.S. Army Corps of Engineers Real Estate Parcel number(s) for the property for which this FORA MEC Find Assessment Report is being submitted. The parcel number is available in the Federal Deeds and property transfer documents.
Construction Support Project Start and End Dates	Provide the dates when construction support services were in place for the project. For on-call support, report the date range during which on-call support services were available regardless of whether a call was made or support was utilized. For on-site support, report the first and last day construction support personnel were physically on-site providing support.
Project Contact, Contact Phone	Provide the name and contact phone number for the person submitting the FORA MEC Find Assessment Report.
Project Location	Provide a physical address for the project site. If an address is not available, provide the nearest cross streets and a description of the physical location.
Project Description	Provide a brief description of the permitted project. The description should be limited to a few sentences. The full description and details regarding the project are documented in the excavation permit and do not need to be repeated here.
Construction Support Contractor	Provide the name of the contractor providing construction support for the project.
UXO Safety Officer Contact Phone	Provide the name and contact phone number for the UXO Safety Officer for the project.
Construction Support Contractor Address	Provide the permanent mailing address and contact information for the contractor providing construction support for the project.
<b>CONSTRUCTION SUPPORT ACTIVITIES (from MEC Find Notification Form)</b>	
Level of Construction Support utilized at time of MEC find (check all that apply)	This box identifies the general category of construction support provided at the time of the MEC find. Check the box(es) which best describe the level of construction support utilized on this project at the time of the MEC find. If multiple levels of construction support were provided, check the box for each type utilized. The methods and details regarding implementation of construction support are not provided here as they are documented in the project's Construction Support Plan.
Level of Soil Disturbance at time of MEC find	This box identifies the general category and level of soil disturbance for which construction support was provided at time of MEC find. Check the box(es) which best describe the level of soil disturbance at time of MEC find. If multiple levels of soil disturbance occurred, check each box that is applicable.
Current Site Status	Provide the current status of activities at the project site and site of the MEC find.
<b>MEC FIND INFORMATION (from MEC Find Notification Form)</b>	
MEC Item found	Provide the type of MEC item recovered including model number, if known.

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FORA MEC Finds Assessment Report  
On-Call Construction Support Projects**

Probability of Encountering MEC at time of MEC find	Provide the probability of encountering MEC (i.e., low, moderate, high) at the project site at the time of the MEC find and supporting rationale for the determined probability of encountering MEC.
Brief description of MEC find	Provide a description of the activities being performed at the time of the MEC find and the response actions taken. Attach applicable MEC Find Notification to FORA Form and map of item location showing past finds.
MEC find type of munition	Check the box appropriate box indicating the type of munition recovered (UXO, DMM, or ISD) and the box that corresponds most closely with the category of the munitions item.
MEC item disposal information	Describe how the munitions item was disposed of and attach local law enforcement and EOD incident reports.
Total number of MEC items recovered during this project to date	In this box, provide a tally of the total number of MEC items recovered to date during construction support on this project. Provide a listing of previous MEC items recovered during construction support on this project, including the date of recovery and a brief summary of each MEC find incident from the Fort Ord MEC Incident Recording Form. Attach a table listing previous MEC items, if necessary.
Other munitions related items or evidence of munitions use recovered in the area during construction support	Provide a brief summary of the evidence of past military munitions or military training activities recovered during construction support. The summary should be limited to concise statements regarding the evidence identified and types of training indicated.
Description of any follow-on actions conducted by construction support personnel in response to MEC find	Describe any follow-on actions conducted by construction support personnel in response to MEC find (attach applicable data, maps, and reports).
<b>MUNITIONS SITE BACKGROUND INFORMATION</b>	
Historical military training in project area and/or Munitions Response Sites (see RI/FS)	Provide a brief summary of past military training activities in the project area, including any Munitions Response Sites (MRS) or former ranges. The summary should be limited to concise statements regarding the identified training areas and/or MRS, types of training, and types of munitions used. This information is documented in the Remedial Investigation/Feasibility Study (RI/FS) Report available on the Administrative Record.
List previous MEC removal actions in project area with detection equipment used for removals (see RI/FS)	Provide a list and summary of previous MEC removal actions in the project area. The summary should include the date of the action, objective of the action, and technology used for the action. This information is documented in the Remedial Investigation/Feasibility Study (RI/FS) Report available on the Administrative Record.
Historical types of munitions recovered from site (check all that apply):	Check boxes for each category of munitions recovered from the project site.
Is MEC find consistent with previous site use? (Yes / No) Explain	Indicate if the MEC find is consistent with the documented historical use of the site. Past military training areas and/or MRS, types of training, and types of munitions used are documented in the Remedial Investigation/Feasibility Study (RI/FS) Report available on the Administrative Record.

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FORA MEC Finds Assessment Report  
On-Call Construction Support Projects**

Historical evidence of use of this type of munitions in the vicinity of the site	Provide historical evidence of the use of the MEC find type at the site. Past military training areas and/or MRS, types of training, and types of munitions used are documented in the Remedial Investigation/Feasibility Study (RI/FS) Report available on the Administrative Record.
Is there specific evidence or reason to believe that additional residual MEC of this type may be present? (Yes/No) Explain	Indicate if there is or is not evidence or reason to believe that additional residual MEC of this type may be present at the site and provide supporting rationale.
<b>FORA RECOMMENDATION BASED ON MEC FIND</b>	
Based on this MEC find, is the current level of construction support appropriate?	State if, based on this MEC find, the current level of construction support is or is not appropriate. State the level of construction support at the time of the MEC find and the revised level of construction support, if applicable.
FORA MEC find assessment recommendation	Check the box that describes FORA's recommendation regarding probability of encountering MEC at the site and actions to be taken, if any.
Assessment Form Distribution	This box is used to identify the specific organizations receiving a copy of this MEC Find Assessment.
<b>FORM REVIEW AND APPROVAL DOCUMENTATION</b>	
FORA MEC Finds Assessment Tracking	This box is used to indicate the steps completed during the MEC Finds Assessment review and approval process.

# Construction Support After Action Report Form

## Fort Ord Digging & Excavation Permit

### On-Call and On-site Construction Support Projects

**Application:** This form shall to be utilized by Permittee to provide required After Action Reporting for Fort Ord Digging and Excavation Permits on projects where On-Call Construction Support, Anomaly Avoidance and/or On-site Construction Support was implemented. The form shall also be utilized for non-permitted (i.e., de minimis) On-call Construction Support projects.

**Instructions:** Line-by-line instructions are provided at the end of this Form. Permittee must complete this Form and submit the requested project information within 30 days of project completion. Form must be submitted with all required attachments to the permitting Agency and FORA, as required under the Fort Ord Digging and Excavation Ordinance. FORA uses information provided in this Form to complete required annual reporting. Required attachments are identified at the end of this Form and include a map of the final ground disturbance footprint with excavation depths, a table summarizing any munitions debris or other military training related items recovered from the project site, copies of applicable training logs and applicable UXO Construction Support daily reports. For purposes of this form, the terminology of "FORA" refers to obligations or requirements that are currently assigned to FORA, but will eventually transfer to FORA's successor in interest.

#### PROJECT DESCRIPTION AND CONTACT INFORMATION

Project Name		Excavation Permit Number	
Construction Support Start Date		Monterey County Real Estate Parcel	
Construction Support End Date		COE Real Estate Parcel Number	
Project Contact:		Contact Phone	

Project Location

Project Description (attach map of final ground disturbance footprint with excavation depths):

Construction Support Contractor		UXO Safety Officer Contact Phone	
Construction Support Contractor Address			

#### CONSTRUCTION SUPPORT ACTIVITIES

Munitions Recognition and Safety Training (attach training logs)	<input type="checkbox"/> On-site training – number trained _____ <input type="checkbox"/> On-line training – number trained _____ <input type="checkbox"/> Other _____ - number trained _____	<b>Total Trained</b> _____
Level of Construction Support Utilized for Project (check all that apply)	<input type="checkbox"/> On-call UXO-qualified personnel support <input type="checkbox"/> Anomaly avoidance by UXO-qualified personnel <input type="checkbox"/> On-site construction support by UXO-qualified personnel <input type="checkbox"/> Other _____	
Level of Soil Disturbance (check all that apply)	<input type="checkbox"/> Shallow surface disturbances (less than 6-inches); Maximum depth: _____ <input type="checkbox"/> Isolated hand digging / post holes / drilling or bore holes <input type="checkbox"/> Linear trench excavation or underground utilities <input type="checkbox"/> Excavation of construction footprint (building foundation, roadway, etc.) <input type="checkbox"/> Site wide grading / large scale excavation <input type="checkbox"/> Other _____	



**Construction Support After Action Report Form  
Fort Ord Digging & Excavation Permit  
On-Call and On-site Construction Support Projects**

Level of Effort for Construction Support During Project (attach daily reports and field logs)	<ul style="list-style-type: none"><li><input type="checkbox"/> Idle on-call support days (days without a UXO support request) _____</li><li><input type="checkbox"/> Non-idle on-call support days (days with one or more calls for UXO-qualified personnel to respond to site and assess suspect munitions items) _____</li><li><input type="checkbox"/> Anomaly avoidance support days _____</li><li><input type="checkbox"/> On-site construction support days _____</li></ul>
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# Construction Support After Action Report Form

## Fort Ord Digging & Excavation Permit

### On-Call and On-site Construction Support Projects

<b>CONSTRUCTION SUPPORT RESULTS</b>	
Were military munitions related items (MEC or MD) or other evidence of military training identified? (Yes) / (No) [If no, skip remainder to Certification section.] (Attach map identifying locations of recovered munitions related items and a table listing items recovered along with item size, weight and recovery depth.)	
Total number of MEC items recovered (attach applicable MEC Incident Reports): _____	
Summary of MEC find assessment(s) (Attach applicable FORA MEC Find Assessment reports)	
Summary of evidence of military munitions or military training activities found during project	
Total number of munitions debris items recovered _____ and approximate total weight _____ (lbs)	
Disposition of munitions debris items recovered (attach certifications and manifests)	<input type="checkbox"/> Munitions debris inspected, certified free from explosive hazards, and transferred to appropriate munitions debris recycling facility <input type="checkbox"/> Munitions debris transferred to U.S. Department of Defense (i.e., EOD Unit) <input type="checkbox"/> Munitions debris transferred to local civil authority <input type="checkbox"/> Other _____
<b>UXO CONTRACTOR REPORT CERTIFICATION</b>	
I hereby certify that the information submitted in the report is true and complete.	
Name, Title _____	
Signature _____, Date _____	
<b>REQUIRED ATTACHMENTS</b>	
Attachments to report (check all that apply) <ul style="list-style-type: none"> <li><input type="checkbox"/> Map of extent of ground disturbing activity (i.e., excavation footprint) with excavation depths</li> <li><input type="checkbox"/> Munitions Recognition and Safety Training logs</li> <li><input type="checkbox"/> UXO Daily Reports and field logs</li> <li><input type="checkbox"/> Map of locations of recovered munitions related items</li> <li><input type="checkbox"/> Table listing munitions related items (MEC and MD) recovered, including size, weight and recovery depth</li> <li><input type="checkbox"/> Applicable MEC Incident Recording forms</li> <li><input type="checkbox"/> Disposition of munitions debris (applicable certifications and recycling records)</li> <li><input type="checkbox"/> Applicable FORA MEC Find Assessment reports with attached Army, EPA and DTSC concurrences and notices to resume work</li> </ul>	

**Construction Support After Action Report Form  
Fort Ord Digging & Excavation Permit  
On-Call and On-site Construction Support Projects**

**REPORT DISTRIBUTION**

Report Distribution list:

- Local Building Department, Attention: Fort Ord Excavation Permit Point of Contact
- Fort Ord Reuse Authority, Attention: ESCA Program Manager
- U.S. Army – BRAC Office
- U.S. Environmental Protection Agency, Region IX, Superfund Division, Attention: Fort Ord Project Manager
- State of California, Department of Toxic Substances Control, Attention: Fort Ord Project Manager
- Other \_\_\_\_\_

