AGREEMENT BETWEEN THE STATE OF CALIFORNIA, THE EAST BAY REGIONAL PARK DISTRICT, AND THE UNITED STATES OF AMERICA

THIS AGREEMENT is entered into between the State of California, acting by and through the Department of Parks and Recreation ("State Parks"), the East Bay Regional Park District ("East Bay") and the United States of America, acting by and through the designated representative of the Administrator of General Services ("GSA"), effective on the date it has been fully executed.

WHEREAS, the United States filed a Declaration of Taking, captioned *United States v. 1.41 Acres*, N.D.Cal Civil Case Number C 14-1781 (hereinafter referred to as the "Taking") for the parcel known as McKay Avenue and an adjoining sidewalk easement (descriptions of which can be found in the Declaration of Taking, attached hereto and marked as Exhibit A);

WHEREAS, East Bay wishes to acquire a parcel of land known as Neptune Pointe (described in the Quitclaim Deed, attached hereto and marked as Exhibit B);

WHEREAS, the GSA will continue to own and operate on behalf of the United States a facility at 620 Central Avenue in Alameda, California (the "Retained Parcel" as shown on Exhibit C), which is adjacent to the Neptune Pointe parcel, and as such GSA desires to retain clear title as well as drainage rights, and access to and use of utilities that run with the land.

WHEREAS, the State wishes to reacquire the parcel of land known as McKay Avenue (described in the Quitclaim Deed, attached hereto and marked as Exhibit D); and,

WHEREAS, the parties wish to resolve all disputes arising out of the Taking without resort to further administrative process or litigation.

NOW THEREFORE, the parties agree to the following:

1. The parties shall fully execute the Stipulated Judgment within 1 calendar day of the full execution of this Agreement.

2. By no later than November 6, 2015, East Bay shall pay GSA the sum of $2,182,500.00, via wire transfer pursuant to the following instructions, attached hereto and marked as Exhibit E.

3. Within 5 (five) business days of receipt of the funds referred to above in Paragraph 2, GSA shall deliver to East Bay (a) a Quitclaim Deed for the parcel commonly known as Neptune Pointe (Exhibit B), and (b) shall deliver to the State a Quitclaim Deed for the parcel commonly known as McKay Avenue (Exhibit D).

4. Within 5 (five) business days of receipt of the quitclaim deeds referenced in the previous paragraph, East Bay and State Parks shall accept the quitclaim deeds delivered to them respectively and submit them for recording.

5. East Bay and State Parks agree that the Retained Parcel may be subdivided and fully developed, by GSA, other federal tenants, or any successors in interest and assigns, and that such subdivision and development may be for any government purpose or for any residential or commercial use that is consistent with the neighboring area. East Bay and State Parks agree that they will not interfere, by legal means or otherwise, with the use or transfer of any portion of the Retained Parcel by the following parties on the following terms: (a) any use or conveyance by the United States; (b) any use by any other governmental entity or other tenant of the United States; and, (c) any use that is consistent with the neighboring area by a private purchaser of the Retained Parcel from the United States. East Bay and State Parks agree that they shall not participate in or seek to influence any change of zoning for the Retained Parcel as long as the Retained Parcel is owned by the United States or a direct purchaser, including any transfers to affiliates or related entities of the purchaser ("Direct Purchaser") from the United States. Nothing herein shall prevent East Bay and State Parks, or their successors and assigns, from the following: any action in nuisance or action against any unlawful use of the property; undertaking any duty required by law; and, providing factual information for constructive purposes regarding the effects of a proposed development on park operations and proposing modifications based thereon in any comment period or hearing provided by the Coastal Zone Management Act, Clean Water Act, National Environmental Policy Act, California Environmental Quality Act, or local planning (but not zoning) process; provided further that East Bay and State Parks may not oppose a project of a Direct Purchaser of the Retained Parcel from the United States on a wholesale basis in such proceedings. The preceding obligations in the paragraph shall terminate five years after the United States conveys all of its interest in the Retained Parcel; if a Direct Purchaser from the United States conveys all or a portion of the Retained Parcel to a third party, these obligations shall terminate as to that portion of the Retained Parcel that is conveyed. The parties hereby agree that an additional intended beneficiary of this Agreement is the Direct Purchaser, and is entitled to all available remedies.

6. East Bay agrees, by execution of this Agreement, that it will indemnify and hold harmless GSA, its employees, officers, representatives, and agents, in both their individual and official capacities, from and against any and all claims for damages, costs, liabilities, fines, penalties, losses, expenses, demands, causes of action, suits, legal or administrative proceedings (whether arising in contract, tort, strict liability, or of common law or statutory derivation) arising in connection with STL Company, LLC, Tim Lewis Communities, or other successors and assigns (collectively "STL") and related to the proposed sale of Neptune Pointe to STL pursuant to GSA Invitation for Bids ("IFB") No. SFRAN911160401, the resulting purchase contract, the termination of said contract or in any way related to or arising from the proposed sale of Neptune Point to STL. East Bay's obligation under this paragraph will be limited to the full amount of: (a) an agreed sum paid to STL as a result of settlement agreed to by all parties to such proceedings, including East Bay, or (b) any final judgment entered in such proceedings, after exhaustion of appeals. East Bay's obligation under this paragraph shall in no case include any obligation to reimburse GSA for its legal fees and internal administrative expenses, but will include the obligation to reimburse

GSA for any expert witness fees if the Government determines that it is necessary and prudent to retain any such counsel or expert witnesses. Furthermore, GSA agrees that should proceedings be filed by STL in any Court against GSA or the United States, GSA, upon receipt of written notice or service of process, will promptly give notice to East Bay under applicable law (including, but not limited to, Rule 14 of the Court of Federal Claims), in order to allow East Bay to appear in the action as a party to fulfill this indemnification agreement. East Bay further agrees that it shall be responsible for all of its own legal fees, defense costs and any other costs, whether incurred by in-house counsel or outside counsel, arising from or related to East Bay's agreement to indemnify GSA.

7. The parties shall cooperate in the termination of a portion of that certain sidewalk easement described in the Taking, to the south of the line extending east from the southern boundary of the Retained Parcel to the southern end of the sidewalk easement.

8. This Agreement shall not be construed by any person as an admission of any fact or concession of liability by any party; the parties have entered into this Agreement in order to avoid the risk and burdens of further litigation.

9. Each party shall bear whatever costs and fees have been incurred by them in connection with the subject matter of this Agreement.

10. This Agreement shall constitute the entire understanding between the parties regarding the Agreement's subject matter, and it is expressly understood and agreed by the parties that this Agreement supersedes and replaces any agreement that may have been orally communicated prior to the execution of this Agreement.

11. This Agreement has been prepared by the parties jointly, and accordingly this Agreement is to be construed according to its terms and the normal rule of construction (to the effect that any ambiguities may be resolved against the drafting party) shall not be employed in any interpretation of this Agreement.

12. All rights and obligations specified herein shall be binding upon the parties' successors-in-interest, except as expressly stated otherwise in paragraph 5.

13. The parties acknowledge that this Agreement has been freely and voluntarily entered into, and each party warrants that its signatories are authorized to bind their principals to all of the obligations, representations, and releases set forth herein.

14. No modifications to this Agreement shall be binding upon either party unless such modification is agreed to in writing by the authorized representatives of the State, East Bay and GSA, and such writing is expressly characterized as a modification of this Agreement.

15. This Agreement may be executed in two or more counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. The following exhibits are attached hereto and a part of this Agreement:

    A. Exhibit A – Declaration of Taking

    B. Exhibit B – Quitclaim Deed for Neptune Point

    C. Exhibit C – Map of the Retained Parcel

    D. Exhibit D – Quitclaim Deed for McKay Avenue

    E. Exhibit E – Wire Transfer Instructions

In Witness Whereof, the parties evidence their agreement to the foregoing terms by their signatures below.

East Bay Regional Park District

By: _____
Robert Doyle
General Manager

Date: _____

The United States of America,
Acting by and through the Administrator of
General Services

By: _____
David Haase
Contracting Officer

Date: 10/20/2015

California Department of Parks and Recreation

By: _____
Tara E. Lynch
Chief Counsel
(For the Director)

Date: 10/20/2015

By: _____
Barry D. Segal
Associate General Counsel
for GSA

Date: _____

California Department of Justice

By: _____
Micah C.E. Osgood
Deputy Attorney General

Date: 10/20/15

In Witness Whereof, the parties evidence their agreement to the foregoing terms by their signatures below.

Approved as to Form:
District Counsel, EBRPD

East Bay Regional Park District

By: _____
Robert Doyle
General Manager

Date: 10/21/15

The United States of America,
Acting by and through the Administrator of General Services

By: _____
David Haase
Contracting Officer

Date: _____

California Department of Parks and Recreation

By: _____
Lisa Ann L. Mangat
Director

Date: _____

By: _____
Barry D. Segal
Associate General Counsel
Real Property Division
Office of General Counsel
General Services Administration

Date: 10/20/2015

California Department of Justice

By: _____
Micah C.E. Osgood
Deputy Attorney General

Date: _____

EXHIBIT "A"

DECLARATION OF TAKING

ROBERT G. DREHER
Acting Assistant Attorney General
Environmental & Natural Resources Division

MELINDA HAAG
United States Attorney
ALEX G. TSE (CA Bar No. 152348)
Chief, Civil Division
DOUGLAS K. CHANG (HSBN 2922)
Assistant United States Attorney
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6985
Facsimile: (415) 436-7169
Email: Douglas.Chang@usdoj.gov

MARC E. GORDON
Trial Attorney
Environmental & Natural Resources Division
Land Acquisition Section
United States Department of Justice
P.O. Box 561
Ben Franklin Station
Washington, D.C. 2004
Telephone: (202) 305-0291
Email: marc.gordon@usdoj.gov

Attorneys for the United States of America

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. 1.41 ACRES OF LAND, more or less, situated in the City of Alameda, Alameda County, State of California, and THE STATE OF CALIFORNIA, acting by and through its Department of Parks and Recreation, et al., Defendants.	Case No. C 14-1781 **DECLARATION OF TAKING**

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. 1.41 ACRES OF LAND, more or less, situated in the City of Alameda, Alameda County, State of California, and THE STATE OF CALIFORNIA, acting by and through its Department of Parks and Recreation, et al. Defendants.	NO._____ **DECLARATION OF TAKING**

DECLARATION OF TAKING

I, NORMAN DONG, COMMISSIONER, PUBLIC BUILDINGS SERVICE, of the United States General Service Administration, pursuant to the authority delegated to me by the Administrator of General Services in Chapter 5, Paragraph 2.d of the GSA Delegations of Authority Manual, ADM P 5450.39D, do hereby declare that:

1. The authority for the acquisition of the estate in property described herein is 40 USC § 581(c); 40 USC § 3114; and Continuing Appropriations Act, 2014 (P.L. 113-46), which act appropriates funds for this acquisition.

