

AFTER RECORDING MAIL TO:
SEATTLE REAL ESTATE DIVISION
4626 E. MARGINAL WAYS, SUITE 200
SEATTLE, WA 98134

This deed was prepared/reviewed by
Bruce Rohde, Attorney
U.S. Army Corps of Engineers
Seattle District

plu Pauline Goble

Multnomah County Official Records
R Weldon, Deputy Clerk

2012-113319



\$96.00

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09/10/2012 09:12:10 AM

1R-QC DEED

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\$60.00 \$11.00 \$15.00 \$10.00

QUITCLAIM DEED

**SGT. JEROME SEARS UNITED STATES ARMY RESERVE CENTER
MULTNOMAH COUNTY, STATE OF OREGON**

This QUITCLAIM DEED, between the UNITED STATES OF AMERICA (hereinafter the "GRANTOR"), acting by and through the Director of Real Estate of the U.S. Army Corps of Engineers, pursuant to a delegation of authority from the SECRETARY OF THE ARMY (hereinafter the "ARMY"), under the authority of the provisions of the Federal Property and Administrative Services Act of 1949, approved June 30, 1949 (63 Stat. 377), 40 U.S.C. §101, et seq., as amended, and the Defense Base Closure and Realignment Act of 1990, Public Law No. 101-510, as amended, (hereafter "BRAC") and the City of Portland, a municipal corporation organized under the laws of the State of Oregon, (hereinafter the "GRANTEE").

WITNESSETH THAT:

WHEREAS, the real property and improvements that comprise the Sgt. Jerome Sears Army Reserve Center in Portland, Oregon, is hereby conveyed to the GRANTEE without cost for emergency management purposes in accordance with BRAC and the Reuse Plan that was approved by the Army and the Department of Housing and Urban Development.

NOW THEREFORE, the GRANTOR, for and in consideration of the commitment by the GRANTEE to devote the real property described below to the purpose of providing emergency management services, 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 Multnomah, in the State of Oregon, containing approximately 4.14 acres as shown on Exhibit A, attached hereto and made a part hereof (hereinafter referred to as the "Property")

SUBJECT TO all valid and existing restrictions, reservations, covenants, conditions, and easements, including but not limited to rights-of-way for railroads, highways, pipelines, and public utilities, if any, whether of public record or not.

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.

TOGETHER with all the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining

TAX STATEMENTS TO:

CITY OF PORTLAND (room)
1120 SW 5TH AVE (1204)
PORTLAND, OR 97204

PROVIDED, HOWEVER, that only for so long as the property is used primarily for the purpose of providing emergency management services and if any portion of the premises shall be used for any purpose other than providing emergency management services, the title and interest in and to the portion of the premises so used shall revert to and become the property of the United States. Emergency management services include broadly those aspects of services that are provided before, during and after emergencies to minimize impacts to the City and the community, and to assure that the City as a government, first responder, urban infrastructure provider, employer and community member can respond, manage, serve, survive, communicate, collaborate and recover in emergencies, disasters, calamities or crisis big and small. These services include but are not limited to: emergency operations planning and support; risk assessment and mitigation; public outreach, training and education; emergency preparedness and response; decision making and policy planning; first responders training and exercises; logistics management; and recovery and rebuilding.

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:

1. CERCLA NOTICE

Pursuant to Section 120(h)(3)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9620), "CERCLA", the GRANTOR has made a complete search of its files and records, and no hazardous substances have been stored for one year or more, or known to have been released or disposed of, on the Property, but petroleum products or their derivatives may be present on the Property. Since no hazardous substances have been stored for one year or more, or known to have been released or disposed of, on the Property, no remedial action has been taken.

2. RIGHT OF ACCESS

A. Pursuant to section 120(h)(3)(A)(iii) of CERCLA, 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 an environmental response or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response 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, testpitting, 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 and 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 clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the GRANTEE 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, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this 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.