# Construction Support After Action Report Form

## Fort Ord Digging & Excavation Permit

### On-Call and On-site Construction Support Projects

<b>Line-by-Line Instructions</b>	
<b>PROJECT DESCRIPTION AND CONTACT INFORMATION</b>	
Project Name	Enter the name for the Project (or portion thereof) for which this Construction Support After Action Report is being submitted.
Excavation Permit Number	This is the Excavation Permit number provided by the Permitting Authority under the applicable local building code (i.e., Digging and Excavation on Fort Ord)
Monterey County Real Estate Parcel	Provide the Monterey County Real Estate Parcel number(s) for the property for which this Construction Support After Action Report is being submitted.
COE Real Estate Parcel	Provide the U.S. Army Corps of Engineers Real Estate Parcel number(s) for the property for which this Construction Support After Action Report is being submitted. The parcel number is available in the Federal Deeds and property transfer documents.
Construction Support Project Start and End Dates	Provide the dates when Construction Support services were in place for the project. For On-Call support, report the date range during which On-Call support services were available regardless of whether a call was made or support was utilized. For On-site support, report the first and last day Construction Support personnel were physical on-site providing support.
Project Contact Contact Phone	Provide the name and contact phone number for the person submitting the Construction Support After Action Report.
Project Location	Provide a physical address for the project site. If an address is not available, provide the nearest cross streets and a description of the physical location.
Project Description	Provide a brief description of the permitted project and ground-disturbing activities being conducted at the site. Attach a map of planned ground-disturbing activity footprint, including expected depth of soil disturbance. The full description and details regarding the project are documented in the excavation permit and do not need to be repeated here.
Construction Support Contractor	Provide the name of the contractor providing construction support for the project.
UXO Safety Officer Contact Phone	Provide the name and contact information for the construction support contractor's UXO Safety Officer for the project.
Construction Support Contractor Address	Provide the permanent mailing address and contact information for the UXO support contractor.
<b>CONSTRUCTION SUPPORT ACTIVITIES</b>	
Munitions Recognition and Safety Training	This box documents required munitions recognition and safety training. Provide the number of people trained and the type of training received. The total trained should tally the total number of people who received the training, regardless of the format or number of trainings each individual attended. Attach required training logs and training certificates documenting training compliance.
Level of Construction Support Utilized for Project (check all that apply)	This box identifies the general category of Construction Support provided on the project. Check the box(s) which best describe the level of construction support utilized on this project during the timeframe of this report. If multiple levels of construction support were provided, check the box for each type utilized. The methods and details regarding implementation of construction support are not provided here as they are documented in the project's Construction Support Plan.
Level of Soil Disturbance (check all that apply)	This box identifies the general category and level of soil disturbance for which Construction Support was provided during the project. Check the box(s) which best describe the level of soil disturbance on this project during the timeframe of this report. If multiple levels of soil disturbance occurred, check each box that is applicable. The locations of soil disturbance

**Construction Support After Action Report Form  
Fort Ord Digging & Excavation Permit  
On-Call and On-site Construction Support Projects**

	during the project must also be identified on the map of the project’s final excavation footprint with depths of excavation or soil disturbance.
Level of Effort for Construction Support During Project (attach daily reports and field logs)	This box summarizes the actual level of effort utilized in providing construction support for the project. Check the box(s) which best describe the level of effort for construction support utilized on this project during the timeframe of this report. Provide the number of days each level of effort was utilized. If multiple levels of construction support were provided, check the box for each type utilized. If multiple levels of effort were implemented on the same day, tally that day in the higher level of effort. Idle on-call support days are days when UXO-qualified personnel are on-call to support the project but their support is not requested. Non-idle on-call support days are days when on-call UXO-qualified personnel respond to the site to assess one or more suspect munitions items. Multiple calls occurring on the same day should be tallied as one day. If UXO-qualified personnel provide construction monitoring during on-call construction support, provide the number of days for which construction monitoring was provided. Construction monitoring days should not be tallied as on-call support days. If on-site construction support is provided on the project, report the number of days in which on-site support was provided. On-site construction support days should not be tallied as on-call or construction monitoring days.
Were military munitions related items (MEC or MD) or other evidence of military training identified?	This box should be checked in the affirmative (Yes) if evidence of military munitions or other evidence of military training was identified during construction support utilized on this project during the timeframe of this report. If no evidence of military munitions or other evidence of military training was identified, the remainder of this section should be skipped. If evidence is identified, the following information is required to be submitted as attachments to this report: 1) A scaled map identifying the locations of recovered munitions related items, and 2) a table detailing the items recovered (item description, size, weight and recovery depth).
Total number of MEC items recovered	In this box provide a tally of the total number of MEC items recovered during construction support on this project during the timeframe of this report. When a suspected munitions item has been encountered during on-call construction support and confirmed as MEC, a MEC Incident Recording form must be completed and submitted to FORA and the Army. Copies of applicable MEC Incident Recording forms from on-call construction support must also be attached to this report.
Total number of munitions debris items recovered and approximate total weight	Munitions debris items are not reported as MEC incidents during the construction support project. In this box provide a tally of the total number of munitions debris items recovered and an estimate of the approximate total weight (in pounds) of munitions debris items recovered during construction support on this project during the timeframe of this report.
Disposition of munitions debris items recovered	Check all boxes that apply regarding disposition of munitions debris items recovered during construction support on this project during the timeframe of this report. Munitions debris must be inspected and certified as free from explosives by UXO-qualified personnel prior to transfer to an appropriate munitions debris recycling facility and applicable certification records attached to this report. The DoD (i.e., EOD Unit) and civilian authorities may choose to take possession of specific munitions debris items during a MEC incident response. Any such items should be documented and the documentation attached to this report.
Summary of MEC find assessment(s)	This box provides a summary of the results of MEC Find Assessments conducted by FORA for MEC items recovered during construction support on this project during the timeframe of this report. MEC Find Assessments are required to be completed prior to restarting work after a MEC find. The completed FORA MEC Find Assessment forms must be attached to this report. If no MEC are recovered, enter “Not Applicable” in this box.

**Construction Support After Action Report Form  
 Fort Ord Digging & Excavation Permit  
 On-Call and On-site Construction Support Projects**

Summary of evidence of military munitions or military training activities found during project	Provide brief summary of the evidence of past military munitions or military training activities recovered during construction support on this project during the timeframe of this report. The summary should be limited to concise statements regarding the evidence identified and types of training indicated. The Remedial Investigation/Feasibility Study Report for the property provides a summary of known military training and munitions used.
<b>REPORT CERTIFICATION</b>	
After Action Report Certification and Signature	The box is used to provide certification of the submitted report and true and accurate. The report must be certified by the UXO support contractor representative identified in the project Contact box above.
<b>REQUIRED ATTACHMENTS</b>	
Attachments to the Report	This box is used to identify the specific attachments included with this Construction Support After Action Report.
Report Distribution List	This box is used to identify the specific organizations receiving a copy of this Construction Support After Action Report.

## FORT ORD MUNITIONS INCIDENT FORM

If you recognize any object that resembles munitions or explosives on or near former Fort Ord property, retreat to a safe location, and **report the finding to 911 or the appropriate agency immediately** (see below). **You must telephone 911 to report suspected munitions or explosives on other than US Army property.**

This form can be submitted online at <http://fodis.net/mec/public/>. Completing this form does not constitute emergency (911) notification. This form is used to assist in the recording and investigation of MEC incidents.

### CONTACT THE APPROPRIATE AGENCIES IMMEDIATELY:

Location of Item	Contact Number	Date & Time Called
Public / Private / Unknown Property	Phone: 911*	
US Army, Fort Ord	MMRP Site Security Manager: (831) 242-7919	

**\* If 911 is contacted please notify the Fort Ord MMRP Site Security Manager afterward:**

Fax/email this form with **Part A** completed to: (831) 393-9188 / [Natalie.n.gordon2.ctr@mail.mil](mailto:Natalie.n.gordon2.ctr@mail.mil)

### A. To be completed by person reporting the incident

Name of Person Reporting:	Telephone:
Agency/Affiliation of person reporting:	Email Address:
Date & Time of Incident/Discovery:	
Description of Item Found (refer to the "Safety Alert" pamphlet if possible):	
Location (direction and distance from nearest road/building, attach map if possible):	
GPS Coordinate Location Type of Instrument: Coordinate System:	Northing/Latitude and Easting/Longitude:
Describe how the item was found (e.g. activity leading to discovery, persons involved, etc.):	

**B. To be completed by the Fort Ord MMRP Site Security Manager when response/investigation is complete**

Report Received By:	Date & Time:
Nomenclature of Item Found: Quantity: (Attach photo if possible)	Type (UXO/DMM/MD/Other): Depth:
Disposition of Item (e.g. detonated, removed to scrap, etc):	Name of digital file for picture (date):
Investigation Summation:	
Regulatory Agencies Notified:	Date:



**APPENDIX J**

**Former Fort Ord Land Use Covenant Report Outline [Revised]**

**Former Fort Ord**  
**Land Use Covenant Report Outline**

**Annual Status Report for**  
**\_\_\_\_\_ (Jurisdiction)**  
**on Land Use Covenants**  
**Covering July 1, \_\_\_\_\_ to June 30, \_\_\_\_\_.**

(See Parcel and LUC lists in MOA Table 3-1)

**This form is to be submitted by each Jurisdiction to:**

**Fort Ord Reuse Authority**

**By**

**September 1, \_\_\_\_\_\***

**DATE OF REPORT: \_\_\_\_\_**

**PARCELS ADDRESSED IN REPORT: \_\_\_\_\_**

**SUBMIT TO: Fort Ord Reuse Authority**  
**Attn: \_\_\_\_\_**  
**920 2<sup>nd</sup> Avenue, Suite A**  
**Marina, CA 93933**

## Former Fort Ord

### Land Use Covenant Report Outline

#### **GENERAL:**

Has jurisdiction staff previously provided a compliance summary in regards to the local digging and excavation ordinances, including the number of permits issued?

yes or  no

Has jurisdiction staff provided an annual update of any changes to applicable digging and excavation ordinances?

yes or  no

Has jurisdiction staff provided an annual update of any changes to the Monterey County Groundwater Ordinance No. 4011?

yes or  no

#### **PARCELS:**

Have any parcels in the jurisdiction with covenants been sub-divided or split into two or more parcels since the last annual report?

yes or  no

If yes, please reflect the split(s) and new parcel designations in reporting on compliance with section 2.1.2 of the MOA in Table 3-1.

Have any land use covenants, controls, or restrictions been modified or removed from any parcels in the jurisdiction?

yes or  no

If you answered yes, please provide a list of the LUC modifications, impacted parcels, and approval document references along with updated Table 3-1.

# Former Fort Ord

## Land Use Covenant Report Outline

### GROUND WATER COVENANTS:

Is a ground water covenant applicable in your jurisdiction?

yes or  no

(if you answered no, skip questions 1 through 4)

1. Did jurisdiction staff visually inspect the parcels in your jurisdiction (see Table 3-1) with ground water covenants? Such visual inspection shall include observed groundwater wells, and any other activity that would interfere with or adversely affect the groundwater monitoring and remediation systems on the Property or result in the creation of a groundwater recharge area (e.g., unlined surface impoundments or disposal trenches).

yes or  no

2. Did jurisdiction staff check with the applicable local building department (please list department name: \_\_\_\_\_) to ensure that no wells or recharge basins such as surface water infiltration ponds were built within your jurisdiction?

yes or  no

3. Did jurisdiction staff check with the applicable local planning department (please list department name: \_\_\_\_\_) to ensure that no well permits were granted or recharge basins requested within your jurisdiction?

yes or  no

4. Did jurisdiction staff review the County well permit applications pertaining to your jurisdiction to ensure that no wells have been dug or installed in violation of the ordinance or the ground water covenants?

yes or  no

If you answered yes to any questions 1 through 4 above, please note and describe violations with USACE parcel numbers and street addresses (Use additional sheets if needed.)

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# Former Fort Ord

## Land Use Covenant Report Outline

### LANDFILL BUFFER COVENANTS:

Is a landfill buffer covenant applicable in your jurisdiction?

yes or  no

(if you answered no, skip questions 1 through 3)

1. Did jurisdiction staff visually inspect the parcels in your jurisdiction (see Table 3-1) with landfill buffer covenants? Such visual inspection shall include observation of any structures and any other activity that would interfere with the landfill monitoring and remediation systems on the Property.

yes or  no

2. Did jurisdiction staff check with the applicable local building department (please list department name: \_\_\_\_\_) to ensure that no sensitive uses such as residences, hospitals, day care or schools (not including post-secondary schools, as defined in Section 1.19 of the MOA) were built on the restricted parcels within your jurisdiction?

yes or  no

3. Did jurisdiction staff check with the applicable local planning department (please list department name: \_\_\_\_\_) to ensure that no other structures were built without protection for vapors in accordance with the landfill buffer covenants.

yes or  no

If you answered yes to any questions 1 through 3 above, please note and describe violations with street addresses. (Use additional sheets if needed.)

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## Former Fort Ord

### Land Use Covenant Report Outline

#### **SOIL COVENANTS (MEC LAND USE CONTROLS ANNUAL REPORTING):**

Is a soil covenant (i.e., MEC land use control, restriction or CRUP) applicable to parcels within your jurisdiction (see Table 3-1)?

yes or  no

If you answered no, skip questions 1 through 10, and answer questions 11 through 13 under MEC Incident Reporting.

*Annual MEC LUC compliance requirements include on-site inspections of parcels and the review of local building and planning department records; munitions recognition and safety training records; excavation permits issues under the local digging and excavation ordinance; MEC Construction Support After Action Reports; and MEC Incident Recording Forms and emergency 911 call records. MEC LUC annual inspections and records review results are documented and summarized through the following questions.*

#### **Munitions Recognition and Safety Training**

*People involved in ground-disturbing or intrusive operations within parcels subject to the munitions recognition and safety training LUC are required to have munitions recognition and safety training to increase their awareness of and ability to identify suspect munitions items, ensure they are educated about the possibility of encountering MEC, and ensure that they stop intrusive activity when a suspect munitions item is encountered and report the encounter to the appropriate authority. The local digging and excavation ordinances require local jurisdictions (County or City) to provide annual notification to property owners of the requirements of the digging and excavation ordinance, including the requirements for munitions recognition and safety training, and excavation permits. Copies of the MEC Safety Guide and Army Safety Alert are also required to be included in the annual notifications. Further, property owners are required to notify any subsequent owners, lessees or users of the requirements. The MEC Safety Guide must be delivered and explained, at least annually, to everyone whose works at the site includes disturbing soil. Additional questions regarding munitions recognition and safety training monitoring and reporting are addressed under Construction Support.*

Question 1 – Did jurisdiction staff provide annual notification to all parcel owners of record within the portion of the Fort Ord Ordnance Remediation District in their jurisdiction of the requirements of the digging and excavation ordinance, including the requirements for excavation permits, munitions recognition and safety training, notification of the availability of munitions recognition and safety training, and copies of the MEC Safety Guide and Army Safety Alert?

yes or  no

# Former Fort Ord

## Land Use Covenant Report Outline

If you answered yes, please provide the date(s) of the annual notification and attach an example of the notification letter.

