

WHEN RECORDED MAIL ORIGINAL TO:

City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950
Attention: City Manager

WHEN RECORDED MAIL DATED AND STAMPED
COPY TO:

Commander (s)
United States Coast Guard
Maintenance and Logistics Command Pacific
1301 Clay Street, Suite 700N
Oakland, California 94612-5203

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

QUITCLAIM DEED

THIS DEED is made as of the _____ day of _____ 2005 between the **UNITED STATES OF AMERICA**, acting by and through the Commander, U.S. Coast Guard Maintenance and Logistics Command Pacific, acting under written delegation of authority dated November 15, 1996, issued by the Commandant, U.S. Coast Guard pursuant to the power and authority of the Secretary of the Department of Homeland Security, as set forth in the Homeland Security Act of 2002 (Public Law 107-296, enacted November 25, 2002) ("**GRANTOR**"), and further pursuant to the authority contained in the provisions of the Maritime Transportation Security Act of 2002, Public Law 107-295, Section 349 (the "**Act**"); and the **CITY OF PACIFIC GROVE**, a political subdivision of the State of California, acting by and through the City Council of the City of Pacific Grove, and its successors and assigns ("**GRANTEE**").

GRANTOR, without payment of consideration, does hereby **REMISE, RELEASE, AND FOREVER QUITCLAIM**, without representation or warranty, express or implied, unto the said **GRANTEE**, its successors and assigns, the property commonly known as the Point Pinos Light Station, GSA Control No. 9-U-CA-1603, hereinafter referred to as the "**Property**", legally described as a parcel of land situated in the County of Monterey and State of California, more particularly described in **Exhibit "A"**, and depicted on the "Survey Plat" map described in **Exhibit "B"**, both of which attached and incorporated by reference herein.

TOGETHER WITH all buildings, improvements, and personalty located thereon, and all and singular the tenements, hereditaments, appurtenances, improvements thereunto belonging, or in anywise appertaining, except as rights to same may be retained herein.

The terms "**GRANTOR**" and "**GRANTEE**" as used in this Quitclaim Deed to designate either of the parties herein shall be deemed to include the heirs, representatives, successors, and assigns of each such party.

The term "**Commandant**" as used in this Quitclaim Deed shall mean the Commandant of the United States Coast Guard.

The term "**Federal Aid-to-Navigation**" as used in this Quitclaim Deed shall refer to any device, operated and maintained by the United States, external to a vessel or aircraft, intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation, and shall include, but not be limited to, a light, lens, lantern, antenna, radio, sound signal, camera, sensor, electronic navigation equipment, power source, or other associated equipment, in, on or upon the **Property**, or such light and optics or other navigational aid placed in lieu thereof.

The **Property** is hereby conveyed subject to any and all existing reservations, easements, leases, licenses, outgrants, restrictions, and rights, recorded or unrecorded, for public roads and access thereto, highways, streets, railroads, power lines, telephone lines and equipment, pipelines, drainage, sewer and water mains and lines, public utilities, and other rights-of-way, including but not limited to the specific easements, reservations, exceptions, rights, restrictions, conditions, and covenants that are described herein.

RESERVING AND EXCEPTING FROM THIS CONVEYANCE THE FOLLOWING EASEMENTS, RESERVATIONS, EXCEPTIONS, AND RIGHTS:

1. RESERVATION OF FEDERAL AID-TO-NAVIGATION EASEMENT.

The **GRANTOR** reserves for itself, its successors and assigns a perpetual, nonexclusive easement to continue to operate, maintain, and have the right upon reasonable notice to the **GRANTEE** to install, repair, inspect, remove, relocate, replace, or add any **Federal Aid-to-Navigation** upon the **Property** as may be necessary for navigational purposes.

2. RESERVATION OF ACCESS AND UTILITY EASEMENTS.

The **GRANTOR** reserves for the itself, its successors and assigns a perpetual, non-exclusive easement for: (a) unrestricted access upon, through, over, and across the **Property**, at any time and without notice, including but not limited to, the right of ingress and egress in, to, and through the interior of the light station structure, for the purpose of operating, maintaining, and inspecting the **Federal Aid-to-Navigation** in use on the **Property**; or (b) egress and ingress, and utilities, including power and communications lines, to the **Federal Aid-to-Navigation** located on the **Property**, including but not limited to access by motor vehicles, at any time and without notice, hindrance or interference by any structure, building or activity which may be constructed or permitted upon the **Property** by the **GRANTEE**; or (c) the purpose of enforcing compliance with the terms and conditions of the **Act**.