2. The public use for which the property is taken is the continuing operation of the federal building known as the "Alameda Federal Center," located at 620 Central

Avenue, Alameda, California, and other related purposes of the Government, and for such other use as may be authorized by Acts of Congress or by Executive Order.

3. A description of the property sufficient for the identification is set forth in Schedule "A".

4. Plans showing the property are attached as Schedule "B".

5. The estate taken in the property is set forth in the attached Schedule "C".

6. The sum estimated by me as just compensation for the taking is set forth in Schedule "D," which sum I cause to be deposited herewith in the registry of the Court for the use and benefit of the persons entitled thereto. I am of the opinion that the ultimate award for the taking probably will be within any limits imposed by law on the price to be paid therefor.

7. Schedule "E" sets forth the names of the persons or entities we have identified who may claim to be entitled to compensation in regard to this requested action.

IN WITNESS WHEREOF, the United States of America, by its Administrator of General Services has authorized and caused this Declaration to be signed in its name by me, Norman Dong, as Commissioner, Public Buildings Service, General Services Administration, this 9th day of April, 2014, in the District of Columbia.

UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE ADMINISTRATOR OF GENERAL SERVICES

By: _____

Norman Dong
Commissioner, Public Buildings Service
General Services Administration
1800 F ST NW
Washington, D.C. 20405-0001

Schedule A

Description of the Property

The land which is the subject matter of this proceeding consists of three parcels (as shown on the plans attached to this Declaration of Taking as Schedule B) in the City of Alameda, California. Descriptions of the parcels are as follows:

PORTION OF MCKAY AVENUE - LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF CORRECTED PARCEL 2 (CONTAINING APPROXIMATELY 1.41± ACRES) AS DESCRIBED IN THE CORRECTED QUITCLAIM DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 20, 1969, DOCUMENT NO. 69-56247, REEL 2405, IMAGE 896, SAID ALAMEDA COUNTY RECORDS (A.C.R.), AND DELINEATED ON RECORD OF SURVEY NO. 409, FILED JUNE 19, 1970 IN BOOK 8 OF RECORDS OF SURVEY AT PAGE 15 AND 16, SAID COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF MCKAY AVENUE, LABELED AS "(PRIVATE RD.)" AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.), THENCE FROM SAID POINT OF BEGINNING, ALONG THE WESTERLY LINE OF SAID MCKAY AVENUE THE FOLLOWING COURSES: NORTH 02°50'13" EAST, 822.78 FEET; NORTH 87°09'47" WEST, 17.00 FEET; NORTH 02°50'13" EAST, 51.00 FEET; SOUTH 87°09'47" EAST, 17.00 FEET AND NORTH 02°50'13" EAST, 133.99 FEET TO THE NORTHWESTERLY CORNER OF SAID MCKAY AVENUE (8 ROS 15, A.C.R.), SAID NORTHWESTERLY CORNER ALSO BEING A POINT ON THE SOUTH LINE OF CENTRAL AVENUE AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.); THENCE LEAVING SAID NORTHWESTERLY CORNER (8 ROS 15, A.C.R.) ALONG THE NORTH LINE OF SAID MCKAY AVENUE, SOUTH 87°09'47" EAST, 50.50 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 02°50'13" WEST, 1007.77 FEET TO A POINT ON THE SOUTH LINE OF SAID MCKAY AVENUE (8 ROS 15, A.C.R.); THENCE ALONG SAID SOUTH LINE, NORTH 87°09'47" WEST, 50.50 FEET TO SAID POINT OF BEGINNING.

SAID PORTION OF MCKAY AVENUE CONTAINS 1.19 ACRES, MORE OR LESS.

BASIS OF BEARINGS FOR THIS DESCRIPTION TAKEN AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.).

ATTACHED HERETO IS A PLAT ENTITLED "PORTION OF MCKAY AVENUE" AND BY THIS REFERENCE IS MADE PART HEREOF.

Mark E. Woods 03/13/2013

MARK E. WOODS *DATED*
R.C.E. 29851 EXP. 3/31/13

SIDEWALK EASEMENT - LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF CORRECTED PARCEL 2 (CONTAINING APPROXIMATELY 1.41± ACRES) AS DESCRIBED IN THE CORRECTED QUITCLAIM DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 20, 1969, DOCUMENT NO. 69-56247, REEL 2405, IMAGE 896, SAID ALAMEDA COUNTY RECORDS (A.C.R.), AND DELINEATED ON RECORD OF SURVEY NO. 409, FILED JUNE 19, 1970 IN BOOK 8 OF RECORDS OF SURVEY AT PAGE 15 AND 16, SAID COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF MCKAY AVENUE, LABELED AS "(PRIVATE RD.)" AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.), THENCE FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERLY LINE OF SAID MCKAY AVENUE (8 ROS 15, A.C.R.) SOUTH 87°09'47" EAST, 50.50 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING NORTH 02°50'13" EAST, 1,007.77 FEET TO A POINT ON THE SOUTH LINE OF CENTRAL AVENUE AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.); THENCE ALONG SAID SOUTH LINE SOUTH 87°09'47" EAST, 9.50 FEET TO THE EAST LINE OF SAID MCKAY AVENUE (8 ROS 15, A.C.R.); THENCE ALONG SAID EASTERLY AND SOUTHERLY LINES OF SAID MCKAY AVENUE THE FOLLOWING COURSES; SOUTH 02°50'13" WEST, 1,007.77 FEET AND NORTH 87°09'47" WEST, 9.50 FEET TO SAID POINT OF BEGINNING.

SAID ACCESS EASEMENT CONTAINS 0.22 ACRES, MORE OR LESS.

BASIS OF BEARINGS FOR THIS DESCRIPTION TAKEN AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.).

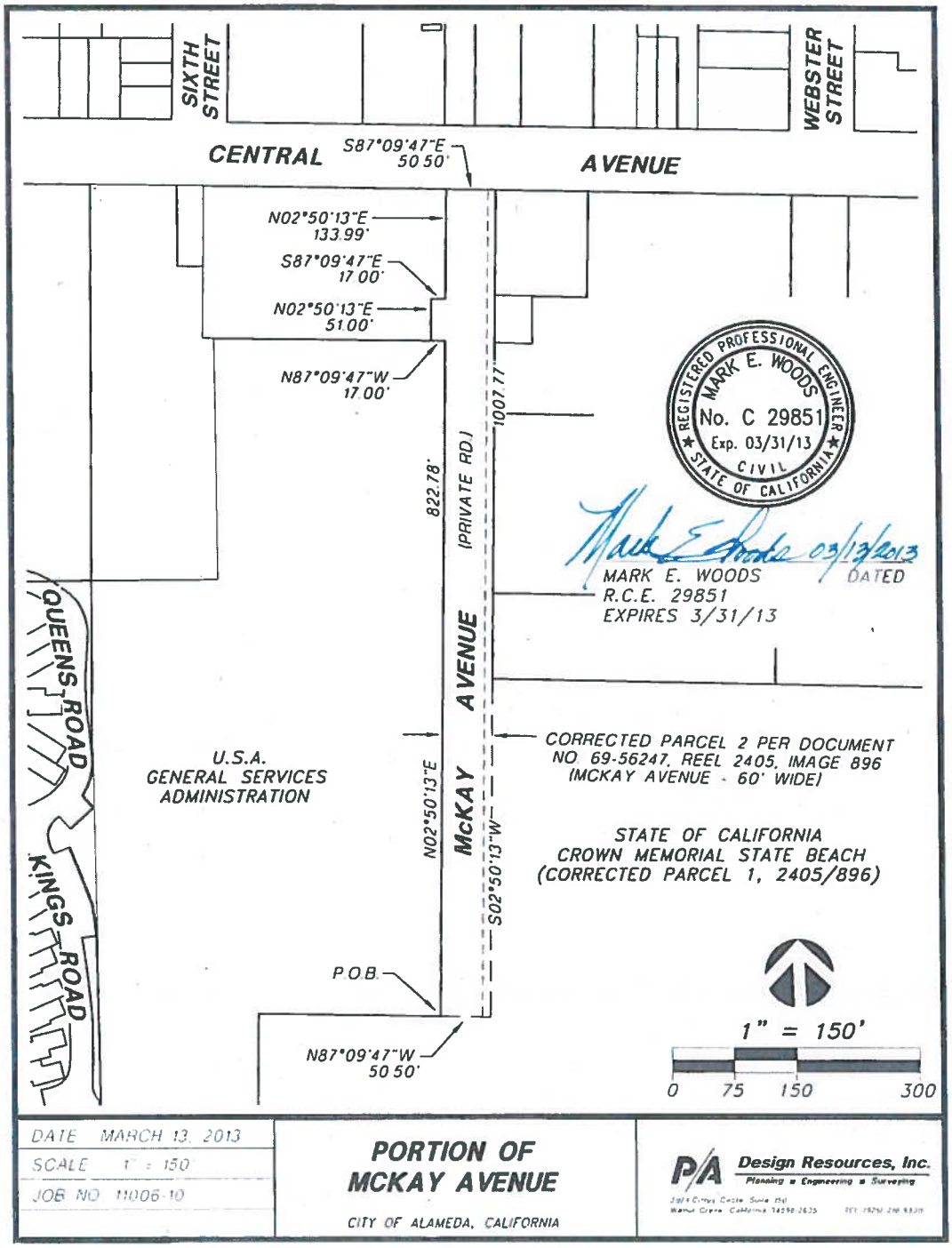
ATTACHED HERETO IS A PLAT ENTITLED "SIDEWALK EASEMENT" AND BY THIS REFERENCE IS MADE PART HEREOF.