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If you answered no, please provide the reason that annual notification was not provided. For example, if FORA or jurisdiction is sole property owner of record.

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### **Construction Support by UXO-Qualified Personnel for Ground-disturbing or Intrusive Activities**

*The digging and excavation ordinances prohibit excavation, digging, development or ground disturbance of any kind within property on the former Fort Ord known or suspected of containing MEC that involves the displacement of ten (10) cubic yards or more of soil without a valid excavation permit and identify that construction support is a permit requirement. Ground-disturbing or intrusive activities involving less than ten (10) cubic yards of soil disturbance do not require a digging and excavation permit. However, ground-disturbing or intrusive activities involving less than ten (10) cubic yards of soil disturbance in areas with a moderate to high probability of encountering MEC are required to follow DDESB requirements for on-site construction support or anomaly avoidance. Ground-disturbing or intrusive activities involving less than ten (10) cubic yards of soil disturbance in areas with a low probability of encountering MEC require distribution of the MEC Safety Guide to construction personnel prior to start of ground-disturbing or intrusive activity work. Construction support must be arranged through a UXO support contractor during the planning stages of the construction or maintenance project, prior to the start of any intrusive or ground-disturbing activities. Construction support plans must be coordinated through the County or the City for review and approval by the Army, EPA and DTSC prior to the issuance of an excavation permit. The jurisdictions monitor and report on compliance with excavation permits and associated construction support plans including required munitions recognition and safety training, construction support by UXO-qualified personnel, notification of response to suspect munitions items, FORA MEC find assessments, and construction support after action reporting. The jurisdictions also monitor and report on compliance with on-site construction support requirements for projects involving less than ten (10) cubic yards of soil disturbance.*

## Former Fort Ord

### Land Use Covenant Report Outline

Question 2 - Did jurisdiction staff visually inspect the parcels subject to the local digging and excavation ordinance to verify that no intrusive or ground-disturbing activities were conducted or are occurring without an excavation permit and associated construction support plan?

yes or  no

If you answered yes, please provide the date(s) of the annual visual inspections and attach annual visual inspection report.

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If you answered no, please provide the reason that annual visual inspection was not conducted.

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Question 2a – Did jurisdiction staff identify any evidence that intrusive or ground-disturbing activities may have been conducted without required excavation permit or construction support?

yes or  no

If you answered yes, please provide details regarding evidence that intrusive or ground-disturbing activities may have been conducted without required excavation permit or construction support.

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Question 3 – Did jurisdiction staff check with the applicable local building department and FORA to verify that required excavation permits, including approved construction support plans, were issued for any approved projects or activities involving disturbance of ten (10) cubic yards or more soil, per the digging and excavation ordinance; and that required on-site construction support plans were approved for any projects involving less than ten (10) cubic yards of soil disturbance in areas with moderate to high probability of encountering MEC?



# Former Fort Ord

## Land Use Covenant Report Outline

yes or  no

If you answered yes, please provide the date(s) of the checks with the local building department and FORA, and attach documentation of the checks.

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If you answered no, please provide the reason that annual checks with the local building department and/or FORA were not conducted.

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Question 3a – Did the local building department issue excavation permits per the digging and excavation ordinance this year or do any prior year excavation permits remain active?

yes or  no

Question 3b – Did FORA coordinate Army, EPA and DTSC approval of construction support plans for any on-site construction support plans for projects involving less than ten (10) cubic yards of soil disturbance this year, or do any prior year on-site construction support plans for projects involving less than ten (10) cubic yards of soil disturbance remain active?

yes or  no

If you answered no to both questions 3a and 3b, skip to question 4.

Question 3c – Do all excavation permits issued by the local building department include required construction support plans and documentation of coordination and approval of construction support plans by Army, EPA and DTSC?

yes or  no

If you answered yes, please attach a list of approved construction support plans along with the level of construction support for each project. Include approved construction support plans for any on-site construction support projects involving less than ten (10) cubic yards of soil disturbance in this reporting.

## Former Fort Ord

### Land Use Covenant Report Outline

If you answered no, you must also provide a list of all excavation permits issued without construction support plans and the reasons why construction support plans were not required.

Question 3c – Do all excavation permits and construction support plans include requirement that all personnel working on the project site complete munitions recognition and safety training, and that records documenting successful completion of the training requirements be reported in the Construction Support After Action Report?

yes or  no

If you answered yes, please provide the following munitions recognition and safety training statistics from eLearning system or other equal training, and available Construction Support After Action Reports:

- 1) Number of people trained: \_\_\_\_\_
- 2) Number of people completing web-based eLearning course: \_\_\_\_\_
- 3) Number of people completing job site specific training: \_\_\_\_\_

If you answered no, provide a list of all excavation permits issued without training requirements and the reasons why training requirements were not required.

Question 4 – Were Construction Support After Action Reports received by local building department at completion of construction support projects under excavation permits issued per the local digging and excavation ordinance or in support of on-site construction support projects involving less than ten (10) cubic yards of soil disturbance?

yes or  no

If you answered yes, please attach a Table identifying the Construction Support After Action Reports along with types of construction support (on-call or on-site), if MEC items were found, and the amount and types of MEC items found.

### Access Management Measures

*Access management measures (applicable to habitat reserve areas where subsurface removal of military munitions was not conducted), including informational displays, are monitored annually to ensure compliance. Annual monitoring includes physical inspection of informational displays, such as signs, kiosks, and/or display boards, assessment of formally reported trespassing incidents, and reporting. Annual monitoring is conducted by the jurisdiction and includes visual inspection of the informational displays to ensure displays are posted in designated trail areas such that they are legible to recreational users.*

## Former Fort Ord

### Land Use Covenant Report Outline

Question 5 - Did jurisdiction staff visually inspect informational displays in habitat reserve areas, where required, within your jurisdiction to assure informational displays are adequate, in place, and maintained?

yes or  no

If you answered yes, please provide the date(s) of the visual inspections and attach inspection report, including description of maintenance needed/completed, additional displays installed, and coordination with property owners (if other than jurisdiction), if any.

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If you answered no, please provide the reason that annual visual inspection was not conducted.

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Question 6 - Were trespassing incidents formally reported on property subject to access management measures?

yes or  no

If you answered yes, please provide a summary of the incidents and actions taken to mitigate future incidents, such as additional signs, kiosks, display boards, and/or implementation of other access management measures.

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### **Restrictions Prohibiting Residential Use and Restrictions Against Inconsistent Uses**

*Environmental use restrictions, including the residential use restriction and restrictions against inconsistent uses (applicable to habitat reserve areas), are monitored annually to ensure*

# Former Fort Ord

## Land Use Covenant Report Outline

*compliance. Annual monitoring includes review of deeds and other property filings, physical inspection of the property and reporting. Annual monitoring is conducted by the jurisdictions and includes visual inspection of the properties and review the property deeds to ensure the residential use restriction and restrictions against inconsistent uses remain in place and that no unapproved development or prohibited uses have occurred.*

Question 7 - Did jurisdiction staff visually inspect the parcels (see Table 3-1) in your jurisdiction with residential use restrictions to assure no sensitive uses such as residences, hospitals, day care or schools (not including post-secondary schools, as defined in Section 1.19 of the MOA) were constructed or are occurring on the restricted parcels in your jurisdiction?

yes or  no

If you answered yes, please provide the date(s) of the visual inspections and attach inspection report.

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If you answered no, please provide the reason that annual visual inspection was not conducted.

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Question 8 - Did jurisdiction staff visually inspect the habitat reserve parcels (see Table 3-1) in your jurisdiction with restrictions against inconsistent uses to assure no uses inconsistent with the Habitat Management Plan, including but not limited to residential, school, and commercial/industrial development, have occurred or are occurring on the restricted parcels in your jurisdiction?

yes or  no

If you answered yes, please provide the date(s) of the visual inspections and attach inspection report.

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## Former Fort Ord

### Land Use Covenant Report Outline

If you answered no, please provide the reason that annual visual inspection was not conducted.

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Question 9 – Did jurisdiction staff review property deeds and other property filings as recorded with the County Clerk’s office to verify that residential use restrictions, restrictions against inconsistent uses, and other Environmental Protection Provisions placed on the property by the Army remain in place?

yes or  no

If you answered yes, please provide the date(s) of the staff review of property deeds and other property filings and attach documentation of the review.

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If you answered no, please provide the reason that annual staff review of property deeds and other property filings was not conducted.

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Question 10a – Were there any records of amendment or modification to the residential use restrictions, restrictions against inconsistent uses, and other Environmental Protection Provisions placed on the property by the Army?

yes or  no

If you answered yes, please provide list of any impacted parcels and the identified amendments and/or modifications to the residential use restrictions, restrictions against inconsistent uses, and other Environmental Protection Provisions.

### MEC Incident Reporting

*The standard procedure for reporting unanticipated encounters with a suspected munitions item on the transferred former Fort Ord property is to immediately call 911, which will transfer the call to the appropriate local law enforcement agency. The local law enforcement agency will promptly request DoD response support (e.g., a military EOD Unit). To ensure that all potential*

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### Land Use Covenant Report Outline

*MEC incidents are identified and reported to the Army, EPA and DTSC, the jurisdictions review 911 call records to identify any potentially unreported MEC incidents.*

Question 11 – Did jurisdiction staff review the 911 call records for potential incidents involving MEC observations and responses and provide a summary in annual report as required by the LUC MOA dated November 15, 2007?

yes or  no

If you answered yes, please provide the date(s) of the staff review of 911 call records and attach documentation of the review.

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If you answered no, please provide the reason that annual staff review of 911 call records was not conducted.

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Question 12a – Did review of 911 call records identify any potential incidents involving MEC items?

yes or  no

If you answered yes, please attach a Table providing the following information:

- a) details on how the 911 records were reviewed (such as County point of contact requested 911 records from responsible County department and distributed 911 records to reporting entities),
- b) date and time of the call,
- c) contact name,
- d) location of MEC finding,
- e) type of munitions, if available, and
- f) response of jurisdiction law enforcement agency.

Question 13 – Did jurisdiction staff identify any records of potential MEC item finds or changes in site conditions that could increase the probability of encountering MEC on a parcel?

yes or  no

If you answered yes, please provide a summary of the information identified.

**Former Fort Ord**  
**Land Use Covenant Report Outline**

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## Former Fort Ord

### Land Use Covenant Report Outline

#### LUC Annual Report Signature Block and Attachments

Jurisdiction's Representative Compiling this Report: \_\_\_\_\_

Contact Information:     Phone \_\_\_\_\_  
  Email \_\_\_\_\_

Signature of Preparer: \_\_\_\_\_

#### Suggested Attachments to Annual LUC Report

1. Table summarizing inspections, parcels, restrictions and any deficiencies in the LUCs.
2. Inspection Notes for each parcel.
3. Inspection Photos for each parcel.
4. County and jurisdiction well records, permit reports.
5. Building department permit records.
6. Planning department permit records.
7. MEC findings (911 call records).
8. GPS coordinates for parcels
9. Example of the Annual Digging and Excavation Ordinance Notification Letter
10. Listing of approved construction support plans and level of construction support
11. Table identifying the Construction Support After Action Reports along with types of construction support (on-call or on-site), if MEC items were found, and the amount and types of MEC items found
12. List of any parcels identified per Question 8 and the identified amendments and/or modifications to the residential use restrictions, restrictions against inconsistent uses, and other Environmental Protection Provisions
13. Table providing details regarding MEC 911 calls



**APPENDIX K**

**Response to Comments on Draft Interim Action Ranges MRA LUCIP / OMP**

Response to Comments  
 Draft Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
 Maintenance Plan, dated April 17, 2017  
 Review Comments provided by Maeve Clancy of the EPA, dated June 19, 2017  
 Specific Comments

No.	Comment Type / Report Section	Comment/Response
1	Sections 4.2, Munitions Recognition and Safety Training and 4.3, Construction Support	<p><b>Comment:</b>            Consider adding language to the document that describes the process to review proposals to remove these requirements, similar to sections already included in the document related to removing restrictions prohibiting residential use and inconsistent uses. The removal of these requirements could potentially be done before removing the residential and/or inconsistent use restrictions, and included as justification for the later removal of the restriction(s).</p> <p><b>Response:</b>            Section 4.2.5 has been added and Section 4.2 has been revised to include discussion of the process for removing the requirement for munitions recognition and safety training. Section 4.3.7 has been added and Section 4.2 has been revised to include discussion of the process for removing the requirement for construction support during ground-disturbing or intrusive activities.</p>
2	Section 4.5.1, Process for Review of Proposals to Remove Restrictions Prohibiting Inconsistent Use. Page 4-37,	<p><b>Comment:</b>            Please clarify that the trigger for this process to begin would be an update to the Habitat Management Plan, and a proposal that satisfies applicable Endangered Species Act requirements. As written, this section makes it seem like EPA, the Army, and DTSC could unilaterally remove restrictions against inconsistent uses in the habitat reserve areas, which is not the case.</p> <p><b>Response:</b>            Section 4.5 has been revised to state that the deed provisions against inconsistent uses originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure, and to clarify that removal of the CERCLA requirement will have no effect on these deed provisions. Also see response to Army Comment 11.</p>