3. RESERVATION OF VISUAL AND AUDITORY EASEMENTS.

The **GRANTOR** reserves for itself, its successors and assigns, easements for the operation and maintenance of the **Federal Aid-to-Navigation**, including, but not limited to, a perpetual, exclusive visual easement to insure the continued, effective and unobstructed arc of visibility if a lighted **Federal Aid-to-Navigation**, or to produce sound if a fog horn or other sound-based **Federal Aid-to-Navigation**, or electronic signals and characteristics of the **Federal Aid-to-Navigation** located on the **Property**, including the right to trim or remove vegetation and trees, or to require or perform the modification or removal of structures or equipment that causes interference with said visual, sound, or electronic characteristics of the **Federal Aid-to-Navigation**, and the operation thereof.

THIS CONVEYANCE FURTHER CONTAINS THE FOLLOWING RESTRICTIONS, CONDITIONS AND COVENANTS:

1. HISTORIC PRESERVATION COVENANT.

The **Property** is listed in the National Register of Historic Places as Reference No. 77000312. The **GRANTEE**, in accepting this Quitclaim Deed, covenants for itself, its successors, and assigns and every successor in interest to the real property hereby conveyed, or any part thereof that the **Property** is hereby conveyed subject to the conditions, restrictions, and limitations hereinafter set forth which are covenants running with the land; that the **GRANTEE**, its successors and assigns, covenants and agrees, that in the event that the **Property** is sold or otherwise disposed of, these covenants and restrictions shall be inserted in the instruments of conveyance:

- A. Any structures identified by the California State Historic Preservation Officer ("**SHPO**") pursuant to *the National Register of Historic Places, Reference #77000312*, and situated on the **Property**, shall be preserved and maintained in accordance with plans approved in writing by the State of California, State Historic Preservation Officer, 1416 9th Street, Room 1442-7, Sacramento, CA 95814.
- B. The **GRANTEE** shall preserve and maintain the lighthouse in accordance with the Secretary of Interior's Standards for Rehabilitation (36 CFR Part 67).
- C. No physical or structural changes or changes of color or surfacing shall be made to the exterior of the structure(s) and architecturally or historically significant interior features as determined by the **SHPO** without the written approval of the **SHPO**.
- D. Development of the **Property** shall be in compliance with The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
- E. Development plans shall be approved by the **SHPO** for guidance in development of the **Property** as it effects the archeological sites identified in the *November 1977 Archeological Inventory and Evaluation of the U.S. Lighthouse Reservation, Pacific Grove, California* by Rob

Edwards and Gary S. Breschini. (Map Updated July 2003).

- F. In the event of violation of the above restrictions, the U.S. General Services Administration (the "**GSA**") or the **SHPO** may institute a suit to enjoin such violation or for damages by reason of any breach thereof.
- G. The **GSA** or authorized representative, and/or the **SHPO** shall be permitted at all times to inspect the **Property** in order to ascertain if the conditions under this Section 1, HISTORIC PRESERVATION COVENANT, are being observed.
- H. In the event that the **Property**, or any historic artifacts associated with the **Property** ceases to be maintained in compliance with the covenants, conditions, and restrictions set forth in this Historic Preservation Covenant, the **Property** shall, at the option of the **GSA**, revert to the United States to be placed under administrative control of the **GSA**.
- I. The failure of the **GSA** and/or the **SHPO** to exercise any right or remedy granted under this Section 1, HISTORIC PRESERVATION COVENANT, shall not have the effect of waiving or limiting the exercise of any other right or remedy, or the use of such right or remedy at any time.
- J. The **SHPO** may, for good cause, and with the concurrence of the Advisory Council on Historic Preservation, modify or cancel any or all of the foregoing restrictions under this Section 1., HISTORIC PRESERVATION COVENANT, of this Quitclaim Deed, upon written application of the **GRANTEE**, its successors or assigns.
- K. These covenants, conditions, and restrictions under this Section 1., HISTORIC PRESERVATION COVENANT, shall be binding on the parties hereto, and their successors and assigns in perpetuity, and shall be inserted by the **GRANTEE** verbatim or by express reference in any deed or other legal instrument by which it divests itself of either the fee simple title or any lesser estate in the **Property**, and shall constitute a binding servitude upon the **Property** and shall be deemed to run with the land.