Mark E Woods 04/30/2013

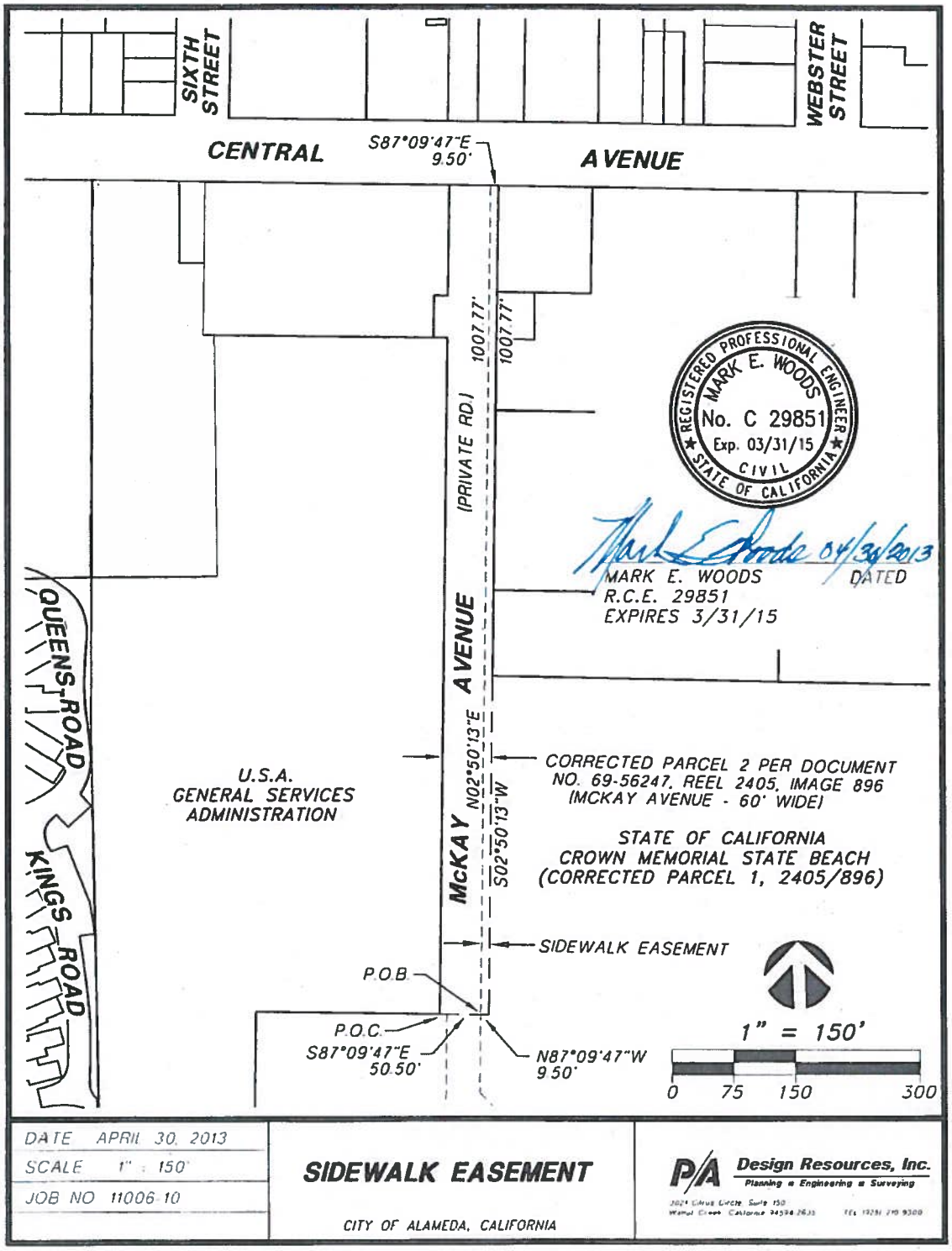
MARK E. WOODS *DATED*
R.C.E. 29851 EXP. 3/31/15

Schedule B

Plans of Property



P:\Drawings\11006-10 Neptune Pointe\11006-10_McKay Exhibit.dwg, 3/13/2013 8:07:28 AM, Station X, P/A Design Resources, Inc.



P:\Drawings\11006-10 Neptune Pointe\11006-10_McKay Exhibit.dwg, 4/30/2013 1:28:58 PM, Station X, P/A Design Resources, Inc.

Schedule C
Description of Interests

A. Portion of McKay Avenue: The estate taken in the property described on Schedule A as portion of McKay Avenue is fee simple, together with any appurtenant interests in adjoining property, however:

1. Reserving, for the benefit of the State of California, its successors and assigns the following easements:
   a. A non-exclusive easement for pedestrian and vehicular ingress and egress over the real property commonly known as "McKay Avenue," as described on Schedule A as portion of McKay Avenue.
   b. A non-exclusive easement for the operation, repair, maintenance and replacement of the real property and any existing utilities on or under the real property commonly known as "McKay Avenue," as described on Schedule A as portion of McKay Avenue.
   c. The right to have existing improvements which encroach onto the real property commonly known as "McKay Avenue", as described in Schedule A as portion of McKay Avenue, remain in place for so long as such improvements are maintained in good condition and are safe, as determined by the United States in its reasonable discretion.

2. Reserving for the benefit of each affected utility system operator, an easement for the operation, repair, maintenance and replacement of existing utility facilities, provided that the United States shall have the right to temporarily or permanently relocate such facilities.

3. Subject to the easements of record described as follows:
   a. Easement for driveway and pedestrian recorded on February 20, 1940, Book 3892, Page 98 of Official Records in favor of Lars Svensgaard, et ux.
   b. Easement for driveway and pedestrian recorded on May 2, 1940, Book 3906, Page 270 of Official Records in favor of J. Adrian Palmquist.
   c. Easement for street recorded on January 17, 1961, as Instrument No. AS-6759/Reel 246, Page/ Image 960 of Official Records in favor of Morrison Brothers Improvement Company, a co-partnership consisting of Dean Morrison, general partner; Hunter H. Morrison, general partner; C.G. Morris,

limited partner; and Aura B. Morrison, limited partner.

4. Subject to any existing rights of ingress and egress benefitting adjoining property.

Each of the easements described above is subject to the following provisions:

a. Each easement is non-exclusive. Use of the easement must not unreasonably interfere with use of the property by the United States, its successors and assigns, and other easement holders and their successors, assigns and invitees.

b. The United States may designate routes of travel, restrict the areas of the property that are available for each purpose and change the configuration and improvements from time to time.

c. All users must comply with applicable laws rules and regulations.

d. In the event use of an easement results in damage to improvements, the easement holder shall promptly restore the improvements.

B. Sidewalk Easement. The estate taken in the property described on Schedule A as Sidewalk Easement, is a nonexclusive easement for pedestrian egress and ingress; and to install, remove, replace, maintain, and operate the sewer, electrical and communications lines in, over, across and under the Sidewalk Easement, together with rights of ingress and egress over and across the Sidewalk Easement to the extent necessary to use this easement; however,

Reserving for the benefit of each affected utility system operator, an easement for the operation, repair, maintain and replacement of existing utility facilities, provided that the United States shall have the right to temporarily or permanently relocate such facilities.

Schedule D

The just compensation for the taking of any and all interests in the subject matter of this action is Ten dollars ($10.00).

Schedule E

Names and addresses of the parties who have or may claim an interest in the property.

State of California
Department of Parks and
Recreation
P.O. Box 2390
Sacramento, California 95811

East Bay Regional Park District
2950 Peralta Oaks Court
P.O. Box 5381
Oakland, California 94605-0381

EXHIBIT "B"

QUITCLAIM DEED FOR NEPTUNE POINT

Portion, 620 Central Avenue (Neptune Pointe)
Alameda, CA 94501-3826
GSA Control No. 9-N-CA-1604-AA

RECORDING REQUESTED BY:

United States General Services Administration
Public Buildings Service
Office of Real Property Utilization & Disposal (9PZ)
50 United Nations Plaza (4th Floor North)
San Francisco, CA 94102-4912

WHEN RECORDED, MAIL DOCUMENT AND TAX STATEMENT TO:

East Bay Regional Park District
2950 Peralta Oaks Court
Oakland, CA 94605
Attn: Land Acquisition

Exempt from recording fees pursuant to
Government Code Section 27383

Portion of APN: 074-1305-026

QUITCLAIM DEED

This Quitclaim Deed is made this ___ day of October, 2015, by and between the **United States of America** (also referred to as the "**GRANTOR**" OR "**GOVERNMENT**"), acting by and through the Administrator of General Services, under and pursuant to the powers and authority contained in the provisions of Chapter 5 of Title 40, U.S. Code, and regulations and orders promulgated thereunder, and East Bay Regional Park District, a California special district (hereinafter referred to as the "**GRANTEE**").

NOW THEREFORE, the **GRANTOR**, for good and valuable consideration, as referenced in the settlement agreement entitled "Agreement between the State of California, the East Bay Regional Park District, and the United States of America", dated October 20, 2015, regarding the disposition of a Declaration of Taking captioned as *United States v. 1.41 Acres*, filed on April 17, 2014 in federal court and docketed as N.D.Cal Civil Docket Number C 14-1781, subject to reservations, conditions and covenants set forth below, does hereby remise, release and forever quitclaim to the **GRANTEE**, all of **GRANTOR'S** right, title and interest in and to that certain real property (hereinafter "**Property**"), located in the County of Alameda, State of California, as more particularly described in Exhibit "A-1" and shown on Exhibit "A-2" attached hereto and made a part hereof.

I. TOGETHER WITH all of GRANTOR'S right, title and interest in and to:

A. All buildings, facilities, roadways, utility systems, and other improvements and infrastructure located on the **Property**.