D. The United States warrants that any remedial action found to be necessary after the date of this quitclaim deed shall be conducted by the United States. 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 the 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, provided that GRANTEE has not caused or contributed to a release of such hazardous substance.

3. "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. 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, lead-based paint, or other conditions on the Property. 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 obligations under CERCLA or any other statutory obligations.

4. 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, lead-based paint, or other condition 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 obligations under CERCLA or any other statutory obligations.

5. POST-TRANSFER DISCOVERY OF CONTAMINATION

A. If an actual or threatened release of a hazardous substance or petroleum product is discovered on the Property after the date of conveyance, GRANTEE, its successors or assigns, shall be responsible for such release or newly discovered substance unless GRANTEE is able to demonstrate that such release or such newly discovered substance was due to GRANTOR'S activities, use, or ownership of the Property. If the GRANTEE, its successors or assigns believe the discovered hazardous substance is due to GRANTOR'S activities, use or ownership of the Property, GRANTEE will immediately secure the site and notify the GRANTOR of the existence of the hazardous substances, and GRANTEE will not further disturb such hazardous substances without the written permission of the GRANTOR.

B. 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.

6. ENVIRONMENTAL PROTECTION PROVISIONS.

The Environmental Protection Provisions are in Exhibit B, which is attached hereto and made a part hereof. The GRANTEE shall neither transfer the property, lease the property, nor grant any interest, privilege, or license whatsoever in connection with the property without the inclusion of the Environmental Protection Provisions contained herein, and shall require the inclusion of the Environmental Protection Provisions in all further deeds, easements, transfers, leases, or grant of any interest, privilege, or license.

7. NON-DISCRIMINATION

The GRANTEE covenants for itself, its successors, and assigns and every successor in interest to the property hereby conveyed, or any part thereof, that the said GRANTEE and such heirs, successors, and assigns shall not discriminate upon the basis of race, color, religion, age, gender, or national origin in the use, occupancy, sale, or lease of the property, or in their employment practices conducted thereon. 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 United States of America 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.

8. ANTI-DEFICIENCY ACT


The GRANTOR's obligation to pay or reimburse any money under this Deed is subject to the availability of funds appropriated for this purpose 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, 31 U.S.C. §1341.

9. NO WAIVER

The failure of the Government to insist in any one or more instances upon complete performance of any of the said notices, covenants, conditions, restrictions, or reservations shall not be construed as a waiver or a relinquishment of the future performance of any such covenants, conditions, restrictions, or reservations; but the obligations of the GRANTEE, its successors and assigns, with respect to such future performance shall continue in full force and effect.

IN WITNESS WHEREOF, the GRANTOR has caused this Deed to be executed in its name by the Director of Real Estate of the United States Army Corps of Engineers, this the 15th day of August 2012.

UNITED STATES OF AMERICA

By: 
SCOTT L. WHITEFORD
Director of Real Estate
Headquarters U.S. Army Corps of Engineers

Acknowledgment

NOTARIAL CERTIFICATE)
) ss.
DISTRICT OF COLUMBIA)

I, the undersigned, a Notary Public in and for the District of Columbia, do hereby certify that this 15th day of August, 2012, Scott L. Whiteford, Director of Real Estate of the U.S. Army Corps of Engineers, known to me or proven through satisfactory evidence of identity to be the person whose name is subscribed to the foregoing document, appeared in person and acknowledged before me that the signature on the document was voluntarily affixed by him for the purposes therein stated and that he had due authority to sign the document in the capacity therein stated.

Joan M. Markley
Notary Public

Joan M. Markley
Notary Public, District of Columbia
My Commission Expires 10/14/2014

My Commission expires the _____ day of _____, 20 _____

ACCEPTANCE BY GRANTEE

The City of Portland, GRANTEE, hereby accepts this Quitclaim Deed for itself, its successors and assigns, subject to all of the conditions, reservations, restrictions and terms contained therein, this 20th day of July 2012.