2. ENDANGERED SPECIES COVENANT.

GRANTEE covenants for itself, its successors, and assigns, and every successor in interest to the **Property** hereby conveyed, or any part thereof, that the **Property** above described is conveyed subject to the conditions, restrictions, and limitations hereinafter set forth which are covenants running with the land; that the **GRANTEE**, its successors and assigns, covenants and agrees, that in the event that the **Property** is sold or otherwise disposed of, in whole or in part, these covenants, conditions and restrictions shall be inserted in the instruments of conveyance.

- A. With the exception of an emergency action required to protect the existing lighthouse, **GRANTEE** shall not use the **Property** or authorize any third party to use the **Property**, for any purpose that would, in the judgment of the U.S. Department of the Interior, Fish and Wildlife Service (the

“USFWS”): 1) alter the existing topography and/or present character of the **Property**; or 2) adversely affect the Menzie’s wallflower, Tidestrom’s lupine, Beach layia, or Monterey spineflower, or the habitat of any of these species; other than as specifically allowed in the **USFWS Biological Opinion No. 1-8-04-F-35** (the “**Biological Opinion**”), issued to **GSA**, unless the **GRANTEE** first obtains the express written authorization of the **USFWS**, Ventura Fish and Wildlife Office, California. Specifically, **GRANTEE** shall not use the **Property**, or authorize any third party to use the **Property**, or authorize any third party to use the **Property**, for a golf course or any other use unless such use is carried out in conformance with the “Biological Assessment and Dune Habitat Restoration Plan” dated May 17, 2004, as amended by Addendum dated October 20, 2004 (the “**Plan**”), and as the **Plan** may be revised from time to time by **GRANTEE** in consultation with and subject to the written concurrence of the **USFWS**. The **Biological Opinion** and the **Plan** are incorporated herein by reference. Copies of the **Biological Opinion** and the **Plan** are maintained in 1) City Hall located at 300 Forest Ave, Pacific Grove, CA 93950, 2) the Public Library, 550 Central Ave, Pacific Grove, CA 93950, and 3) the Ventura Fish and Wildlife Office of the **USFWS**. In the event of an emergency action as described above, **GRANTEE** shall promptly consult with the **USFWS** and remediate any damage to the **Property** caused by **GRANTEE**’s response to the emergency.

- B. **GRANTOR** hereby reserves a reversionary interest in all of the **Property**. If **GRANTOR** (or its assigns) , acting through the **USFWS** or a designated successor agency, determines that any portion of the **Property** subject to a restriction or other requirement of the **Biological Opinion or the Plan** is not being conserved and/or managed in accordance with the provisions of the **Biological Opinion or the Plan**, then **GRANTOR**, through the **USFWS**, may, in its discretion, exercise a right to reenter the **Property**, or any portion thereof, in which case, the **Property**, or those portions thereof as to which the right of reentry is exercised, shall revert to **GRANTOR** through the **USFWS**. In the event of an occurrence on the **Property** that violates a restriction or other requirement of the **Biological Opinion or the Plan**, **GRANTEE** shall 1) promptly notify the **USFWS** of any such occurrence; 2) immediately take any actions necessary to protect and preserve the affected portion of the **Property** so as to prevent and avoid any further adverse affect; and 3) supply copies of any notice, reports, correspondence, and submissions made by **GRANTEE** to any Federal, State, or local authority, or received by **GRANTEE** from said authority relating to the violation. **GRANTEE** shall have 120 days from the date of the notice of violation to prepare and submit a corrective action plan for review and approval by the **USFWS** in order to correct any noted deficiencies prior to **GRANTOR** taking action under this provision. **GRANTOR**, through the **USFWS**, agrees that it will not exercise its right of reentry and reversion of the property without giving **GRANTEE** notice of **GRANTOR**’S intent to reenter and revert the property. In the event that **GRANTOR**, through the **USFWS**, exercises its right of reentry as to all or portions of the **Property**, **GRANTEE** shall execute any and all documents that **GRANTOR**, through the **USFWS**, deems necessary to perfect or provide recordable notice of the reversion and for complete transfer and reversion of all right, title and interest in the **Property** or portions thereof. Subject to applicable federal law, **GRANTEE** shall be liable for all costs and fees incurred by **GRANTOR** in perfecting the reversion and transfer