II. SUBJECT TO THE FOLLOWING RESERVATIONS:

A. **GRANTOR** hereby reserves for itself, as well as for any successors and assigns of all or any portion of the Retained Parcel (as defined below), for the benefit of the Retained Parcel a perpetual non-exclusive appurtenant easement to drain water over, across, through and under the **Property,** following historic patterns or through existing storm, drainage or flood control infrastructure. **GRANTOR** (as opposed to its successor in interest) shall not have any obligation for maintenance, repair or replacement of any such existing infrastructure within the **Property**. This reservation is intended to benefit that portion of 620 Central Avenue in Alameda, California, which the **GRANTOR** will continue to own following this conveyance (the "Retained Parcel"), as shown on Exhibit "B". **GRANTEE** acknowledges and agrees that the Retained Parcel may be subdivided and fully developed in accordance with applicable law for residential, commercial, government or other purpose by the **GRANTOR** or any successors in interest and assigns. The easement reserved in this reservation is for the benefit of the Retained Parcel and runs with the land. **GRANTOR,** its successors and assigns, and **GRANTEE** both understand and acknowledge that the **Property** and/or the Retained Parcel may be developed in the future. Upon such development, neither party will take action to modify or interfere with historic drainage flows unless drainage is provided in a reasonable manner, according to customary and reasonable drainage standards in place at the time of such development.

B. **GRANTOR** hereby reserves unto itself, non-exclusive easements for access and use of existing water (potable and fire suppression) infrastructure on the **Property** that provides for the delivery of water services to the Retained Parcel. Subject to the following, neither party, and their successors and assigns, shall take any action to block or interfere with water service (or any other utilities) to either the **Property** or the Retained Parcel. **GRANTEE** shall assume all expense in maintaining such water infrastructure during the time the Retained Parcel is owned by **GRANTOR**. In the event the **GRANTOR** or **GRANTEE** takes action to segregate the water infrastructure prior to any conveyance of the Retained Parcel, **GRANTOR** shall release this reservation upon segregation of water infrastructure. **GRANTOR** further reserves a 12 month temporary easement (commencing upon the recordation of this Deed and terminating 12 months thereafter) for the purposes of accessing and relocating any other utilities (excluding water) that benefit the Retained Parcel; in the event the **GRANTOR** fails to remove any utilities (excluding water) then those utilities are presumed to be abandoned in place. In the event the Retained Parcel is conveyed by **GRANTOR** to a third party prior to segregation of utilities as referenced in this paragraph, **GRANTOR'S** successor in interest shall be

required to segregate any such water infrastructure at its expense within one year after issuance of building permits for development on the Retained Parcel, and this reserved easement shall terminate upon such segregation.

III. SUBJECT TO THE FOLLOWING NOTICES, COVENANTS, RESTRICTIONS, AND CONDITIONS, which shall be binding upon and enforceable against the **GRANTEE**, its successors and assigns, in perpetuity:

A. **GRANTEE** covenants and agrees that the conveyance is subject to any and all existing covenants, conditions, reservations, easements, restrictions, rights-of-way, rights, agreements, encumbrances, recorded or unrecorded, and to the reservations, rights and covenants set forth herein.

B. Except as otherwise provided herein, or as otherwise provided by law, the **GRANTEE** acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the **Property**, and that the **Property** is conveyed "as is" and "where is" without any representation, promise, agreement, or warranty on the part of the **GRANTOR** regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs or additions and no claim for any allowance or deduction upon such grounds will be considered. The **GRANTEE** further acknowledges that the **GRANTOR** shall not be liable for any latent or patent defects in the **Property** except to the extent required by applicable law.

C. **NOTICE OF THE PRESENCE OF ASBESTOS. (a) GRANTEE**, its successors and assigns, are warned that the **Property** contains asbestos-containing materials that are believed to be non-friable; **(b) GRANTEE**, its successors and assigns, shall be deemed to have relied solely on their own judgment in assessing the overall condition of all or any portion of the **Property**, including any asbestos hazards or concerns; **(c)** No warranties, either expressed 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 is or is not safe for a particular use. The failure of **GRANTEE**, its successors and assigns, to inspect or to be fully informed as to the condition of all or any portion of the **Property** shall not constitute grounds for any claim or demand against **GRANTOR**; **(d)** The description of the **Property** set forth, and any other information provided herein with respect to said **Property** was based on the best information available to the disposal agency and is believed to be correct, but any error or omission, including, but not limited to, the agency having custody over the **Property** and/or any other Federal agency, shall not constitute grounds or reason for any claim by **GRANTEE**, its successors and assigns against **GRANTOR**, including, without limitation, any claim for allowance, refund, or deduction from the purchase price; **(e) GRANTOR** assumes no liability for damages for personal injury, illness, disability or death to **GRANTEE** or to **GRANTEE's** successors, assigns, employees, invitees, or any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the **Property**, whether **GRANTEE**, its successors or assigns has properly warned or failed to properly warn the individual(s) injured; **(f) GRANTEE** further agrees by acceptance of this instrument of conveyance for itself, its successors and

assigns, and each successor in interest to the **Property**, or any portion thereof, that in its use and occupancy of the **Property**, it will comply with all Federal, State, and local laws relating to asbestos.

D. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT. (a) GRANTEE hereby acknowledges the required disclosure in accordance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d ("**Title X**"), of the presence of any known lead-based paint and/or lead-based paint hazards in buildings constructed prior to 1978 on the **Property**; **(b) GRANTEE** covenants and agrees that in any improvements on the **Property** defined as target housing by Title X and constructed prior to 1978, lead-based paint hazards will be disclosed to potential occupants in accordance with Title X before any use of such improvements as a residential dwelling. Moreover, **GRANTEE** covenants and agrees, for itself and its assigns, that in any improvements on the **Property**, lead-based paint hazards will be abated in accordance with Title X before use and occupancy of such improvements as residential dwellings; **(c) GRANTEE** covenants and agrees that in its use and occupancy of the **Property** it will comply with Title X and all applicable Federal, State and local laws relating to lead-based paint; and that **GRANTOR** assumes no liability for damages for personal injury, illness, disability or death to the **GRANTEE**, its successors or assigns, or any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with lead-based paint on the **Property** described in the Quitclaim Deed, whether **GRANTEE**, its successors or assigns has properly warned or failed to properly warn the individual(s) injured. **GRANTEE** further agrees to indemnify, defend and hold harmless the **GRANTOR** from any and all loss, judgment, claims, demands, expenses or damages, of whatever nature which might arise or be made against the United States of America, due to, or relating to the presence of lead-based paint hazards on the **Property**; **(d) GRANTEE** covenants and agrees that it will comply with all Federal, State, local, and any other applicable law(s) regarding the lead-based paint hazards with respect to the **Property**.

E. HAZARDOUS SUBSTANCES

1. NOTICES REGARDING HAZARDOUS SUBSTANCE ACTIVITY. Pursuant to 40 CFR 373.2 and Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA)(42 U.S.C. §9620(h)(3)(A)(i)), and based upon a complete search of agency files, **Grantor** gives notice that the attached Exhibit "C" provides an index of environmental conditions and investigative and cleanup actions taken with respect to the **Property** and that the attached Exhibit "D" contains a table with (to the extent such information is available): (1) the type and quantity of hazardous substances that were known to have been released or disposed of or stored for one year or more on the **Property**; (2) the time such storage, release or disposal took place; and (3) a description of the remedial action taken, if any.

2. CERCLA COVENANT. GRANTOR warrants that all remedial action necessary to protect human health and the environment has been taken before the date of this conveyance.

GRANTOR warrants that it shall take any additional response action found to be necessary after the date of this conveyance regarding hazardous substances located on the **Property** on the date of this conveyance.

A. This covenant shall not apply:

1. in any case in which **GRANTEE**, its successor(s) or assign(s), or any successor in interest to the Property or part thereof is a Potentially Responsible Party (PRP) with respect to the Property immediately prior to the date of this conveyance; **OR**

2. to the extent that such additional response action or part thereof found to be necessary is the result of an act or failure to act of the **GRANTEE**, its successor(s) or assign(s), or any party in possession after the date of this conveyance that either:

(i) results in a release or threatened release of a hazardous substance that was not located on the Property on the date of this conveyance; **OR**

(ii) causes or exacerbates the release or threatened release of a hazardous substance the existence and location of which was known and identified to the applicable regulatory authority as of the date of this conveyance.

B. In the event **GRANTEE**, its successor(s) or assign(s), seeks to have **GRANTOR** conduct any additional response action, and, as a condition precedent to **GRANTOR** incurring any additional cleanup obligation or related expenses, the **GRANTEE**, its successor(s) or assign(s), shall provide **GRANTOR** at least 45 days written notice of such a claim. In order for the 45-day period to commence, such notice must include credible evidence that:

1. the associated contamination existed prior to the date of this conveyance; and

2. the need to conduct any additional response action or part thereof was not the result of any act or failure to act by the **GRANTEE**, its successor(s) or assign(s), or any party in possession.

F. ACCESS RESERVATION. GRANTOR reserves a right of access to all portions of the **Property** for environmental investigation, remediation or other corrective action. This reservation includes the right of access to and use of available utilities at reasonable cost to **GRANTOR**. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the United States of America, and its respective officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable

advance written notice to the record title owner) to enter upon the **Property** and conduct investigations and surveys, to include drilling, test-pitting, borings, data and records compilation and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary, including but not limited to the installation and operation of monitoring wells, pumping wells, and treatment facilities. Any such entry, including such activities, responses or remedial actions, shall be coordinated with record title owner and shall be performed in a manner that minimizes interruption with activities of authorized occupants.

G. NOTICE REGARDING THE PRESENCE OF MOLD. (a) The **GRANTEE** is notified that various forms of mold are present at various locations in the subject building(s) on the **Property**. Results of previous studies performed by the United States are available to the **GRANTEE.** Molds and mold growth may create toxins that can cause adverse health reactions to some humans after exposure, and which falls within the CERCLA "Limitations on Response" standards at 42 U.S.C. 9604,(a)(3). The Federal and State government have not set Standards or Threshold Limit Values for airborne concentrations of mold or mold spores. **(b)** Information provided to the grantee with respect to the **Property** is based on the best information available to the U.S. General Services Administration and is believed to be correct, but any error or omission, including but not limited to the omission of any information available to the agency having custody over the property and/or any other Federal agency, will not constitute grounds for liability for damages by the Government for personal injury, illness, disability, or death, to the **GRANTEE**, its successors, assigns, employees, invitees, or any other person subject to the Grantee's control or direction.

IV. THE CONDITIONS, RESTRICTIONS, RESERVATIONS, AND COVENANTS set forth in this Quitclaim Deed, unless subsequently released, are a binding servitude on the Property; shall inure to the benefit of the **GRANTOR** and **GRANTEE**, their successors and assigns, and will be deemed to run with the land in perpetuity.