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No.	Comment Type / Report Section	Comment/Response
1	Page 3-1, Section 3.1, Munitions Recognition and Safety Training	<p><b>Comment:</b> At the end of the page, sentence “The annual notification to property owners...” appears twice.</p> <p><b>Response:</b> The duplicate sentence has been deleted.</p>
2	Page 4-4, Section 4.1.4, Deed Restrictions	<p><b>Comment:</b> First paragraph. First sentence lists three elements of land use restrictions. The third item should be numbers “3).”</p> <p><b>Response:</b> The third item in the cited sentence has been revised to be “3”).”</p>
3	Page 4-5, Section 4.2, Munitions Recognition and Safety Training	<p><b>Comment:</b> First paragraph, second sentence. The text suggests that when a suspect item is discovered, the work stoppage in the “immediate area” is optional. It is recommended to remove the ambiguity by deleting the word “or” to read “...activity stops in the immediate vicinity of the suspect munitions item as specified in a construction support plan...” Please check other portions of the document for similar updates.</p> <p><b>Response:</b> The cited sentence has been revised as follows:</p> <p style="padding-left: 40px;">“The objective of munitions recognition and safety training is to ensure that people involved in ground-disturbing or intrusive activities are educated about the possibility of encountering MEC, and ensure that the ground-disturbing or intrusive activity stops in the immediate vicinity of the suspect munitions item, <del>or as specified in a construction support plan,</del> when a suspect munitions item is encountered and report the encounter to the appropriate authority. <i>The construction support plan will identify the size of the stop-work area. For projects that do not require a construction support plan, ground-disturbing or intrusive activities will stop as indicated on the munitions recognition and safety training materials.</i>”</p> <p>Clarifying revisions have been made to similar statements throughout the LUCIP/OMP text and Tables 3 and 4.</p>
4	Page 4-7, Section 4.2.2, Annual Notification of	<p><b>Comment:</b> Second paragraph. It states that Monterey Peninsula College (MPC) is the current property owner. The current property owner is Fort Ord</p>

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	MEC Training Requirements	<p>Reuse Authority (FORA.) The statement should be modified to remove the inaccuracy.</p> <p><b>Response:</b>            The cited statement has been revised to clarify that property owners, including MPC, are responsible for knowing and following the requirements of the digging and excavation ordinance.</p>
5	Page 4-8, Section 4.2.4, Monitoring and Reporting of Munitions Recognition and Safety Training	<p><b>Comment:</b>            Third paragraph.</p> <ul style="list-style-type: none"> <li>• It describes that annual monitoring by MPC will include “verification of annual property owner notification.” In Section 4.2.2 it was described that the County and the City of Seaside have the requirement to annually notify property owners. MPC will become the property owner of the Interim Action Ranges MRA property. Please clarify what the “verification” by MPC would entail.</li> <li>• It describes that annual monitoring by MPC will include “verification of the continued availability of web-based training resources.” In Section 4.2.1.2 it was described that FORA is responsible for implementing and maintaining the eLearning platform. Please clarify what is involved in the “verification” by MPC.</li> </ul> <p><b>Response:</b>            In response to the bulleted comments, the second sentence of the third paragraph has been revised as follows:</p> <p style="padding-left: 40px;">“Annual LUC monitoring and reporting requirements include verification of annual property owner notification <i>from the City and County</i> and transmittal of the MEC Safety Guide and Army Safety Alert pamphlet, verification of the continued availability of web-based training resources <i>by FORA</i>, and compilation of munitions recognition and safety training data in accordance with the MOA with DTSC.”</p>
6	Page 4-15, Section 4.3.1.2, Determining Construction Support Permit and	<p><b>Comment:</b>            MPC Parcel Consultation and Approvals. The first paragraph of this section now discusses that, while MPC is not subject to permitting by the County or City, excavation permits are required. The plan should provide documentation that FORA has coordinated with the County, the City of</p>

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	Administrative Requirements	<p>Seaside and MPC, with regard to their roles in implementing the excavation permit requirement as described in the plan.</p> <p><b>Response:</b>            Section 4.3.1.2 has been revised to include discussion of FORA's coordination with MPC, the City and the County regarding permitting requirements.</p>
7	Page 4-18, Section 4.3.1.3, Determining Construction Support Level Requirements	<p><b>Comment:</b>            Minimal Soil Disturbance Activities. First full paragraph on the page. Final sentence notes that discoveries of munitions and explosives of concern (MEC) at a small construction site assessed to have low probability of encountering MEC would require reassessment of the level of construction support. Please add a reference to Section 4.3.5 for the process of the reassessment after discovery of MEC in a low-probability site. Please also add text to ensure that FORA will be notified of a discovery of MEC so that the reassessment can be initiated in a timely manner.</p> <p><b>Response:</b>            Sections 4.3.1.3 and 4.3.5 have been revised to include notification to FORA of the discovery of a MEC item. A statement has also been added to Section 4.3.1.3 to refer the reader to Section 4.3.5 for details on the process for reassessment of the probability of encountering MEC.</p>
8	Page 4-23, Section 4.3.2.4, Suspect Munitions Item Response During On-call Construction Support	<p><b>Comment:</b>            Second paragraph describes the general sequence of work stoppage in response to a discovery of a suspect munitions item. First, when a suspect munitions item is discovered, work in the "immediate area" is stopped. In draft-final LUCIP/OMP for the Group 3 MRAs, the "immediate area" is a 200-ft radius area (this is specified in the template for on-call construction support plan). In contrast, this LUCIP/OMP for the Interim Action Ranges MRA does not specify the size of the "immediate area" of work stoppage, allowing for it to be identified on a site-by-site basis. Therefore, the appropriateness of the size of the "immediate area" would be subject to agency approval through the construction support plan review process. To assist with that review, please include a requirement (here or in the template for the construction support plan) that a supporting rationale be provided for the planned size of the "immediate area" that will be identified in the construction support plan.</p> <p><b>Response:</b></p>

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		The cited statement has been revised in response to Army Comment 3 and the On-Call Construction Support Plan Template provided in Appendix I has been revised to include rationale for the area specified where work will stop in the event a suspect munitions item is encountered.
9	Page 4-24, Section 4.3.2.5, On-call Construction Support After Action Reporting	<p><b>Comment:</b> Third sentence describes that the permittee must submit the after action report to FORA, Army, EPA and DTSC. In Section 5.2.2, it was described that the County and the City have the responsibility to ensure reports are received. Please either add the County and the City to the list of entities to whom the permittee will submit the report, or describe how the County and the City will be provided a copy (e.g., forwarded by FORA).</p> <p><b>Response:</b> The cited text in Sections 4.3.2.5 has been revised to state that for permitted on-call construction support projects, the permittee must submit the Construction Support After Action Report to the permitting agency, FORA, Army, EPA, and DTSC within 30 days of project completion. Similar revisions have been made to Sections 4.3.3 and 4.3.3.6.</p> <p>Section 5.2.2 has been revised to state that the County and City, as permitting agencies, will ensure Construction Support After Action Reports are received from permittees and distributed by permittees to FORA, Army, EPA, and DTSC.</p>
10	Page 4-35, Section 4.4, Restrictions Prohibiting Residential Use	<p><b>Comment:</b> Third paragraph. The text indicates that FORA, the County and the City will not only ensure that the residential use restriction on the property is maintained, but also other provisions of the Environmental Protection Provisions (EPP) remain in place. Those “other” EPP provisions are not necessarily related to Comprehensive Environmental Response, Compensation, and Liability Act (e.g. notice of asbestos and lead-based paint). Since this section is about implementation of the residential use restriction as a component of the selected remedy, and to avoid confusing the issue, please identify the specific EPP provisions that relate to the residential use restriction.</p> <p><b>Response:</b> The third paragraph has been revised as follows:</p>

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		<p>“FORA will review the deed transferring Interim Action Ranges MRA property to MPC to ensure <i>land use restrictions in the residential use restrictions and other Environmental Protection Provisions (EPPs), including residential use restrictions</i>, placed on the property by the Army remain in place. In addition, the County and City review the deed, property transfer documents, deed amendments and other property filings associated with the Interim Action Ranges MRA properties to ensure <i>land use restrictions in the EPPs, including the residential use restrictions and other EPPs</i> placed on the property by the Army remain in place.”</p> <p>Similar revisions have been made to the third paragraph of Section 4.5.</p>
11	Page 4-37, Section 4.5, Restrictions Prohibiting Inconsistent Uses	<p><b>Comment:</b>                      Fourth paragraph describes that MPC will coordinate proposals to remove the restriction against inconsistent uses (applicable to the habitat reserve areas) in consultation with the Army, U.S. Environmental Protection Agency (EPA) and California Department of Toxic Substances Control (DTSC).</p> <p>As described earlier in this section the “inconsistent uses” restriction is currently in place through deed restrictions. Those deed provisions appear under “notice of rare, threatened and endangered species management” section of the Environmental Protection Provisions (EPP). These provisions originate from the federal Endangered Species Act (ESA) and the Environmental Impact Statement for Fort Ord base closure.</p> <p>The ROD for the Interim Action Ranges MRA places the “inconsistent uses” restriction as an additional layer of protection under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Army does not object to providing a process for MPC to propose removal of the “inconsistent uses” restriction from the selected remedy by petitioning to the Army, EPA and DTSC. However, the deed provisions that originate from the ESA cannot be removed from the deed by merely removing the CERCLA requirement for the same restriction. To avoid misinterpretation, the paragraph should be modified to clarify that the removal of the CERCLA requirement for the “inconsistent uses” restriction will have no effect on the “notice of rare, threatened and endangered species management” deed provisions.</p>



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No.	Comment Type / Report Section	Comment/Response
		<p><b>Response:</b>            The third paragraph of Section 4.5 has been revised as follows:</p> <p style="padding-left: 40px;">“MPC will coordinate proposals to remove the <i>CERCLA</i> restrictions against inconsistent uses (applicable to the habitat reserve areas) <i>included in the ROD</i>, in consultation with Army, EPA, and DTSC. <i>The provisions against inconsistent uses in the Federal deed appear under the “notice of rare, threatened and endangered species management” section of the EPPs. These provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure. Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the “notice of rare, threatened and endangered species management” deed provisions.</i> Additional details regarding the process for review and approval of a landowner request to remove a <i>CERCLA</i> restriction against inconsistent uses are provided in Section 4.54.1.”</p>
12	Page 4-37, Section 4.5.1, Process for Review of Proposals to Remove Restrictions Prohibiting Inconsistent Use	<p><b>Comment:</b>            (Same comments apply to Section 4.8.3 Remedy Modification – Discontinue Portion of LUC Remedy.)</p> <ul style="list-style-type: none"> <li>• First sentence. The federal deed does not provide for the Army, EPA and DTSC to approve removal of the “notice of rare, threatened and endangered species management” deed provisions. Therefore, remove “deed” from the statement.</li> <li>• Final sentence. The statement only applies to the “inconsistent uses” restriction as a component of the selected remedy under CERCLA. The section should be revised to clarify that even if the CERCLA requirement for the “inconsistent uses” restriction is removed in the future, the “notice of rare, threatened and endangered species management” deed provisions will run with the land in perpetuity.</li> </ul> <p><b>Response:</b>            In response to the first bulleted comment, the first sentence of Section 4.5.1 and the first sentence of the fifth paragraph of Section 4.8.3 have been revised as suggested.</p> <p>In response to the second bulleted comment, the second and third sentences of Section 4.5.1 and the second and third sentences of the fifth</p>

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No.	Comment Type / Report Section	Comment/Response
		<p>paragraph of Section 4.8.3 have been revised as follows:</p> <p style="padding-left: 40px;">“The requirement for the restrictions against inconsistent uses (applicable to the habitat reserve areas) is a component of the CERCLA remedy for the Interim Action Ranges MRA; therefore, the <b>CERCLA</b> restriction cannot be removed from the deed until the Army and EPA in consultation with DTSC agree that the land use may be conducted in a manner protective of human health and the environment without the LUC. <b>Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the deed provisions against inconsistent uses. The deed provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure and will run with the land.</b> Only when the requirement under CERCLA is removed, the property owner can initiate the administrative processes to remove the restriction from the deed.”</p>
13	Page 5-4, Section 5.1.4, Restrictions Prohibiting Inconsistent Uses	<p><b>Comment:</b> Second paragraph. Second bullet. Update the text to specify the restrictions against inconsistent uses.</p> <p><b>Response:</b> The cited bullet has been revised as suggested.</p>
14	Page 5-9, Section 5.2.4, Restrictions Prohibiting Inconsistent Uses	<p><b>Comment:</b> Second paragraph. Final bullet. Review information for possible updates (see earlier comments).</p> <p><b>Response:</b> The cited bullet has been revised as follows:</p> <p style="padding-left: 40px;">“MPC will coordinate Army, EPA, and DTSC review of any proposals to remove the <b>CERCLA</b> restrictions against inconsistent uses. <b>Removal of the CERCLA restrictions prohibiting inconsistent uses would have no effect on the deed provisions against inconsistent uses. The deed provisions originate from the Federal Endangered Species Act and the Environmental Impact Statement for Fort Ord base closure and will run with the land.</b>”</p>
15	Table 1, Roles, Responsibilities	<p><b>Comment:</b></p>