of title. Any and all improvements on the **Property** or those portions thereof reverting back to **GRANTOR**, through the **USFWS**, shall become the property of **GRANTOR** and **GRANTEE** shall not be entitled to any payment therefore.

3. USE AND MAINTENANCE OF PROPERTY.

- A. The **GRANTEE** shall maintain the **Property** in a proper, substantial, and workmanlike manner, and in accordance with the terms and conditions established in Section 1, HISTORIC PRESERVATION COVENANT, pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq).
- B. The **GRANTEE** shall be responsible for maintaining and keeping the access roads on the **Property** in a suitable and usable condition.
- C. The **GRANTEE** shall be responsible for all utilities associated with its use of the conveyed **Property**, and as necessary, the **GRANTEE** shall be responsible for the installation of meter(s) and other hardware necessary to isolate and measure utility use by the **GRANTEE**.

4. RETENTION, MAINTENANCE AND NON-INTERFERENCE OF FEDERAL AID-TO-NAVIGATION.

The **GRANTOR** shall retain all right, title, and interest to the **Federal Aid-to-Navigation** located on the **Property**. The **GRANTEE** shall not be required to maintain the **Federal Aid-to-Navigation** associated with the **Property**, except any private aid to navigation permitted under Section 83 of Title 14, United States Code. The **GRANTEE** shall not interfere, or allow interference in any manner, with any **Federal Aid-to-Navigation**, nor hinder activities required for the operation and maintenance of any **Federal Aid-to-Navigation**, without the express written permission of the **GRANTOR**.

5. NON-INTERFERENCE WITH BEAM OF LIGHT.

The **GRANTEE** shall not construct, maintain, operate, or permit any structures, building, or activities on the **Property** which shall in any manner interfere with the beam of light from the **Federal Aid-to-Navigation** or which shall make said light as it presently is operated or as it may be operated, less discernible to the public, or to water or aircraft as a navigational aid, including but not limited to any lights, structures, buildings, or activities which might cause confusion with or apparent diminution of the beam of light or which might interfere with the use of the lighthouse structure as a **Federal Aid-to-Navigation**.

6. REVERSIONARY INTEREST OF THE UNITED STATES.

Upon reasonable advance written notice to the **GRANTEE**, all right, title, and interest in and to the **Property** shall, at the option of the **GSA**, immediately revert to the United States of America, if:

- A. The **Property**, any part thereof, or any associated historic artifacts, ceases to be available for educational, park, recreational, cultural, historic

preservation, or other similar purposes set forth in the terms, conditions, or covenants of this Quitclaim Deed; or

- B. The **Property** or any part thereof ceases to be maintained in a manner that is consistent with and ensures its present or future use as a site for **Federal Aid-to-Navigation**, or ceases to be maintained in a manner that is in compliance with the **Act**; or
- C. The **Property** or any part thereof ceases to be maintained in a manner consistent with the conditions under Section 3.A., USE AND MAINTENANCE OF PROPERTY, set forth in this Quitclaim Deed; or
- D. The **Property** or any part thereof is needed for national security purposes in which case the **GRANTOR** shall provide written notice to the **GRANTEE** at least 30 days prior to the reversion.