IV. LIST OF EXHIBITS: The following exhibits are attached hereto and made a part of this Quitclaim Deed:

A. Exhibit "A-1" – Legal Description of the Quitclaim Parcel
B. Exhibit "A-2" – Map of the Quitclaim Parcel
C. Exhibit "B" – Map of the Retained Parcel
D. Exhibit "C" – Listing of Environmental Documents
E. Exhibit "D" – Hazardous Substances Notification

IN WITNESS WHEREOF, THE **GRANTOR** has caused this indenture to be executed as of the day and year first above written.

UNITED STATES OF AMERICA
Acting by and through the
ADMINISTRATOR OF GENERAL SERVICES

BY:_____
CLARK VAN EPPS
Director, Property Utilization and Disposal Division
U.S. General Services Administration

CERTIFICATE OF ACKNOWLEDGMENT

State of California)

County of)

On _____, before me, _____,
Date Name and Title of the Officer

personally appeared _____,
Name(s) of Signer (s)

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 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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 Public

(Notary Public Seal)

Portion, 620 Central Avenue (Neptune Pointe)
Alameda, CA 94501-3826
GSA Control No. 9-N-CA-1604-AA

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by the Quitclaim Deed dated _____ from the United States of America to the East Bay Regional Park District is hereby accepted by the undersigned officer on behalf the East Bay Regional Park District pursuant to the authority conferred by _____ and the Grantee consents to recordation thereof by its duly authorized officer.

AGREED TO AND ACCEPTED:

By:_____
Robert Doyle, General Manager
East Bay Regional Park District

Date: _____

APPROVED AS TO FORM:

By: _____

Date: _____

Portion, 620 Central Avenue (Neptune Pointe)
Alameda, CA 94501-3826
GSA Control No. 9-N-CA-1604-AA

EXHIBIT "A-1"

LEGAL DESCRIPTION OF THE QUITCLAIM PARCEL

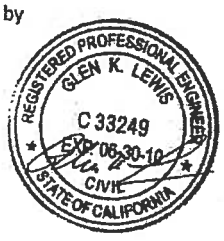
All that real property in the County of Alameda, State of California, being a portion of Parcel 1, as said parcel is described in the Final Judgment of the Declaration of Taking done June 5, 1944, and recorded September 18, 1944 at Page 384, Book 4595, Official Records of Alameda County, said Parcel 1 also being a portion of the Salt Marsh and Tide Lands shown on the map prepared by the order of the Board of Tideland Commissioners of San Francisco Bay, approved November 27, 1871, and filed in the Office of the Department of Finance, State Lands Commission, (formerly the office of the Surveyor General), entitled "Map No. 2 of Salt Marsh and Tide Lands, situate in the County of Alameda, State of California, 1871", and also as indicated on the map filed in the office of the Department of Finance, State Lands Commission, entitled "Sale Map No. 10 of Salt Marsh and Tide Lands situate in the County of Alameda, State of California", comprised of a portion of Tidelands Lot 23 in Section 11, in Township 2 South, Range 4 West, M.D.M., and particularly described as follows:

Beginning at the southwest corner of Parcel 2, commonly known as McKay Avenue, as said Parcel 2 is described in the Corrected Quitclaim Deed to the State of California recorded May 20, 1969 on Reel 2405, Image 896, Alameda County Official Records, and delineated on Record of Survey No. 409, which was prepared at the request of the State of California and filed June 19, 1970 in Book 8 of Records of Survey, at Pages 15 and 16, Alameda County Recorder's Office. Said point of beginning being at the intersection of the following 2 courses and distances as shown on the said Parcel 2 described in the Corrected Quitclaim Deed and said Record of Survey No. 409: North 87°09'47" West, 60.00 feet and North 02°50'13" East 822.72 feet.

Thence from said point of beginning and leaving the said southwestern corner of Parcel 2 North 87°09'47" West, 220.41 feet along the boundary of Parcel 1, as described in the said Corrected Quitclaim Deed and delineated on said Record of Survey No. 409. Thence continuing along the boundary of said Parcel 1 the following 2 courses and distances: South 02°49'16" West 132.88 feet, and North 88°57'49" West 188.29 feet to a point on the easterly boundary of the Amended Map of Tract 3883, filed for record on January 30, 1980 in Book 115 of Maps at Pages 68 through 78. Thence leaving the boundary of said Parcel 1 northerly along the easterly boundary of said tract, North 01°03'08" East 483.22 feet. Thence leaving the easterly boundary of said tract South 87°09'52" East 423.62 feet along a wrought iron fence to the westerly boundary of said Parcel 2, commonly known as McKay Avenue. Thence southerly along the westerly boundary of said Parcel 2 South 02°50'13" West 344.20 feet to the point of beginning.

Containing 169,827 square feet of land (3.899 acres), more or less.

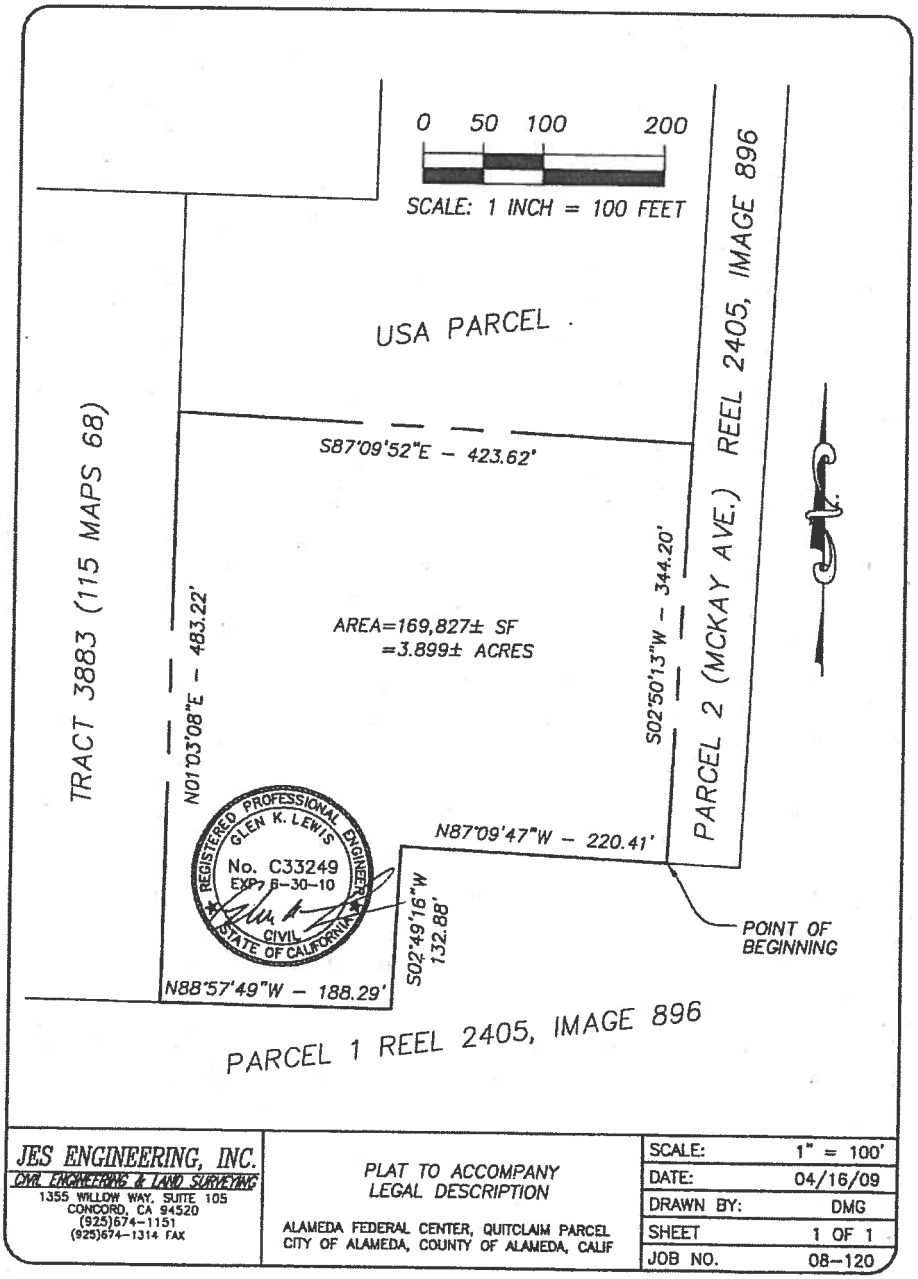
The bearings shown hereon are based on said Record of Survey No. 409. The distances shown hereon are on the California State Plane Coordinate System, Zone III. Multiply the distances shown by 1.0000708 to obtain ground-level distances.