City of Portland

APPROVED AS TO FORM
James H. Van Dyke
CITY ATTORNEY

By: Bryant Enge
Bryant Enge, Director
Bureau of Internal Business Services
Office of Management & Finance

STATE OF OREGON)
) SS:
COUNTY OF Multnomah)

This instrument was acknowledged before me on this day of July 20 2012, by Bryant Enge, as the Director of the Bureau of Internal Business Services, Office of Management & Finance, for the City of Portland, under the authority of City Charter, Ordinance and Code.

Diane L. Seaton
Notary Public

My Commission Expires: June 1, 2014



EXHIBITS

A – Legal Description

B – Environmental Protection Provisions

USARC Portland South (Sears)
Disposal of Fee

Tracts 100, 101, 102, 103
& 104
(4.14 acres +/-)

LEGAL DESCRIPTION

A parcel of land in Section 20, Township 1 South, Range 1 East, Willamette Meridian, located in the City of Portland, Multnomah County, Oregon. All being in a portion of the Plat of Ryan Place as recorded in Book 414 of Plats, Page 99. Also including the vacated roads described in Vacation Ordinance 110645 dated 3 Sep 1959, more particularly described as follows:

Tract 100: (2.01 acres)

The South 75 feet of Lot 4, Block 6; Lot 3, Block 7 and the south half of Lot 2, Block 7 except the west 65 feet;

Also the west 25.00 feet of Vacated S.W. 27th Ave that lies between a line 86.5 feet south of S.W. Moss Street and the northerly line of S.W. Multnomah Boulevard;

Also the east 25.00 feet of Vacated S.W. 27th Ave that lies between Lot 4, Block 6 and Lot 3, Block 7;

Also the north 25.00 feet Vacated S.W. Falcon Street between Lot 4, Block 6 and Lot 1, Block 9 extended to the centerline of Vacated S.W. 27th Ave.

Tract 101: (0.44 acres)

The South half of Lot 1, Block 6;

Also the east 25.00 feet of Vacated S.W. 27th Ave that lies between the South half of Lot 1, Block 6 and South half of Lot 2, Block 7.

Tract 102: (0.50 acres)

Lot 4, Block 6 except the south 75.00 feet;

Also the east 25.00 feet of Vacated S.W. 27th Ave that lies between the North 98.00 feet of Lot 4, Block 6 and Lot 3, Block 7.

Tract 103: (0.46 acres)

Lot 1, Block 9;

Also the south 25.00 feet Vacated S.W. Falcon Street between Lot 4, Block 6 and Lot 1, Block 9 extended to the centerline of Vacated S.W. 27th Ave. ;

Also the east 25.00 feet of Vacated S.W. 27th Ave that lies between Lot 1, Block 9 and Lot 3, Block 7.

Tract 104: (0.73 acres)

Lot 2, Block 9;

Also the south 25.00 feet of Vacated S.W. Falcon Street between Lot 3, Block 6 and Lot 2, Block 9.

Contains an aggregate total of 4.14 acres, more or less.

USARC Portland South (Sears)
Disposal of Fee

Tracts 100, 101, 102, 103
& 104
(4.14 acres +/-)

Checked JEF 1 Feb 2012
Map OJV 1 Feb 2012
Doc: SE-RE-583
002093-2

ENVIRONMENTAL PROTECTION PROVISIONS

The following conditions, restrictions, and notifications will be attached, in a substantially similar form, as an exhibit to the deed and be incorporated therein by reference in order to ensure protection of human health and the environment.

1. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT

A. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing material ("ACM") has been found on the Property. 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 Environmental Protection Agency have determined that such 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 future 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 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, including, without limitation, any asbestos or ACM hazards or concerns.

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

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 (LBP) and the Administration Building contains lead-contaminated dust from a former indoor firing range in its basement. 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 and lead-contaminated dust 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 existing 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, including, without limitation, any lead-based paint hazards or concerns.