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		<p>For the row providing information for MPC, “Property Deed” is listed twice in the “authority” column. Remove the duplicate.</p> <p><b>Response:</b> Table 1 has been revised as suggested.</p>
16	Figure 2, Reuse Areas and Munition Response Site	<p><b>Comment:</b> This figure shows the munitions response site but not “reuse areas.” Revise the figure title to reflect the information shown.</p> <p><b>Response:</b> The title of Figure 2 has been revised to “Interim Action Range MRA Munitions Response Site”.</p>
17	Figure 3, Range 47 SCA, Range 44 SCA, and Central Area NCAs	<p><b>Comment:</b> The figure shows the special case areas and non-completed areas. It also shows the reuse areas and parcels. It seems that the reuse areas and parcels are more important information in the context of this LUCIP/OMP. It is suggested the figure title be revised.</p> <p><b>Response:</b> The title of Figure 3 has been revised to “Interim Action Range MRA Designated Future Land Use and USACE Land Transfer Parcels”.</p>
18	Figure 4, Probability of Encountering MEC	<p><b>Comment:</b> Please add a note to the figure indicating that the probability shown is general information, and that each project should be assessed for the probability of encountering MEC based on site-specific information and planned activities. (The note is provided in Table 2.)</p> <p><b>Response:</b> Figure 4 has been revised to include the suggested note.</p>
19	Appendix J, Former Fort Ord Land Use Covenant Report Outline [Revised]	<p><b>Comment:</b> The “revised” outline is dated December 2016 and is the same version as in draft-final LUCIP/OMP for the Group 3 MRAs. This LUCIP for the Interim Action Ranges MRA, however, includes a requirement for annually monitoring the compliance with the “inconsistent uses” restriction applicable to the habitat reserve parcels. To ensure that the annual monitoring addresses this requirement, it is recommended the report outline be further revised to include the topic.</p> <p><b>Response:</b> The Former Fort Ord Land Use Covenant Report Outline [Revised] (Appendix J) has been further revised to include discussion of</p>

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		restrictions against inconsistent uses.

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 General Comments

No.	Comment Type / Report Section	Comment/Response
1	General Comment	<p><b>Comment:</b>            When writing about After Action Reporting, could you clarify, throughout the document, who is responsible for completing After Action Reports.</p> <p><b>Response:</b>            For permitted on-call and on-site construction support projects, the permittee is responsible for completion and submittal of Construction Support After Action Reports to the permitting agency and FORA, Army, EPA, and DSTC. For on-site construction support projects that do not require a permit, the property owner is responsible for completion and submittal of Construction Support After Action Reports to FORA, Army, EPA and DTSC. Clarifying revisions have been made throughout the LUCIP/OMP text and Tables 3 and 4.</p>

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No.	Comment Type / Report Section	Comment/Response
1	Page 2-3, Section 2.4, Potential Future Land and Resource Uses	<p><b>Comment:</b> Please reference figures in the text or in the bulleted paragraphs when describing Parcel E40 and the Habitat Reserve.</p> <p><b>Response:</b> References to Figure 3 have been added to the bullets in Section 2.4.</p>
2	Page 2-4, Section 2.4, Potential Future Land and Resource Uses	<p><b>Comment:</b> Second bullet. This edit needs clarification on two items. Please discuss who will be the owner of the Habitat Reserve and who will be in charge of signing the Memorandum of Agreement.</p> <p><b>Response:</b> The cited bullet has been revised to specify the habitat reserve parcels will be transferred from FORA to MPC. MPC has agreed to managing the Interim Action Ranges MRA property in accordance with the existing Memorandum of Agreement (Appendix E of this Interim Action Ranges MRA LUCIP/OMP).</p>
3	Page 4-4, Section 4.1.4, Deed Restrictions	<p><b>Comment:</b> First paragraph, sentence starting with "The deeds also provide notice to future...." Please re-write the sentence and make it more clear.</p> <p><b>Response:</b> The cited sentence has been revised as follows:</p> <p style="padding-left: 40px;"><i>“The <b>Federal</b> deeds also <b>includes requirements for providing notice of the potential for the presence of MEC</b> provide notice to future <b>landowners of the potential for the presence MEC</b> and <b>requirements</b> to immediately stop any ground-disturbing or intrusive activities in the area or in any adjacent areas <b>in the event a MEC item is encountered</b>, and not to attempt to disturb, remove or destroy the MEC, but to notify the local law enforcement agency having jurisdiction on the property so that appropriate military EOD personnel can be dispatched to address such MEC.”</i></p>
4	Page 4-14, Section 4.3.1.2, Determining Construction Support Permit and	<p><b>Comment:</b> First paragraph. Please specify which County or City should be contacted? This edit should be applied through the document when it is known which City or County needs to be contacted.</p> <p><b>Response:</b> Section 1.3 has been revised to clarify that the City of Seaside and</p>



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No.	Comment Type / Report Section	Comment/Response
	Administrative Requirements	Monterey County are referred to throughout the LUCIP/OMP as “the City” and “the County”, respectively. This is also noted in the second paragraph of Section 3.2.
5	Page 4-21, Section 4.3.2.1, On-Call Construction Support Plan	<p><b>Comment:</b> Last bullet. Reporting and Notification Requirements. Please specify who is responsible for writing these reports.</p> <p><b>Response:</b> The cited bullet has been revised to specify that the reporting and notification requirements are to be completed by the permittee.</p>
6	Page 4-23, Section 4.3.2.4, MEC Item Response During On-call Construction Support	<p><b>Comment:</b> Second paragraph. Please explain who is doing the MEC assessment to determine that current level of construction support is appropriate.</p> <p><b>Response:</b> The cited sentence has been revised to clarify that the MEC find assessment is conducted by FORA in consultation with the Army, EPA, and DTSC.</p>
7	Page 4-35, Section 4.4.1, Process for Review of Proposals to Remove Residential Use Restriction	<p><b>Comment:</b> Please include a statement saying that in order to remove residential use restrictions, DTSC's Residential Protocol would need to be implemented.</p> <p><b>Response:</b> A statement has been added to Section 4.4.1 clarifying that the DTSC may require additional verification equivalent to the DTSC residential protocol before termination of the residential use restrictions in the State CRUP.</p>
8	Page 4-37, Section 4.5, Restrictions Prohibiting Inconsistent Uses	<p><b>Comment:</b> Second paragraph. Please discuss who is doing all compliance work and reporting. See comment 2 above and include this information on page 2-4, too.</p> <p><b>Response:</b> The cited paragraph in Section 4.5 has been revised to specify that annual monitoring of the restrictions prohibiting inconsistent uses is conducted by MPC. Similar revisions have also been made to the second paragraph of Section 4.4.</p>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105

June 19, 2017

Mr. Stan Cook  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

Re: Draft Land Use Controls Implementation Plan/Operation and Maintenance Plan, Interim Action Ranges Munitions Response Area, Former Fort Ord, Monterey County, California, April 17, 2017

Dear Stan:

EPA has received the *Draft Land Use Controls Implementation Plan/Operation and Maintenance Plan, Interim Action Ranges Munitions Response Area, Former Fort Ord, Monterey County, California* dated April 17, 2017. Our comments are attached.

If you have any questions, please do not hesitate to call me at (415) 947-4105 or e-mail me at [clancy.maeve@epa.gov](mailto:clancy.maeve@epa.gov).

Sincerely,

A handwritten signature in blue ink that reads "Maeve Clancy".

Maeve Clancy  
Remedial Project Manager

cc:(via email)  
Vlado Arsov, CalEPA DTSC  
William K. Collins, Fort Ord BRAC Office  
Noel Shrum, CalEPA DTSC  
Christopher Spill, ARCADIS

**Draft Land Use Controls Implementation Plan/Operation and Maintenance Plan  
Interim Action Ranges Munitions Response Area  
Former Fort Ord, Monterey County, California  
April 17, 2017**

**Sections 4.2—Munitions Recognition and Safety Training and 4.3—Construction Support:**

Consider adding language to the document that describes the process to review proposals to remove these requirements, similar to sections already included in the document related to removing restrictions prohibiting residential use and inconsistent uses. The removal of these requirements could potentially be done before removing the residential and/or inconsistent use restrictions, and included as justification for the later removal of the restriction(s).

**Section 4.5.1—Process for Review of Proposals to Remove Restrictions Prohibiting**

**Inconsistent Use, Page 4-37:** Please clarify that the trigger for this process to begin would be an update to the Habitat Management Plan, and a proposal that satisfies applicable Endangered Species Act requirements. As written, this section makes it seem like EPA, the Army, and DTSC could unilaterally remove restrictions against inconsistent uses in the habitat reserve areas, which is not the case.



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
FORT ORD OFFICE, ARMY BASE REALIGNMENT AND CLOSURE  
P.O. BOX 5008, BUILDING #4463 GIGLING ROAD  
MONTEREY, CALIFORNIA 93944-5008

JUN 06 2017

Base Realignment and Closure

Stan Cook  
ESCA Remediation Program Manager  
Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue  
Marina, CA 93933

Subject: *Draft Land Use Control Implementation Plan/Operation and Maintenance Plan, Interim Action Ranges Munitions Response Area*, dated April 17, 2017.

Dear Mr. Cook:

Thank you for an opportunity to review the subject document. The Army's comments are enclosed. Please note our comments are focused on "big picture" issues such as the consistency with the Army's cleanup program. A copy of this letter will be furnished to U.S. Environmental Protection Agency (Maeve Clancy) and California Department of Toxic Substances Control (Vlado Arsov).

Sincerely,

*William K. Collins*

William K. Collins  
BRAC Environmental Coordinator  
Fort Ord Field Office

Enclosure

# DRAFT Land Use Controls Implementation Plan (LUCIP)/ Operation and Maintenance Plan (OMP), Interim Action Ranges Munitions Response Area (MRA)

April 17, 2017

## Army Comments

1. Page 3-1. Section 3.1 Munitions Recognition and Safety Training. At the end of the page, sentence “The annual notification to property owners...” appears twice.
2. Page 4-4. Section 4.1.4 Deed Restrictions. First paragraph. First sentence lists three elements of land use restrictions. The third item should be numbers “3).”
3. Page 4-5. Section 4.2. Munitions Recognition and Safety Training. First paragraph, second sentence. The text suggests that when a suspect item is discovered, the work stoppage in the “immediate area” is optional. It is recommended to remove the ambiguity by deleting the word “or” to read “...activity stops in the immediate vicinity of the suspect munitions item as specified in a construction support plan...” Please check other portions of the document for similar updates.
4. Page 4-7. Section 4.2.2 Annual Notification of MEC Training Requirements. Second paragraph. It states that Monterey Peninsula College (MPC) is the current property owner. The current property owner is Fort Ord Reuse Authority (FORA.) The statement should be modified to remove the inaccuracy.
5. Page 4-8. Section 4.2.4 Monitoring and Reporting of Munitions Recognition and Safety Training. Third paragraph.
  - It describes that annual monitoring by MPC will include “verification of annual property owner notification.” In Section 4.2.2 it was described that the County and the City of Seaside have the requirement to annually notify property owners. MPC will become the property owner of the Interim Action Ranges MRA property. Please clarify what the “verification” by MPC would entail.
  - It describes that annual monitoring by MPC will include “verification of the continued availability of web-based training resources.” In Section 4.2.1.2 it was described that FORA is responsible for implementing and maintaining the eLearning platform. Please clarify what is involved in the “verification” by MPC.
6. Page 4-15. Section 4.3.1.2 Determining Construction Support Permit and Administrative Requirements. MPC Parcel Consultation and Approvals. The first paragraph of this section now discusses that, while MPC is not subject to permitting by the County or City, excavation permits are required. The plan should provide documentation that FORA has coordinated with the County, the City of Seaside and MPC, with regard to their roles in implementing the excavation permit requirement as described in the plan.
7. Page 4-18. Section 4.3.1.3 Determining Construction Support Level Requirements. Minimal Soil Disturbance Activities. First full paragraph on the page. Final sentence notes that discoveries of munitions and explosives of concern (MEC) at a small construction site assessed to have low probability of encountering MEC would require reassessment of the level of construction support. Please add a reference to Section 4.3.5 for the process of the reassessment after discovery of

MEC in a low-probability site. Please also add text to ensure that FORA will be notified of a discovery of MEC so that the reassessment can be initiated in a timely manner.