Portion, 620 Central Avenue (Neptune Pointe)
Alameda, CA 94501-3826
GSA Control No. 9-N-CA-1604-AA

EXHIBIT "A-2"

MAP OF THE QUITCLAIM PARCEL



JES ENGINEERING, INC. CIVIL ENGINEERING & LAND SURVEYING 1355 WILLOW WAY, SUITE 105 CONCORD, CA 94520 (925)674-1151 (925)674-1314 FAX	PLAT TO ACCOMPANY LEGAL DESCRIPTION ALAMEDA FEDERAL CENTER, QUITCLAIM PARCEL CITY OF ALAMEDA, COUNTY OF ALAMEDA, CALIF	SCALE: 1" = 100' DATE: 04/16/09 DRAWN BY: DMG SHEET 1 OF 1 JOB NO. 08-120

Portion, 620 Central Avenue (Neptune Pointe)
Alameda, CA 94501-3826
GSA Control No. 9-N-CA-1604-AA

EXHIBIT "B"

MAP OF THE RETAINED PARCEL

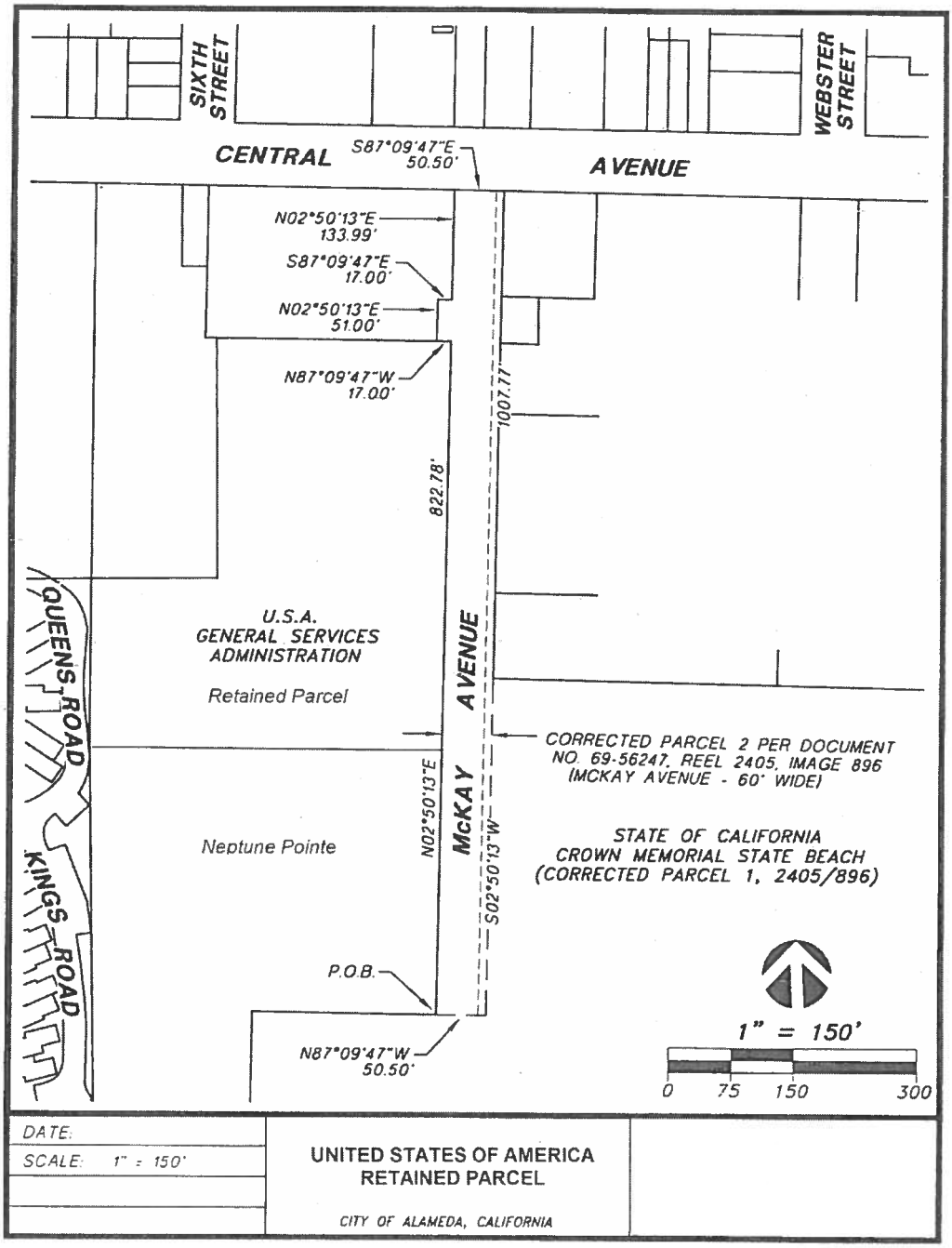


EXHIBIT "C"

LISTING OF ENVIRONMENTAL DOCUMENTS

Phase I Environmental Site Assessment Report, Alameda Service Center, Kleinfedler, November 14, 2002

Site Characterization Report Building 4 – Hydraulic Lift, Alameda Federal Center, Jonas & Associates Inc., April 2, 2003

Fuel Leak Site Case Closure, Alameda Federal Center, 620 Central Avenue, Case No. RO 0000048, Alameda County Environmental Health Services, dated August 15, 2003

Phase I Update Environmental Assessment, Alameda Federal Center, 620 Central Avenue, Alameda, California, Jonas & Associates Inc., September 22, 2005

Site Characterization Report, Alameda Federal Center, Building 4, Jonas & Associates Inc., February 5, 2008; Report from APSI dated January 2008

Case Closure Summary, Jonas & Associates Inc., dated September 26, 2008

No Further Action letter, SLIC Case RO 0002903, Alameda Federal Center, Former Motor Pool Building 4, Alameda County Environmental Health Services, June 24, 2009

Phase I Environmental Site Assessment, Alameda Federal Center Haley & Aldrich, June 15, 2010

EXHIBIT "D"

HAZARDOUS SUBSTANCES NOTIFICATION

A portion of the Property was formerly used as a motor pool facility (Building 4) for vehicle maintenance and repair prior to being demolished in 2007. The Property has been impacted by two areas with known historically recognized environmental conditions:

1) previously leaking underground storage tanks north of the former location of Building 4;

2) a pneumatic lift and associated pump previously located within Building 4.

Based on soil and groundwater sampling analysis results provided to the Alameda County Environmental Health Department (the local authority delegated oversight from the State of California), the County determined the case closed with regard to environmental condition No. 1 above on August 15, 2003. Environmental condition No. 2 received closure on June 24, 2009.

The County has concluded that residual levels of contamination remaining at the Property do not pose a significant threat to water resources, public health and safety, and the environment, and that no further investigation or cleanup is necessary.

The United States gives notice that the following hazardous substances that environmental investigations have revealed to be present in the soil and groundwater on the Property:

Total Petroleum Hydrocarbons quantified as diesel (TPHd) remains in soil up to 6,000 milligrams per kilogram (mg/kg) chromium;

Total Petroleum Hydrocarbons as hydraulic oil in soil at concentrations of up to 190 parts per million (ppm);

Residual metals pollution in soil at concentrations up to 2.9 ppm arsenic, 28 ppm chromium and 25 ppm vanadium;

Oil & Grease in soil at 6,300 mg/kg;

Benzene in soil at 0.0062mg/kg;

Low concentrations of other TPH products in soil;

Residual dissolved metals pollution remains in groundwater at concentrations of up to 6.8 parts per billion (ppb) lead and 30 ppb vanadium;

TPHd in groundwater at 720 micrograms per liter (µg/l) ;

Methyl tert butyl ether (MTBE) in groundwater at 7.1µg/l; and Other low concentrations of TPH and halogenated compounds in groundwater.

Although precise numbers of the amounts of these substances which were stored, treated or disposed on the Property cannot be detailed accurately, environmental studies of the Property have revealed the presence of these hazardous substances and the GRANTEE is therefore put on notice as to their existence and the current levels in the soil and groundwater.

EXHIBIT "C"

MAP OF THE RETAINED PARCEL

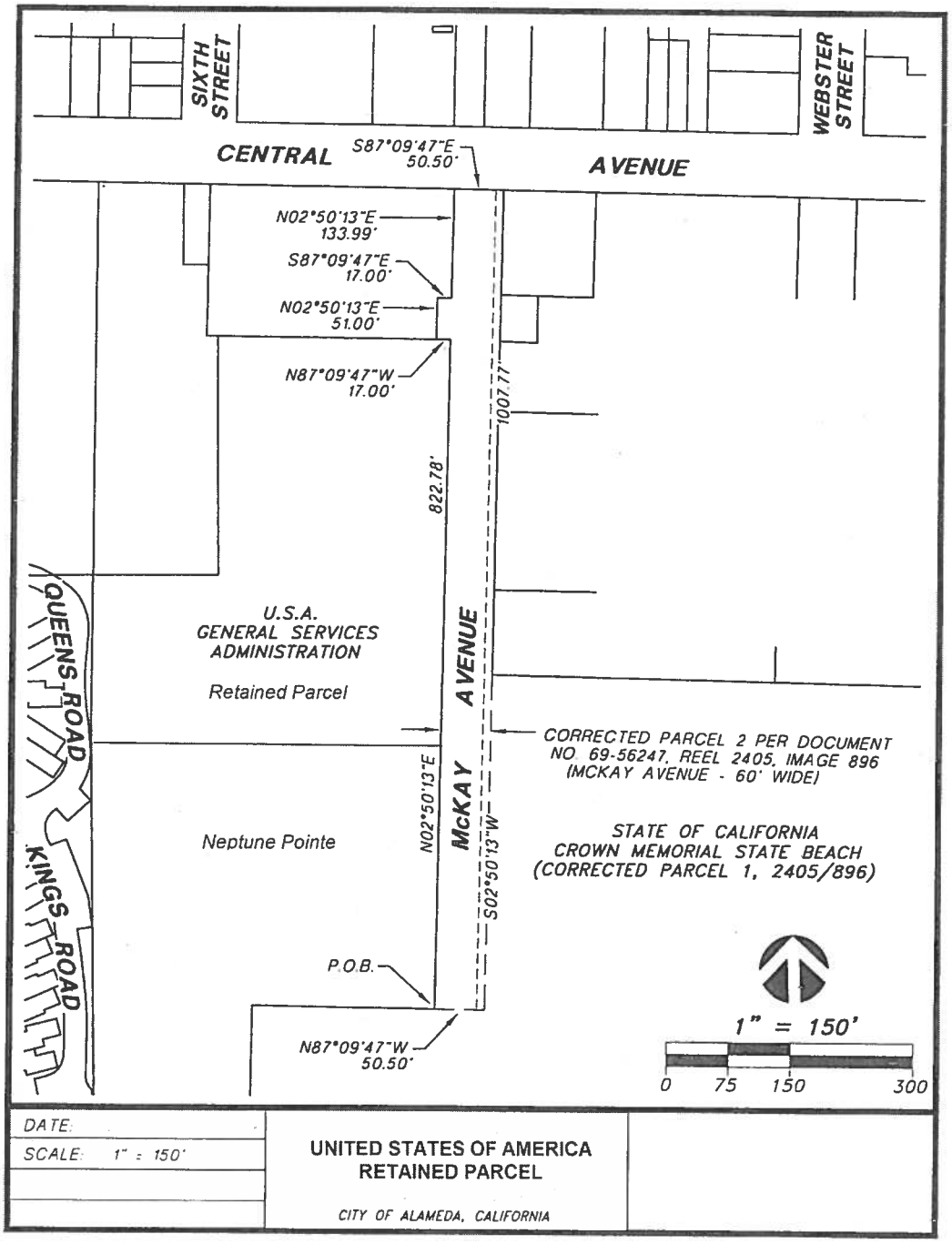


EXHIBIT "D"

QUITCLAIM DEED FOR MCKAY AVENUE

Portion, McKay Avenue
Alameda, CA 94501
GSA Control No. 9-N-CA-1604-AB

RECORDING REQUESTED BY:

United States General Services Administration
Public Buildings Service
Office of Real Property Utilization & Disposal (9PZ)
50 United Nations Plaza (4th Floor North)
San Francisco, CA 94102-4912

WHEN RECORDED, MAIL DOCUMENT AND TAX STATEMENT TO:

Department of Parks and Recreation
Acquisition and Real Property Services Division
One Capitol Mall, Suite 410
Sacramento, CA 95814

Exempt from recording fees pursuant to
Government Code Section 27383

Portion of APN: 074-1300-014-01

QUITCLAIM DEED

This Quitclaim Deed is made this ___ day of October, 2015, by and between the **United States of America** (also referred to as the "**GRANTOR**" or "**GOVERNMENT**"), acting by and through the Administrator of General Services, under and pursuant to the powers and authority contained in the provisions of Chapter 5 of Title 40, U.S. Code, and regulations and orders promulgated thereunder, and the **State of California, acting by and through its Department of Parks and Recreation** (hereinafter referred to as the "**GRANTEE**" or "**STATE**").