In the event that there is a breach of any of the conditions and covenants herein contained by the **GRANTEE**, its successors and assigns, whether caused by legal or other inability of the **GRANTEE**, its successors and assigns, to perform said conditions and covenants, or otherwise, all right, title, and interest in and to the **Property** shall revert to and become the property of the United States at the option of the GSA. The United States, in addition to all other remedies for such breach, shall have the right of entry upon the **Property**, and the **GRANTEE**, its successors and assigns, shall forfeit all right, title, and interest in the **Property**, and in any and all of the tenements, hereditaments, and appurtenances thereto belonging.

The **GRANTEE**, by its acceptance of the Quitclaim Deed, covenants and agrees for itself, and its successors and assigns, that in the event the United States of America exercises its power to terminate the **GRANTEE**'s interest in the **Property** then the **GRANTEE** shall provide protection to and maintenance of the **Property** at all times until such time as the title is actually reverted, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed by the **GSA** in its Federal Management Regulations in effect at the time of the reversion. Prior to any such reversion, the **GRANTEE** further agrees to complete and submit to the United States of America an environmental assessment of the **Property** that sufficiently documents and evaluates its condition in regard to the release of hazardous substances as defined under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. & 9601 (14)).

7. HISTORIC ARTIFACTS.

The **GRANTOR** shall retain all right, title, and interest to any historic artifact, including any lens or lantern, located on the **Property** at or before the time of conveyance, as personal property of the United States under the administrative control of the **Commandant**.

8. SUBMERGED LANDS.

No submerged lands are included as a part of this conveyance.

9. NOTICE OF WETLANDS.

The northern portion of the **Property** contains jurisdictional wetlands near Crespi Pond. Activities contemplated for the **Property** by the **GRANTEE**, its successors and assigns are subject to any and all Federal, State and local laws, rules, and ordinances governing land use in wetland areas. No work by the **GRANTEE**, its successors or assigns on the **Property**, including filling, excavation, digging, or dredging is permitted in this area without a permit from the U.S. Army Corps of Engineers, if applicable.

10. NOTICE OF POSSIBLE PRESENCE OF LEAD-BASED PAINT AND COVENANT TO RESTRICT USE OF PROPERTY.

A. Definitions Pertinent to This Paragraph 10.

(1) Department. "Department" means the State of California acting by and through the Department of Toxic Substances Control and includes its successor agencies, if any.

(2) Owner. "Owner" is synonymous with GRANTEE, Grantee's successors in interest, and their successors in interest, including heirs and assigns, during GRANTEE's ownership of all of any portion of the Property.

(3) Occupant. "Occupant" is synonymous with GRANTEE and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

(4) Covenantor. "Covenantor" is synonymous with GRANTEE.

B. Notice. The **Property** is being conveyed "As Is" and the **GRANTEE** shall be responsible for any and all liabilities, damages, loss, expenses or judgments arising out of or related to health problems which are the result of exposure to lead-based paint where the exposure occurred after the **Property** was conveyed to the **GRANTEE**. The light station was constructed in 1854 and was placed in use on February 1, 1855. The **Property** may contain Lead Based Paint (the "**LBP**"). The Phase 1 Environmental Due Diligence Audit, US Coast Guard Point Pinos Light Station, Pacific Grove, Monterey County, California, dated July 2002, states that due to the age of the structures, it is likely that **LBP** was used during construction and in touchups. The **GRANTEE** is hereby informed and does acknowledge that the lighthouse and buildings on the **Property** and existing on the date of this Quitclaim Deed was constructed prior to 1978 and, as with all such property, a lead-based paint hazard may be present.

C. Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as ""Restrictions""), subject to which the **Property** and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or

conveyed. Each and every Restriction: (a) runs with the land pursuant to H&SC section 25355.5(a)(1)(C) and Civil Code section 1471; (c) is enforceable by the Department; and (d) is imposed upon the entire **Property** unless expressly stated as applicable only to a specific portion thereof.

D. Binding upon Owners/Occupants. Pursuant to H&SC section 25355.5(a)(1)(C) and Civil Code section 1471, this Covenant binds all owners and occupants of the **Property**, and their heirs, successors, and assignees, and agents, employees, and lessees. Pursuant to Civil Code section 1471(d), all successive owners and occupants of the **Property** are expressly bound hereby for the benefit of the Department.