8. Page 4-23. Section 4.3.2.4 Suspect Munitions Item Response During On-call Construction Support. Second paragraph describes the general sequence of work stoppage in response to a discovery of a suspect munitions item. First, when a suspect munitions item is discovered, work in the “immediate area” is stopped. In draft-final LUCIP/OMP for the Group 3 MRAs, the “immediate area” is a 200-ft radius area (this is specified in the template for on-call construction support plan). In contrast, this LUCIP/OMP for the Interim Action Ranges MRA does not specify the size of the “immediate area” of work stoppage, allowing for it to be identified on a site-by-site basis. Therefore, the appropriateness of the size of the “immediate area” would be subject to agency approval through the construction support plan review process. To assist with that review, please include a requirement (here or in the template for the construction support plan) that a supporting rationale be provided for the planned size of the “immediate area” that will be identified in the construction support plan.
9. Page 4-24. Section 4.3.2.5 On-call Construction Support After Action Reporting. Third sentence describes that the permittee must submit the after action report to FORA, Army, EPA and DTSC. In Section 5.2.2, it was described that the County and the City have the responsibility to ensure reports are received. Please either add the County and the City to the list of entities to whom the permittee will submit the report, or describe how the County and the City will be provided a copy (e.g., forwarded by FORA).
10. Page 4-35. Section 4.4 Restrictions Prohibiting Residential Use. Third paragraph. The text indicates that FOR A, the County and the City will not only ensure that the residential use restriction on the property is maintained, but also other provisions of the Environmental Protection Provisions (EPP) remain in place. Those “other” EPP provisions are not necessarily related to Comprehensive Environmental Response, Compensation, and Liability Act (e.g. notice of asbestos and lead-based paint). Since this section is about implementation of the residential use restriction as a component of the selected remedy, and to avoid confusing the issue, please identify the specific EPP provisions that relate to the residential use restriction.
11. Page 4-37. Section 4.5 Restrictions Prohibiting Inconsistent Uses. Fourth paragraph describes that MPC will coordinate proposals to remove the restriction against inconsistent uses (applicable to the habitat reserve areas) in consultation with the Army, U.S. Environmental Protection Agency (EPA) and California Department of Toxic Substances Control (DTSC).

As described earlier in this section the “inconsistent uses” restriction is currently in place through deed restrictions. Those deed provisions appear under “notice of rare, threatened and endangered species management” section of the Environmental Protection Provisions (EPP). These provisions originate from the federal Endangered Species Act (ESA) and the Environmental Impact Statement for Fort Ord base closure.

The ROD for the Interim Action Ranges MRA places the “inconsistent uses” restriction as an additional layer of protection under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Army does not object to providing a process for MPC to propose removal of the “inconsistent uses” restriction from the selected remedy by petitioning to the Army, EPA and DTSC. However, the deed provisions that originate from the ESA cannot be removed from the deed by merely removing the CERCLA requirement for the same restriction.

To avoid misinterpretation, the paragraph should be modified to clarify that the removal of the CERCLA requirement for the “inconsistent uses” restriction will have no effect on the “notice of rare, threatened and endangered species management” deed provisions.

12. Page 4-37. Section 4.5.1 Process for Review of Proposals to Remove Restrictions Prohibiting Inconsistent Use. (Same comments apply to Section 4.8.3 Remedy Modification – Discontinue Portion of LUC Remedy.)
  - First sentence. The federal deed does not provide for the Army, EPA and DTSC to approve removal of the “notice of rare, threatened and endangered species management” deed provisions. Therefore, remove “deed” from the statement.
  - Final sentence. The statement only applies to the “inconsistent uses” restriction as a component of the selected remedy under CERCLA. The section should be revised to clarify that even if the CERCLA requirement for the “inconsistent uses” restriction is removed in the future, the “notice of rare, threatened and endangered species management” deed provisions will run with the land in perpetuity.
13. Page 5-4. Section 5.1.4 Restrictions Prohibiting Inconsistent Uses. Second paragraph. Second bullet. Update the text to specify the restrictions against inconsistent uses.
14. Page 5-9. Section 5.2.4 Restrictions Prohibiting Inconsistent Uses. Second paragraph. Final bullet. Review information for possible updates (see earlier comments).
15. Table 1, Roles and Responsibilities. For the row providing information for MPC, “Property Deed” is listed twice in the “authority” column. Remove the duplicate.
16. Figure 2, Reuse Areas and Munition Response Site. This figure shows the munitions response site but not “reuse areas.” Revise the figure title to reflect the information shown.
17. Figure 3, Range 47 SCA, Range 44 SCA, and Central Area NCAs. The figure shows the special case areas and non-completed areas. It also shows the reuse areas and parcels. It seems that the reuse areas and parcels are more important information in the context of this LUCIP/OMP. It is suggested the figure title be revised.
18. Figure 4, Probability of Encountering MEC. Please add a note to the figure indicating that the probability shown is general information, and that each project should be assessed for the probability of encountering MEC based on site-specific information and planned activities. (The note is provided in Table 2.)
19. Appendix J Former Fort Ord Land Use Covenant Report Outline [Revised]. The “revised” outline is dated December 2016 and is the same version as in draft-final LUCIP/OMP for the Group 3 MRAs. This LUCIP for the Interim Action Ranges MRA, however, includes a requirement for annually monitoring the compliance with the “inconsistent uses” restriction applicable to the habitat reserve parcels. To ensure that the annual monitoring addresses this requirement, it is recommended the report outline be further revised to include the topic.

Chieko Nozaki (Chenega Support Services)  
831-899-7372



## Department of Toxic Substances Control

**Matthew Rodriguez**  
Secretary for  
Environmental Protection

Barbara A. Lee, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200

**Edmund G. Brown Jr.**  
Governor

June 20, 2017

Mr. Stan Cook  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, California 93933

**DRAFT LAND USE CONTROLS IMPLEMENTATION PLAN / OPERATIONS AND MAINTENANCE PLAN, INTERIM ACTION RANGES MUNITIONS RESPONSE AREA, FORMER FORT ORD, MONTEREY COUNTY, CALIFORNIA, APRIL 17, 2017**

Dear Mr. Cook:

The Department of Toxic Substances Control (DTSC) has reviewed the *Draft Land Use Controls Implementation Plan / Operations and Maintenance Plan, Interim Action Ranges Munitions Response Area*. The purpose of this LUCIP/OMP is to provide remedy implementation and maintenance information for the Interim Action Ranges MRA Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Record of Decision (ROD) dated December 12, 2016, and finalized on January 18, 2017.

DTSC has the following comments:

### General comment

1. When writing about After Action Reporting, could you clarify, throughout the document, who is responsible for completing After Action Reports.

### Specific Comments

1. Page 2-3, Chapter 2.4. Please reference figures in the text or in the bulleted paragraphs when describing Parcel E40 and the Habitat Reserve.
2. Page 2-4, Chapter 2.4, second bullet. This edit needs clarification on two items. Please discuss who will be the owner of the Habitat Reserve and who will be in charge of signing the Memorandum of Agreement.



Mr. Stan Cook  
June 20, 2017  
Page 2 of 3

3. Page 4-4, Chapter 4.1.4, first paragraph, sentence starting with "The deeds also provide notice to future...." Please re-write the sentence and make it more clear.
4. Page 4-14, Chapter 4.3.1.2, first paragraph. Please specify which County or City should be contacted? This edit should be applied through the document when it is known which City or County needs to be contacted.
5. Page 4-21, Chapter 4.3.2.1, last bullet, Reporting and Notification Requirements. Please specify who is responsible for writing these reports.
6. Page 4-23, Chapter 4.3.2.4, second paragraph. Please explain who is doing the MEC assessment to determine that current level of construction support is appropriate.
7. Page 4-35, Chapter 4.4.1. Please include a statement saying that in order to remove residential use restrictions, DTSC's Residential Protocol would need to be implemented.
8. Page 4-37, Chapter 4.5, second paragraph. Please discuss who is doing all compliance work and reporting. See comment 2 above and include this information on page 2-4, too.

DTSC appreciates the opportunity to review the subject document. If you have any questions, please contact me at (916) 255-4988, or at [Vlado.Arsov@dtsc.ca.gov](mailto:Vlado.Arsov@dtsc.ca.gov).

Sincerely,



Vlado Arsov, P.E.  
Project Manager  
Military and Corrective Action Unit  
Brownfields and Environmental Restoration Program

cc: (Via email)

Ms. Maeve Clancy  
U.S. Environmental Protection Agency, Region 9  
[Clancy.Maeve@epa.gov](mailto:Clancy.Maeve@epa.gov)

Mr. Stan Cook  
June 20, 2017  
Page 3 of 3

cc: Mr. Noel Shrum, Chief  
Military and Corrective Action Unit  
Brownfields and Environmental Restoration Program  
Department of Toxic Substances Control  
[Noel.Shrum@dtsc.ca.gov](mailto:Noel.Shrum@dtsc.ca.gov)

Mr. Roman A. Racca, P.G.  
Senior Engineering Geologist  
State-Wide Munitions Response Coordinator  
Department of Toxic Substances Control  
[Roman.Racca@dtsc.ca.gov](mailto:Roman.Racca@dtsc.ca.gov)

APPENDIX L

**Response to Comments on Draft Final Interim Action Ranges MRA LUCIP / OMP**

Response to Comments  
 Draft Final Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
 Maintenance Plan, dated July 26, 2017  
 Review Comments provided by Walter Tribley of the Monterey Peninsula College, dated August  
 29, 2017  
 General and Specific Comments

No.	Comment Type / Report Section	Comment/Response
1	Sections 2.4, Potential Future Land and Resource Uses	<p><b>Comment:</b>            Section 2.4 in the Draft Final includes a description of the habitat reserve and restrictions. Per a Memorandum of Agreement with FORA and Monterey County, MPC will have no habitat management responsibilities for the reserve. These management activities will be the responsibility of FORA and the County and will likely be performed by a JPA to be formed in conjunction with the Habitat Conservation Plan (HCP) being coordinated by FORA. We suggest including a mention that the habitat reserve will be managed by FORA/Monterey County/HCP JPA in this section. Regarding the restrictions, we also suggest referencing the HCP as the habitat reserve parcels are included and designated as the Range 45 Reserve.</p> <p><b>Response:</b>            Discussion of the MOA with FORA and Monterey County has been added to Section 5.3. The MOA has been added to Appendix E, Memoranda of Agreement.</p>
2	Section 3.2, Construction Support, and Section 4.3, Construction Support for Ground-disturbing or Intrusive Activities	<p><b>Comment:</b>            The Draft Final specifies that on-site construction support or anomaly avoidance is required for all soil disturbance activities occurring in areas where the risk of encountering MEC is moderate to high, regardless of the level of soil disturbance (page 3-3). Portions of the habitat reserve parcels have been identified as having this level of risk. On-site construction support includes many requirements, including an on-site construction support plan and an explosive safety submission (ESS). These plans must be approved by the Army, EPA, and DTSC before any soil can be removed. Also, excavation permits will be required for activities disturbing 10 cubic yards or more of soil (page 3-4). As stated previously, it is likely habitat management activities will be performed by FORA/Monterey County/HCP JPA. For habitat management activities involving soil disturbance, it is unclear to MPC how these approval and permit requirements will be accomplished under HCP implementation. MPC seeks clarification.</p> <p><b>Response:</b>            In addition to MPC's property recipient responsibilities, the County and FORA will be responsible for ensuring LUCIP/OMP property owner responsibilities are implemented.            The Army has clarified that an explosive safety submission is not required</p>

Response to Comments  
 Draft Final Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
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No.	Comment Type / Report Section	Comment/Response
		<p>for on-site construction support. The LUCIP/OMP has been revised throughout to remove this requirement.</p> <p>Also see response to MPC Comment 13.</p>
3	Section 4.3, Construction Support for Ground-disturbing or Intrusive Activities	<p><b>Comment:</b>  <b>Removal of Requirements for Construction Support</b>            Under 4.3, Construction Support for Ground-disturbing or Intrusive Activities, the LUCIP states “MPC will coordinate proposals to remove the requirements for construction support.” For clarity, MPC suggests moving this paragraph to the end of the section, following the paragraph, “Construction support requirements apply in the short term during initial development of the reuse area, and/or in the long-term during reuse and redevelopment activities. Construction support effectiveness will be evaluated by the Army as part of the five-year review process to determine if the LUC should continue. If the MEC-related data collected during the development of the reuse areas indicate that this LUC is no longer necessary, construction support requirements may be discontinued with Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.” MPC also suggests Section 4.8 be changed to 4.8.3, for clarity.</p> <p><b>Response:</b>            For consistency between Sections 4.3, 4.4, and 4.5, the positions of the paragraphs have not been revised.</p> <p>The last paragraph of Section 4.3 includes discussion of the Army’s evaluation of the effectiveness of the Land Use Control (LUC) during the five-year review process. The last sentence of the paragraph references Section 4.8, Additional Response or Remedy Modification, as this section includes possible outcomes of the five-year review process.</p> <p>No revisions have been made in response to this comment.</p>
4	Section 4.3.1.2, Determining Construction Support Permit and Administrative Requirements (MPC Parcel	<p><b>Comment:</b>            The Draft Final states MPC will coordinate with FORA to ensure compliance with construction support requirements (page 4-16). MPC suggests mention of the HCP JPA for the reasons described above.</p> <p>Also, MPC suggests the following change to provide clarity, “As <b>an excavation permittee</b>, MPC is responsible for after action reporting ...”.</p>

Response to Comments  
 Draft Final Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
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 Review Comments provided by Walter Tribley of the Monterey Peninsula College, dated August  
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 General and Specific Comments