WHEREAS, on or about April 17, 2014, the **GOVERNMENT** filed a Declaration of Taking in the United States District Court of the Northern District of California, captioned United States v. 1.41 Acres, N.D.Cal Civil Case Number C 14-1781, (hereinafter referred to as the Declaration of Taking) and affecting a road commonly known as McKay Avenue in Alameda, California, that was owned by the **STATE**; and

WHEREAS, the **GOVERNMENT** and the **STATE** have reached an agreement, titled "Agreement Between the State of California, the East Bay Regional Park District, and the United States of America," dated October 20, 2015, (hereinafter referred to as the "**AGREEMENT**") to resolve that litigation pursuant to various terms, including the conveyance of McKay Avenue through this Quitclaim Deed by the **GOVERNMENT**.

WHEREAS, at the time of this conveyance, the **GOVERNMENT** continues to own and operate an adjacent facility at 620 Central Avenue in Alameda, California (the "**Retained Parcel**"), as shown on Exhibit "B", that is accessed by vehicles and pedestrians from McKay Avenue.

WHEREAS, East Bay Regional Park District wishes to acquire a parcel of land known as Neptune Pointe, as described in the **AGREEMENT**. The southern boundary of the Retained Parcel is the northern boundary of Neptune Pointe as set out in the Quitclaim Deed between GRANTOR and East Bay Regional Park District.

NOW THEREFORE, the **GRANTOR**, for good and valuable consideration, subject to reservations, conditions and covenants set forth below, does hereby remise, release and forever quitclaim to the **GRANTEE**, all of **GRANTOR'S** right, title and interest in and to that certain real property (hereinafter "**Property**"), located in the County of Alameda, State of California, as more particularly described in Exhibit "A," attached hereto and made a part hereof.

I. TOGETHER WITH all of GRANTOR'S right, title and interest in and to:

A. All existing facilities, utility systems, and other improvements and infrastructure located on the **Property**.

II. SUBJECT TO THE FOLLOWING RESERVATIONS:

A. **GRANTOR** hereby reserves for itself, as well as for any successors and assigns in the Retained Parcel, and for the benefit of the Retained Parcel, a perpetual non-exclusive appurtenant right-of-way easement for pedestrian and vehicular ingress and egress over the **Property**, together with parking along the perimeter of the **Property** subject to regulations applicable to the public to park on McKay Avenue, from Central Avenue to a line extending east from the southern boundary of the Retained Parcel. Use of this easement shall not be limited as a result of any subdivision or redevelopment of all or any portion of the Retained Parcel by the **GRANTOR**, or any successors and assigns in the Retained Parcel, for governmental purposes or any residential or commercial use consistent with the neighboring area. The easement reserved in this reservation is for the benefit of the Retained Parcel and runs with the land. This is not an easement in gross. **GRANTOR** shall not have any contribution obligation for maintenance of the right-of-way, but any successor owners of all or a portion of the Retained Property shall have such obligations for maintenance and contribution as provided by California law. **GRANTOR**, and its successors and assigns in the Retained Parcel, may use all of McKay Avenue for street purposes, but only to the same extent as public use is allowed.

B. **GRANTOR** hereby reserves, for itself, as well as for any successors and assigns in the Retained Parcel, and for the benefit of the Retained Parcel, a perpetual non-exclusive appurtenant easement for access to and use of existing utility facilities (including but not

limited to water, sewer, electrical, gas, cable, and telecommunications lines) and related infrastructure, over, across, and under the Property. **GRANTOR**, for itself as well as for any successors and assigns in the Retained Parcel, and for the benefit of the Retained Parcel, further reserves the right, but not the obligation, to upgrade, replace or add utilities under or in the **Property**, so long as said improvements do not interfere with the use of the Property as a right-of-way, with any existing utilities, or other easements. **GRANTOR** hereby reserves, for itself, as well as for any successors and assigns in the Retained Parcel, and for the benefit of the Retained Parcel, the right to assign all or a portion of this easement to one or more public utility providers for the provision of utility services to the Retained Parcel upon written approval of **GRANTEE**, which shall not be unreasonably withheld. Provided, however, upon **GRANTOR**'S conveyance of the Retained Parcel, **GRANTEE** shall not be obligated to repair or replace any shared utility line or facility that becomes inoperable, or that must be closed pursuant to any environmental law, regulation, or executive order, but that **GRANTEE** shall not otherwise interfere with any utility line owned or used by **GRANTOR** within the easement that services the Retained Parcel. **GRANTOR** shall not interfere with the McKay Avenue sewage lift station or any utility line in the Retained Parcel that services **GRANTEE's** property, but **GRANTOR** shall not be obligated to repair or replace any such shared utility line or facility that becomes inoperable, or that must be closed pursuant to any environmental law, regulation, or executive order. Except as otherwise specified herein, this reserved easement shall be appurtenant and run with the land of the Retained Parcel and use of this easement shall not be limited as a result of any subdivision or redevelopment of all or any portion of the Retained Parcel by the **GRANTOR**, or any successors and assigns in the Retained Parcel, for governmental purposes or any residential or commercial use consistent with the neighboring area. **GRANTOR** shall not have any contribution obligation for maintenance of the shared utility facilities. However, **GRANTOR** will continue to have an obligation to maintain the existing sewer lift station ("Lift Station") on separate property owned by GRANTOR located east of the Property. A ny successor owners of all or a portion of the Retained Parcel shall have such obligations for maintenance and contribution as provided by California law including the Lift Station. If **GRANTOR** vacates the Retained Parcel, and prior to **GRANTOR**'s conveyance of the Retained Parcel to a successor in interest, **GRANTEE**, or its designee, will have the right, but not the obligation, to maintain the Lift Station.

C. **GRANTOR** hereby reserves, for itself, as well as for any successors and assigns in the Retained Parcel, and for the benefit of the Retained Parcel, a perpetual non-exclusive easement to drain water over, across, and under the **Property,** following historic patterns and through any existing storm drain infrastructure. **GRANTOR** further reserves, for itself and its successors and assigns in the Retained Parcel, the right, but not the obligation, to upgrade, replace or add underground storm, drainage or other flood control infrastructure under the **Property,** and to connect such infrastructure to the existing storm drains or any future underground drainage infrastructure, so long as said improvements do not interfere with the use of the Property as a right-of-way, with any existing utilities,

or other easements, or violate any applicable environmental laws. Provided, however, upon **GRANTOR**'S conveyance of the Retained Parcel, **GRANTEE** shall not be obligated to repair or replace any shared storm drain or facility that becomes inoperable, or that must be closed pursuant to any environmental law, regulation, or executive order, but that **GRANTEE** shall not otherwise interfere with any storm drain or facility owned by **GRANTOR** in the easement that services the Retained Parcel. This is not an easement in gross. Except as specified herein, this reserved easement shall be appurtenant and run with the land of the Retained Parcel and use of this easement shall not be limited as a result of any subdivision or redevelopment of all or any portion of the Retained Parcel by the **GRANTOR**, or any successors and assigns in the Retained Parcel, for governmental purposes or any residential or commercial use consistent with the neighboring area. **GRANTOR** shall not have any contribution obligation for maintenance of the shared storm drain facilities, but any successor owners of all or a portion of the Retained Parcel shall have such obligations for maintenance and contribution as provided by California law.

D. **GRANTOR** hereby reserves, for itself, an easement for improvements existing as of the date of this agreement, whether above or below ground, which encroach onto the **Property,** so long as such improvements do not interfere with utilities or the use of McKay Avenue as a right-of-way, and so long as the improvements are owned by **GRANTOR**. The easements reserved in this reservation are for the benefit of the **GRANTOR** only and shall not run with the land or to any successors or assigns. Any successor owner or owners of all or a portion of the Retained Parcel shall remove any underground encroachments (other than those related to utilities and utility connections) that may be discovered, within a reasonable time (not to exceed five years) of discovery or receipt of notice of the encroachment from the **GRANTEE**, whichever comes first, and shall within a reasonable amount of time (not to exceed five years) of taking title to all or a portion of the Retained Parcel remove any encroachments that are known or discoverable by inspection; provided, however, that the successor owner shall obtain an encroachment permit or equivalent permission from **GRANTEE** to maintain encroachment until removed.

III. SUBJECT TO THE FOLLOWING NOTICES, COVENANTS, RESTRICTIONS, AND CONDITIONS, which shall be binding upon and enforceable against the **GRANTEE**, its successors and assigns, in perpetuity:

A. **GRANTEE** covenants and agrees that the Property conveyed is subject to any and all existing covenants, conditions, reservations, easements, restrictions, rights-of-way, rights, agreements, encumbrances, recorded or unrecorded, and to the reservations, rights and covenants set forth herein.