No.	Comment Type / Report Section	Comment/Response
	Consultation and Approvals)	<p><b>Response:</b>            In response to MPC Comment 1, discussion of the MOA with FORA and Monterey County has been added to Section 5.3. Sections 4.3 and 5.2.1 have been revised to clarify that annual notification will be provided to property owners and other land users, such as utility services and habitat managers, of the requirements of the digging and excavation ordinances and requirements for distribution of the Army Safety Alert pamphlet and MEC Safety Guide.</p> <p>Throughout the LUCIP/OMP, MPC’s responsibilities as a permittee and as a property owner are differentiated. To maintain consistent terminology throughout the document, no revisions have been made to this language.</p>
5	Section 4.3.1.2, Determining Construction Support Permit and Administrative Requirements (Local Digging and Excavation Ordinance Permitting)	<p><b>Comment:</b>            MPC suggests the following changes (page 4-16) to provide clarity:</p> <p><i>“The property owner or project proponent must apply to the local County or City Building Official for a permit...”</i></p> <p><i>“The County or City Building Official review permit applications and approves excavation permits.”</i></p> <p><b>Response:</b>            The term “local” is used throughout the LUCIP/OMP in reference to digging and excavation ordinances, building codes, permitting requirements, and building and planning departments. To maintain consistent terminology throughout the document, no revisions have been made.</p>
6	Section 4.3.1.3, Determining Construction Support Level Requirements (On-call Construction Support, On-site Construction Support)	<p><b>Comment:</b>            In areas where there is a combination of low risk and moderate to high risk of encountering MEC, MPC seeks clarification regarding the practical application of both on-call and on-site construction support requirements. How would these two levels of requirement be implemented together, practically speaking?</p> <p><b>Response:</b>            Projects that include ground-disturbing or intrusive activities in areas where the probability of encountering munitions and explosives of concern (MEC) is moderate to high (i.e., within Range 44 Special Case Area [SCA], Central Area Non-completed Areas, or Trench SCA portions of the Interim Action Ranges MRA), on-site construction support is</p>

Response to Comments  
 Draft Final Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
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No.	Comment Type / Report Section	Comment/Response
		<p>required. If the project footprint includes areas with low probability of encountering MEC and areas with moderate to high probability of encountering MEC, on-site construction support would be required for the portion of the project footprint located in areas with moderate to high probability of encountering MEC. On-call construction support would be required for the remaining portions of the project footprint.</p> <p>During on-site construction support, UXO-qualified personnel must attempt to identify and address explosive hazards within the construction footprint either prior to or during any ground-disturbing or intrusive activities, such that the probability of encountering MEC can be reassessed to be low, or use anomaly avoidance techniques to avoid any subsurface anomalies during ground-disturbing or intrusive activities. During on-site construction support, once explosive hazards, if present, have been removed, and the Army determines in consultation with EPA and DTSC, that the probability of encountering MEC has been reduced to low, on-call construction support is provided, as appropriate, during construction activities.</p> <p>Details of construction support implementation will be included in the project-specific construction support plan.</p>
7	Section 4.3.2.5, On-call Construction Support After Action Reporting	<p><b>Comment:</b>  MPC suggests the following change to provide clarity (page 4-25), <i>“Following completion of a permitted on-call construction support project, the <b>excavation</b> permittee must submit a Construction Support After Action Report.”</i></p> <p><b>Response:</b>  See response to MPC Comment 4.</p>
8	Section 4.3.3, On-site Construction Support	<p><b>Comment:</b>  The Draft Final states, <i>“During on-site construction support, once explosive hazards, if present, have been removed and Army, EPA, and DTSC agree that the probability of encountering MEC has been reduced to low, on-call construction support is provided, as appropriate, during construction activities.”</i> How is the agreement determined?</p> <p><b>Response:</b>  This process is detailed in the On-Call Construction Support Decision Tree included in Appendix H.</p>

Response to Comments  
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No.	Comment Type / Report Section	Comment/Response
		<p>In general, following the completion of on-site construction support activities, the UXO support contractor will report results of the activities to FORA, the Army, EPA, and DTSC in a Construction Support After Action Report. FORA will conduct an assessment of the results and distribute the conclusions to the Army, EPA, and DTSC. The Army will determine in consultation with EPA and DTSC, if the probability of encountering MEC has been reduced to low. Planned construction or maintenance activities can be conducted utilizing on-call construction support in areas where, based on the assessment, the probability of encountering MEC is determined to be low.</p>
9	Section 4.3.5, FORA MEC Finds Assessment	<p><b>Comment:</b>          The Draft Final states if MEC is encountered, FORA will work with Army, EPA, and DTSC regarding an assessment of the probability of encountering MEC and the appropriate level of construction support. Until this assessment is completed, site work may not restart. Later, the LUCIP states FORA will complete its work within 20 days of a MEC find. There is no timeline given for the evaluation and decision of the Army, EPA, and DTSC. MPC is concerned about the delay to a construction project that may result and requests the LUCIP provide a statement of assurance about timely completion of the reassessment.</p> <p><b>Response:</b>          It is the objective of FORA, the Army, and regulatory agencies to complete consultations and review processes as expeditiously as practicable.</p>
10	Section 4.4, Restrictions Prohibiting Residential Use	<p><b>Comment:</b>          Under 4.4, the LUCIP states “MPC will coordinate proposals to remove the residential use restrictions...” For clarity, MPC suggests moving this paragraph to the end of the section, following the paragraph, “Residential use restrictions will be evaluated by the Army as part of the five-year review (Section 4.6) process to determine if the restrictions should continue. If further evaluation indicates that this LUC is no longer necessary for the Interim Action Ranges MRA, the program may be discontinued upon Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.” MPC also suggests Section 4.8 be changed to 4.8.3, for clarity.</p> <p><b>Response:</b>          For consistency between Sections 4.3, 4.4, and 4.5, the positions of the</p>



Response to Comments  
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No.	Comment Type / Report Section	Comment/Response
		<p>paragraphs have not been revised.</p> <p>The last paragraph of Section 4.4 includes discussion of the Army's evaluation of the effectiveness of the LUC during the five-year review process. The last sentence of the paragraph references Section 4.8, Additional Response or Remedy Modification, as this section includes possible outcomes of the five-year review process.</p> <p>No revisions have been made in response to this comment.</p>
11	Section 5.1.2, Construction Support	<p><b>Comment:</b> MPC reiterates its concern about construction delays resulting when MEC is encountered, due to the assessment and potential additional investigation EPA and DTSC may require of FORA. MPC requests a statement of assurance about timely completion of the assessment and evaluation by FORA, Army, EPA, and DTSC.</p> <p><b>Response:</b> See response to MPC Comment 9.</p>
12	Section 5.1.7, Notification Should Action(s) Interfere with LUCIP/OMP Effectiveness	<p><b>Comment:</b> Under 5.1.7, the LUCIP states FORA will consult with the County, City, and/or MPC after discovery of an inconsistent activity occurring in the area. Why is the County or City involved? What jurisdiction do the County or City have in this situation? Per Section 2.1.1, Annual Review of Compliance with LUCs in the MOA with DTSC, the Cities and County will not report on MPC's properties. MPC requests clarification. This same question applies to Section 5.2.4, Restrictions Prohibiting Inconsistent Uses, and Section 5.3.3, Residential Use Restriction.</p> <p><b>Response:</b> The intent is to allow FORA, the County, City, and/or MPC to share knowledge they may have of the inconsistent activity such that the cause of the activity can be thoroughly investigated. This coordination will assist in determining which jurisdiction, if any, was involved in the activity.</p>
13	Section 5.2, MPC, the County, and the City Responsibilities, and Section	<p><b>Comment:</b> MPC is concerned about monitoring and reporting in regards to the habitat management activities undertaken by FORA/County/HCP JPA on the habitat reserve areas. Under Section 5.2.1, the LUCIP states the County and City will provide annual notification to land owners and users</p>

Response to Comments  
 Draft Final Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
 Maintenance Plan, dated July 26, 2017  
 Review Comments provided by Walter Tribley of the Monterey Peninsula College, dated August  
 29, 2017  
 General and Specific Comments

No.	Comment Type / Report Section	Comment/Response
	5.2.1, Munitions Recognition and Safety Training	<p>(related to utilities serving the property) of the obligation to following the digging and excavation ordinance. MPC requests habitat managers be included as users. Also, the LUCIP states MPC will compile annual munitions recognition and safety training statistics for the Interim Action Ranges MRA from construction support excavation permits. MPC is concerned about reporting statistics for activities conducted by FORA/County/HCP JPA.</p> <p><b>Response:</b>            In response to MPC Comment 4, Sections 4.3 and 5.2.1 have been revised to clarify that annual notification will be provided to property owners and other land users, such as utility services and habitat managers, of the requirements of the digging and excavation ordinances and requirements for distribution of the Army Safety Alert pamphlet and MEC Safety Guide.</p> <p>As the property owner, MPC is responsible for collection and submittal of munitions recognition and safety training statistics and compliance monitoring results annually to FORA in the annual LUC monitoring report. With regard to activities conducted by FORA or the County, it is the assumption that reporting responsibilities will be clarified in operating agreements between MPC, as property owner, and FORA and the County, as habitat managers. MPC is responsible for ensuring that the reporting occurs.</p>
14	General Comment	<p><b>Comment:</b>  <b>FORA's Responsibilities</b>            FORA has a critical and valuable role in the LUCIP/OMP and MPC recognizes FORA's unique expertise and charge in coordinating with property owners, Army, EPA, and DTSC on the appropriate construction support requirements. Although the Final Draft indicates FORA's responsibilities will be transferred to FORA's successor in interest, MPC is concerned that FORA's successor will not have the comparable expertise or resources to effectively fulfill this role and responsibilities.</p> <p><b>Response:</b>            The ESCA and AOC contemplated the eventual sunset of FORA and made provisions for a successor in interest to perform FORA's Long-Term Obligations. The ESCA states that the successor should be able to meet the technical obligations and responsibilities required under the ESCA and the AOC. The AOC limits the successor to Monterey County,</p>

Response to Comments  
 Draft Final Interim Action Ranges MRA Land Use Controls Implementation Plan/Operation and  
 Maintenance Plan, dated July 26, 2017  
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 29, 2017  
 General and Specific Comments

No.	Comment Type / Report Section	Comment/Response
		City of Seaside, City of Marina, or a joint powers agency comprised of two or more public authorities created for the purpose of succeeding FORA's obligations, liabilities, and duties.
15	General Comment	<p><b>Comment:</b>  <b>Implementation Concerns</b>            The LUCIP/OMP is a complex implementation plan, with different requirements within the same parcel for the Interim Action Ranges MRA. The implementation of the Habitat Conservation Plan adds to the complexity. As habitat management activities in the habitat reserve area will be performed by the HCP JPA, MPC is concerned about its role and responsibilities under the LUCIP. On the development parcel, MPC will be required to provide on-call or on-site construction support for future projects. This construction support will necessitate preparation of all of the associated plans, submissions, and approvals, at MPC's cost. Expedient review in all processes requiring coordination or approval by FORA, the Army and the regulatory agencies will be necessary to avoid project delays and additional construction or operational costs. As the implementation plan brings a new set of procedures for the former Fort Ord area, MPC is concerned about how the LUCIP/OMP processes will actually work in practice, what the actual timelines and costs will be, and if improvements or adjustments to the process will be considered.</p> <p><b>Response:</b>            It is the objective of FORA, the Army, and regulatory agencies to complete consultations and the review process as expeditiously as practicable.</p> <p>The LUCIP/OMP may be modified to incorporate improvements or adjustments during remedy implementation. Changes to the LUCIP/OMP must be coordinated between the property owner and FORA, or its successor, and are subject to review and approval by the Army and regulatory agencies.</p>



August 29, 2017

Stan Cook  
FORA ESCA Program Manager  
Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue, Suite A  
Marina, CA 93933

RE: Draft Final Land Use Controls Implementation Plan/Operation and Maintenance Plan – Interim Action Ranges Munitions Response Area (MRA)

Dear Mr. Cook:

Monterey Peninsula College (MPC) has completed a review of the recently released Draft Final Land Use Controls Implementation Plan/Operation and Maintenance Plan – Interim Action Ranges Munitions Response Area (MRA). The planned use of this area includes an extensive habitat reserve and a non-residential development to be determined by MPC. The College submits the following comments regarding the Draft Final.

**Potential Future Land and Resource Uses**

Section 2.4 in the Draft Final includes a description of the habitat reserve and restrictions. Per a Memorandum of Agreement with FORA and Monterey County, MPC will have no habitat management responsibilities for the reserve. These management activities will be the responsibility of FORA and the County and will likely be performed by a JPA to be formed in conjunction with the Habitat Conservation Plan (HCP) being coordinated by FORA. We suggest including a mention that the habitat reserve will be managed by FORA/Monterey County/HCP JPA in this section. Regarding the restrictions, we also suggest referencing the HCP as the habitat reserve parcels are included and designated as the Range 45 Reserve.

**Construction Support (Sections 3.2 and 4.3)**

The Draft Final specifies that on-site construction support or anomaly avoidance is required for all soil disturbance activities occurring in areas where the risk of encountering MEC is moderate to high, regardless of the level of soil disturbance (page 3-3). Portions of the habitat reserve parcels have been identified as having this level of risk. On-site construction support includes many requirements, including an on-site construction support plan and an explosive safety submission (ESS). These plans must be approved by the Army, EPA, and DTSC before any soil can be removed. Also, excavation permits will be required for activities disturbing 10 cubic yards or more of soil (page 3-4). As stated previously, it is likely habitat management activities will be performed by FORA/Monterey County/HCP JPA. For habitat management activities involving soil disturbance, it is unclear to MPC

August 29, 2017

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how these approval and permit requirements will be accomplished under HCP implementation. MPC seeks clarification.