B. **GRANTEE** acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the **Property**, and that the **Property** is conveyed "as is" and

"where is" without any representation, promise, agreement, or warranty on the part of the **GRANTOR** regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs or additions, and no claim for any allowance or deduction upon such grounds will be considered. The **GRANTEE** further acknowledges that the **GRANTOR** shall not be liable for any latent or patent defects in the **Property** except to the extent required by applicable law.

C. **GRANTEE** covenants and agrees to reasonably cooperate with the **GRANTOR** and any successors and assigns in the Retained Parcel regarding the provision of utilities to the Retained Parcel. Any easement granted pursuant to this paragraph to a utility system operator is subject to California Public Resources Code § 5012.

D. **HAZARDOUS SUBSTANCES**

1. NOTICES REGARDING HAZARDOUS SUBSTANCE ACTIVITY. Pursuant to 40 CFR 373.2 and Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA)(42 U.S.C. §9620(h)(3)(A)(i)), and based upon a complete search of agency files, **Grantor** gives notice that no hazardous substances have been released or disposed of or stored on the Property since the filing of the Declaration of Taking.

2. ACCESS RESERVATION. GRANTOR reserves a right of access to all portions of the **Property** for environmental investigation, remediation or other corrective action. This reservation includes the right of access to and use of available utilities at reasonable cost to **GRANTOR**. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the United States of America, and its respective officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable advance written notice to the record title owner) to enter upon the **Property** and conduct investigations and surveys, to include drilling, test-pitting, borings, data and records compilation and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary, including but not limited to the installation and operation of monitoring wells, pumping wells, and treatment facilities. Any such entry, including such activities, responses or remedial actions, shall be coordinated with record title owner and shall be performed in a manner that minimizes interruption with activities of authorized occupants.

IV. THE CONDITIONS, RESTRICTIONS, RESERVATIONS, AND COVENANTS set forth in this Quitclaim Deed, unless subsequently released, are a binding servitude on the Property; shall inure to the benefit of the **GRANTOR** and **GRANTEE**, their successors and assigns, and will be deemed to run with the land in perpetuity, except for the specific portions of paragraphs IIA, IIB, IIC, and IID that expressly reserve certain rights to **GRANTOR** only or expressly provide that the particular obligations expire after a specified event or period of time.

CERTIFICATE OF ACKNOWLEDGMENT

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

State of California)

County of)

On _____, before me, _____,
Date Name and Title of the Officer

personally appeared _____,
Name(s) of Signer (s)

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 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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 Public (Notary Public Seal)

Portion, McKay Avenue
Alameda, CA 94501
GSA Control No. 9-N-CA-1604-AB

CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by the Quitclaim Deed dated _____ from the United States of America to the State of California is hereby accepted by the undersigned officer on behalf the State of California pursuant to the authority conferred by _____ and the Grantee consents to recordation thereof by its duly authorized officer.

AGREED TO AND ACCEPTED:

By:_____

Date: _____

APPROVED AS TO FORM:

By: _____

Date: _____

Portion, McKay Avenue
Alameda, CA 94501
GSA Control No. 9-N-CA-1604-AB

EXHIBIT "A"

LEGAL DESCRIPTION OF THE QUITCLAIM PARCEL

As more further set out in the complaint in condemnation in United States v. 1.41 Acres, N.D.Cal Civil Case Number C 14-1781, and excerpted below

PORTION OF MCKAY AVENUE - LEGAL DESCRIPTION

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF CORRECTED PARCEL 2 (CONTAINING APPROXIMATELY 1.41± ACRES) AS DESCRIBED IN THE CORRECTED QUITCLAIM DEED TO THE STATE OF CALIFORNIA, RECORDED MAY 20, 1969, DOCUMENT NO. 69-56247, REEL 2405, IMAGE 896, SAID ALAMEDA COUNTY RECORDS (A.C.R.), AND DELINEATED ON RECORD OF SURVEY NO. 409, FILED JUNE 19, 1970 IN BOOK 8 OF RECORDS OF SURVEY AT PAGE 15 AND 16, SAID COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF MCKAY AVENUE, LABELED AS "(PRIVATE RD.)" AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.), THENCE FROM SAID POINT OF BEGINNING, ALONG THE WESTERLY LINE OF SAID MCKAY AVENUE THE FOLLOWING COURSES: NORTH 02°50'13" EAST, 822.78 FEET; NORTH 87°09'47" WEST, 17.00 FEET; NORTH 02°50'13" EAST, 51.00 FEET; SOUTH 87°09'47" EAST, 17.00 FEET AND NORTH 02°50'13" EAST, 133.99 FEET TO THE NORTHWESTERLY CORNER OF SAID MCKAY AVENUE (8 ROS 15, A.C.R.), SAID NORTHWESTERLY CORNER ALSO BEING A POINT ON THE SOUTH LINE OF CENTRAL AVENUE AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.); THENCE LEAVING SAID NORTHWESTERLY CORNER (8 ROS 15, A.C.R.) ALONG THE NORTH LINE OF SAID MCKAY AVENUE, SOUTH 87°09'47" EAST, 50.50 FEET; THENCE LEAVING SAID NORTH LINE, SOUTH 02°50'13" WEST, 1007.77 FEET TO A POINT ON THE SOUTH LINE OF SAID MCKAY AVENUE (8 ROS 15, A.C.R.); THENCE ALONG SAID SOUTH LINE, NORTH 87°09'47" WEST, 50.50 FEET TO SAID POINT OF BEGINNING.

SAID PORTION OF MCKAY AVENUE CONTAINS 1.19 ACRES, MORE OR LESS.

BASIS OF BEARINGS FOR THIS DESCRIPTION TAKEN AS SHOWN ON SAID RECORD OF SURVEY (8 ROS 15, A.C.R.).

ATTACHED HERETO IS A PLAT ENTITLED "PORTION OF MCKAY AVENUE" AND BY THIS REFERENCE IS MADE PART HEREOF.

MARK E. WOODS *DATED*
R.C.E. 29851 EXP. 3/31/13

REGISTERED PROFESSIONAL ENGINEER
MARK E. WOODS
No. C 29851
Exp. 03/31/13
CIVIL
STATE OF CALIFORNIA

Portion, McKay Avenue
Alameda, CA 94501
GSA Control No. 9-N-CA-1604-AB

Portion, McKay Avenue
Alameda, CA 94501
GSA Control No. 9-N-CA-1604-AB

EXHIBIT "B"

MAP OF THE QUITCLAIM AND RETAINED PARCELS

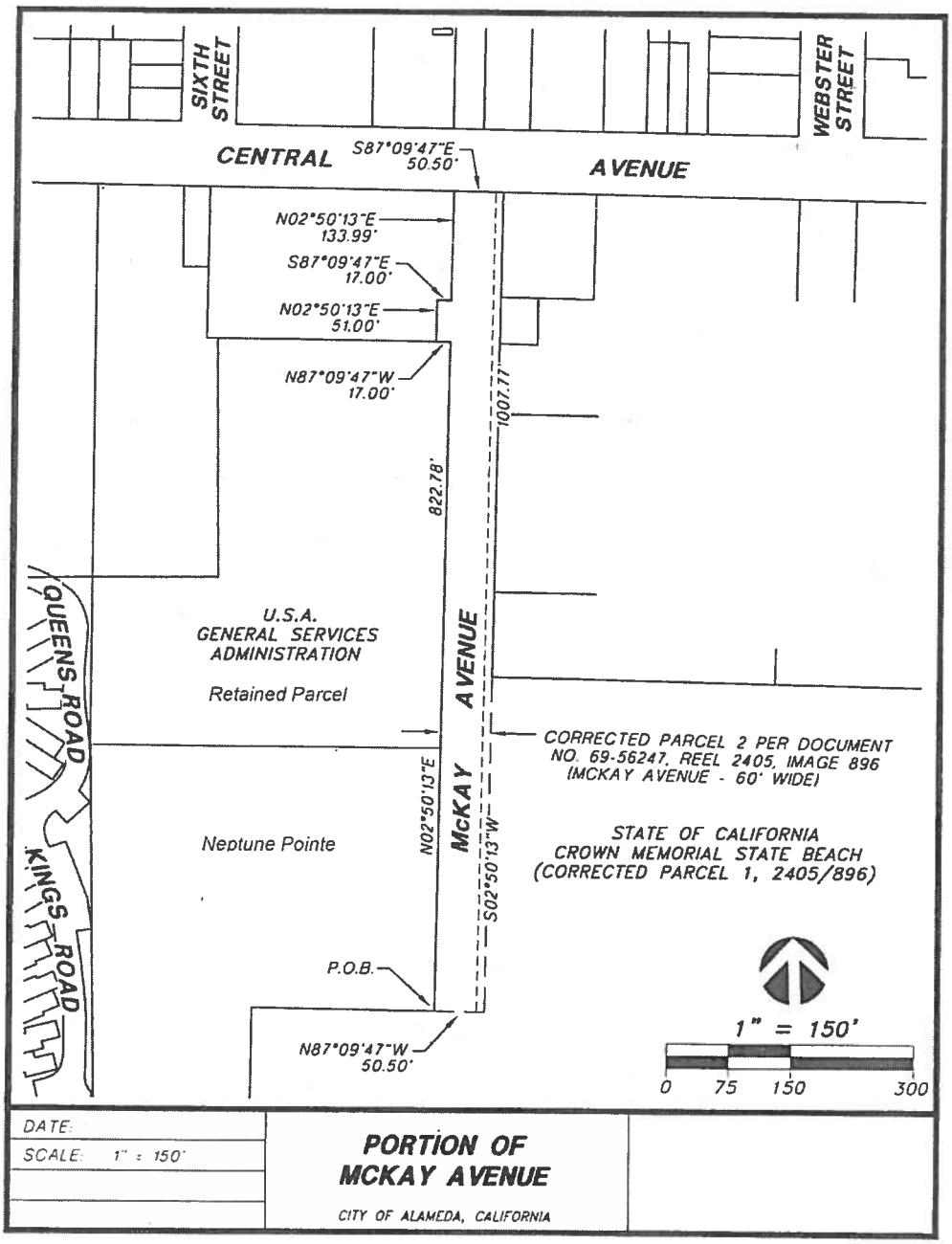


EXHIBIT "E"

WIRE TRANSFER INSTRUCTIONS