### **Removal of Requirements for Construction Support**

Under 4.3, Construction Support for Ground-disturbing or Intrusive Activities, the LUCIP states “MPC will coordinate proposals to remove the requirements for construction support.” For clarity, MPC suggests moving this paragraph to the end of the section, following the paragraph, “Construction support requirements apply in the short term during initial development of the reuse area, and/or in the long-term during reuse and redevelopment activities. Construction support effectiveness will be evaluated by the Army as part of the five-year review process to determine if the LUC should continue. If the MEC-related data collected during the development of the reuse areas indicate that this LUC is no longer necessary, construction support requirements may be discontinued with Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.” MPC also suggests Section 4.8 be changed to 4.8.3, for clarity.

### **MPC Parcel Consultation and Approvals (Section 4.3.1.2)**

The Draft Final states MPC will coordinate with FORA to ensure compliance with construction support requirements (page 4-16). MPC suggests mention of the HCP JPA for the reasons described above. Also, MPC suggests the following change to provide clarity, “As an *excavation* permittee, MPC is responsible for after action reporting ...”

### **Local Digging and Excavation Ordinance Permitting ((Section 4.3.1.2)**

MPC suggests the following changes (page 4-16) to provide clarity:

“The property owner or project proponent must apply to the ~~local~~ *County or City* Building Official for a permit...”

“The *County or City* Building Official review permit applications and approves excavation permits.”

### **On-call and On-site Construction Support (Section 4.3.1.3)**

In areas where there is a combination of low risk and moderate to high risk of encountering MEC, MPC seeks clarification regarding the practical application of both on-call and on-site construction support requirements. How would these two levels of requirement be implemented together, practically speaking?

### **On-call Construction Support After Action Reporting (Section 4.3.2.5)**

MPC suggests the following change to provide clarity (page 4-25), “Following completion of a permitted on-call construction support project, the *excavation* permittee must submit a Construction Support After Action Report.”

### **On-site Construction Support (Section 4.3.3)**

The Draft Final states, “During on-site construction support, once explosive hazards, if present, have been removed and Army, EPA, and DTSC agree that the probability of encountering MEC has been reduced to low, on-call construction support is provided, as appropriate, during construction activities.” How is the agreement determined?

#### **FORA MEC Finds Assessment (Section 4.3.5)**

The Draft Final states if MEC is encountered, FORA will work with Army, EPA, and DTSC regarding an assessment of the probability of encountering MEC and the appropriate level of construction support. Until this assessment is completed, site work may not restart. Later, the LUCIP states FORA will complete its work within 20 days of a MEC find. There is no timeline given for the evaluation and decision of the Army, EPA, and DTSC. MPC is concerned about the delay to a construction project that may result and requests the LUCIP provide a statement of assurance about timely completion of the reassessment.

#### **Restrictions Prohibiting Residential Use (Section 4.4)**

Under 4.4, the LUCIP states *“MPC will coordinate proposals to remove the residential use restrictions...”* For clarity, MPC suggests moving this paragraph to the end of the section, following the paragraph, *“Residential use restrictions will be evaluated by the Army as part of the five-year review (Section 4.6) process to determine if the restrictions should continue. If further evaluation indicates that this LUC is no longer necessary for the Interim Action Ranges MRA, the program may be discontinued upon Army, EPA, and DTSC approval. See Section 4.8 for details regarding remedy modification.”* MPC also suggests Section 4.8 be changed to 4.8.3, for clarity.

#### **Construction Support (Section 5.1.2)**

MPC reiterates its concern about construction delays resulting when MEC is encountered, due to the assessment and potential additional investigation EPA and DTSC may require of FORA. MPC requests a statement of assurance about timely completion of the assessment and evaluation by FORA, Army, EPA, and DTSC.

#### **Notification Should Action(s) Interfere with LUCIP/OMP Effectiveness (Section 5.1.7)**

Under 5.1.7, the LUCIP states FORA will consult with the County, City, and/or MPC after discovery of an inconsistent activity occurring in the area. Why is the County or City involved? What jurisdiction do the County or City have in this situation? Per Section 2.1.1, Annual Review of Compliance with LUCs in the MOA with DTSC, the Cities and County will not report on MPC’s properties. MPC requests clarification. This same question applies to **Section 5.2.4, Restrictions Prohibiting Inconsistent Uses**, and **Section 5.3.3, Residential Use Restriction**.

#### **MPC, the County, and the City Responsibilities (Section 5.2 and Section 5.2.1)**

MPC is concerned about monitoring and reporting in regards to the habitat management activities undertaken by FORA/County/HCP JPA on the habitat reserve areas. Under Section 5.2.1, the LUCIP states the County and City will provide annual notification to land owners and users (related to utilities serving the property) of the obligation to following the digging and excavation ordinance. MPC requests habitat managers be included as users. Also, the LUCIP states MPC will compile annual munitions recognition and safety training statistics for the Interim Action Ranges MRA from construction support excavation permits. MPC is concerned about reporting statistics for activities conducted by FORA/County/HCP JPA.

August 29, 2017

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### **FORA's Responsibilities**

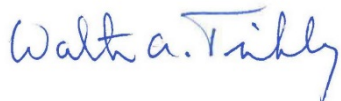
FORA has a critical and valuable role in the LUCIP/OMP and MPC recognizes FORA's unique expertise and charge in coordinating with property owners, Army, EPA, and DTSC on the appropriate construction support requirements. Although the Final Draft indicates FORA's responsibilities will be transferred to FORA's successor in interest, MPC is concerned that FORA's successor will not have the comparable expertise or resources to effectively fulfill this role and responsibilities.

### **Implementation Concerns**

The LUCIP/OMP is a complex implementation plan, with different requirements within the same parcel for the Interim Action Ranges MRA. The implementation of the Habitat Conservation Plan adds to the complexity. As habitat management activities in the habitat reserve area will be performed by the HCP JPA, MPC is concerned about its role and responsibilities under the LUCIP. On the development parcel, MPC will be required to provide on-call or on-site construction support for future projects. This construction support will necessitate preparation of all of the associated plans, submissions, and approvals, at MPC's cost. Expedient review in all processes requiring coordination or approval by FORA, the Army and the regulatory agencies will be necessary to avoid project delays and additional construction or operational costs. As the implementation plan brings a new set of procedures for the former Fort Ord area, MPC is concerned about how the LUCIP/OMP processes will actually work in practice, what the actual timelines and costs will be, and if improvements or adjustments to the process will be considered.

Thank you for the opportunity to comment. We welcome further discussion of our concerns. If you have any questions, please contact Vicki Nakamura: [vnakamura@mpc.edu](mailto:vnakamura@mpc.edu).

Sincerely,

A handwritten signature in blue ink that reads "Walter Tribley". The signature is written in a cursive, slightly slanted style.

Dr. Walter Tribley  
Superintendent/President



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
FORT ORD OFFICE, ARMY BASE REALIGNMENT AND CLOSURE  
P.O. BOX 5008, BUILDING #4463 GIGLING ROAD  
MONTEREY, CALIFORNIA 93944-5008

August 28, 2017

Base Realignment and Closure

Stan Cook  
ESCA Remediation Program Manager  
Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue  
Marina, CA 93933

Subject: *Draft Final Land Use Controls Implementation Plan/Operation and Maintenance Plan, Interim Action Ranges Munitions Response Area*, dated July 26, 2017.

Dear Mr. Cook:

Thank you for an opportunity to review the subject document. The Army has no further comment on this document. A copy of this letter will be furnished to U.S. Environmental Protection Agency (Maeve Clancy) and California Department of Toxic Substances Control (Vlado Arsov).

Sincerely,

A handwritten signature in black ink that reads "William K. Collins".

William K. Collins  
BRAC Environmental Coordinator  
Fort Ord Field Office





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

**August 25, 2017**

Mr. Stan Cook  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

Re: Draft Final Land Use Controls Implementation Plan/Operation and Maintenance Plan, Interim Action Ranges Munitions Response Area, Former Fort Ord, Monterey County, California, July 26, 2017

Dear Stan:

EPA has received the *Draft Final Land Use Controls Implementation Plan/Operation and Maintenance Plan, Interim Action Ranges Munitions Response Area, Former Fort Ord, Monterey County, California* dated July 26, 2017. We have no comments on this document.

If you have any questions, please do not hesitate to call me at (415) 947-4105 or e-mail me at [clancy.maeve@epa.gov](mailto:clancy.maeve@epa.gov).

Sincerely,

//Signed//

Maeve Clancy  
Remedial Project Manager

cc:(via email)  
Vlado Arsov, CalEPA DTSC  
William K. Collins, Fort Ord BRAC Office  
Noel Shrum, CalEPA DTSC  
Christopher Spill, ARCADIS



## Department of Toxic Substances Control

**Matthew Rodriguez**  
Secretary for  
Environmental Protection

Barbara A. Lee, Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200

**Edmund G. Brown Jr.**  
Governor

August 30, 2017



Mr. Stan Cook  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, California 93933

DRAFT FINAL LAND USE CONTROLS IMPLEMENTATION PLAN / OPERATIONS  
AND MAINTENANCE PLAN, INTERIM ACTION RANGES MUNITIONS RESPONSE  
AREA, FORMER FORT ORD, MONTEREY COUNTY, CALIFORNIA, JULY 26, 2017

Dear Mr. Cook:

The Department of Toxic Substances Control (DTSC) has reviewed the *Draft Final Land Use Controls Implementation Plan / Operations and Maintenance Plan, Interim Action Ranges Munitions Response Area* (LUCIP/OMP). The purpose of this LUCIP/OMP is to provide remedy implementation and maintenance information for the Interim Action Ranges Munitions Response Area Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Record of Decision (ROD) finalized on January 18, 2017.

DTSC has no additional comments on this draft final report.

DTSC appreciates the opportunity to review the subject document. If you have any questions, please contact me at (916) 255-4988, or at [Vlado.Arsov@dtsc.ca.gov](mailto:Vlado.Arsov@dtsc.ca.gov).

Sincerely,

Vlado Arsov, P.E.  
Project Manager  
Military and Corrective Action Unit  
Brownfields and Environmental Restoration Program

cc: See next page.

Mr. Stan Cook  
August 30, 2017  
Page 2 of 2

cc: (Via email)

Ms. Maeve Clancy  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
Mail Code: SFD-8-3  
San Francisco, California 94105  
[Clancy.Maeve@epa.gov](mailto:Clancy.Maeve@epa.gov)

Mr. Noel Shrum, Chief  
Military and Corrective Action Unit  
Brownfields and Environmental Restoration Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826  
[Noel.Shrum@dtsc.ca.gov](mailto:Noel.Shrum@dtsc.ca.gov)

Mr. Roman A. Racca, P.G.  
Senior Engineering Geologist  
State-Wide Munitions Response Coordinator  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826  
[Roman.Racca@dtsc.ca.gov](mailto:Roman.Racca@dtsc.ca.gov)

**APPENDIX M**

**Distribution List**

Print	CD	Name	Organization	Address	City and State	Zip
1	1	Stan Cook	Fort Ord Reuse Authority	920 2 <sup>nd</sup> Avenue, Suite A	Marina, CA	93933
1	1	Michael Houlemard	Fort Ord Reuse Authority	920 2 <sup>nd</sup> Avenue, Suite A	Marina, CA	93933
1	1	Maeve Clancy	U.S. Environmental Protection Agency	75 Hawthorne Street, Mail SFD-8-3	San Francisco, CA	94105
1	1	Tom Hall	TechLaw, Inc.	7 Shore Point Road	North Little Rock, AR	72116
0	1	Robert Young	TechLaw, Inc.	235 Montgomery St, Suite 717	San Francisco, CA	94104
1	1	Vlado Arsov	California Department of Toxic Substances Control	8800 California Center Drive	Sacramento, CA	95826
2	2	William K. Collins	Department of the Army	BRAC, Bldg. #4463 Gigling Road	Seaside, CA	93955
1	1	Administrative Record Coordinator	Fort Ord Administrative Record	BRAC, Bldg. #4463 Gigling Road	Seaside, CA	93955
1	1	Mike Weaver	Fort Ord Community Advisory Group	52 Corral de Tierra Road	Salinas, CA	93908
0	1	LeVonne Stone	Fort Ord Environmental Justice Network	P.O. Box 361	Marina, CA	93933
1	1	Carl Holm	Monterey County Resource Management Agency	1441 Schilling Place, South Wing, Second Floor	Salinas, CA	93901
1	1	Craig Malin	City of Seaside	440 Harcourt Avenue	Seaside, CA	93955
1	1	Walter Tribley	Monterey Peninsula College	Administration Building, 980 Fremont Street	Monterey, CA	93940
0	1	Project File	ARCADIS, Attention: Jane Thompson	100 Smith Ranch Road, Suite 329	San Rafael, CA	94903

Approved:



Christopher G. Spill, P.G.  
ESCA Remediation Program Manager  
Arcadis U.S., Inc.