E. Notice of the Presence of Lead in Surface Soil. Prior to the sale, lease or sublease of the Property or any portion thereof, the **Owner**, lessor, or sublessor shall give the buyer, lessee, or sublessee notice that hazardous substances are located on or beneath the **Property**, as required by H&SC section 25359.7.

F. Incorporation into Deeds and Leases. The Restrictions set forth herein shall be incorporated by reference in each and all deeds and leases and subleases for any portion of the **Property**.

G. Conveyance of Property. The **Owner** shall provide notice to the Department not later than thirty (30) days after executing any document conveying any ownership or leasehold interest in the (excluding mortgages, liens, and other non-possessory encumbrances). The Department shall not, by reason of this Covenant alone, have authority to approve, disapprove, or otherwise affect a conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

H. Costs of Administering the Deed Restriction. The terms of this Covenant run with the land and will continue in perpetuity unless a Variance is granted or the Covenant is Terminated pursuant to sections N or O, below. The Department has incurred and will in the future incur costs associated with the administration of this Covenant. Pursuant to California Code of Regulations, title 22, section 67391.1(h), the **Owner** agrees to pay the Department's costs associated with the administration of this Covenant. In the event that **Property** ownership changes between the time the Department incurs administrative costs and the invoice for such costs is received, each owner of the property for the period covered by the invoice as well as the current owner is responsible for such costs.

I. RESTRICTIONS

(1) **Property** shall not be used for any of following purposes: a residence, including any mobile home or factory built housing used as residential human habitation, a hospital for humans, a public or private school, a day care center for children, a playground.

(2) Soil Management. No activities that will disturb the surface soil to 12 inches below ground surface (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall be allowed on

Property without a pre-approved Soil Management Plan and a Health and Safety Plan approved by the Department.

(3) **Owner** shall provide the Department written notice at least thirty (30) days prior to any building, filling, grading, mining, or excavation of the Property surface soil to 12 inches below the ground surface.

(4) Any soil removed from the **Property** shall be managed in accordance with all applicable provisions of state and federal law.

J. Access for Department. The **Department** shall have reasonable right-of-entry consistent with the purposes of this Covenant as deemed necessary by the Department to protect the public health and safety and oversee any remediation activities.

K. Inspection and Monitoring of Restrictions. The **Owner** shall inspect the **Property** annually for compliance with any of the Restrictions herein. Any violations of the Restrictions shall be grounds for the Department to take enforcement actions in accordance with section M, below.

L. Reporting. Beginning the first full calendar year after this Quitclaim Deed is executed, the **Owner** will file a written report with the **Department** providing the results of the annual inspection required in section K, above.

M. Enforcement. Failure of the **Owner** or **Occupant** to comply with any of the Restrictions shall be grounds for the **Department** to exercise any or all of their rights to require that the **Owner** or **Occupant** modify or remove any improvements ("improvements" includes but is not limited to all buildings, roads, driveways, paved parking areas, water wells, and surface impoundments) constructed or placed upon any portion of the **Property** in violation of the terms of this Covenant. Violation of any provision of this Covenant shall be grounds for the **Department** to file civil or criminal actions as provided by law.

N. Variance. The **Owner**, or with the **Owner's** consent, any **Occupant**, may apply to the **Department** for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

O. Termination. Any **Owner**, or with the **Owner's** consent, any **Occupant**, may apply to **Department** for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the **Property**. Such application shall be made in accordance with H&SC section 25234.

P. Term. This Covenant shall continue in effect in perpetuity unless ended in accordance with the Termination paragraph above, by law, or by the **Department** in the exercise of its discretion.

Q. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication to the general public or anyone else for any purpose whatsoever.

R. State of California References. All references to the State of California and the **Department** include successor agencies/departments or other successor entity(ies).

S. Notices Between the Parties. Whenever **Owner** gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served; or (b) three business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

11. NOTICE OF THE PRESENCE OF ASBESTOS.

The **Property** may have asbestos containing material. The Phase 1 Environmental Due Diligence Audit, US Coast Guard Point Pinos Light Station, Pacific Grove, Monterey County, California, dated July 2002, states that due to the age of the structures, it is likely that asbestos-containing material (the "**ACM**") exists in the building materials. **ACM** has been confirmed in the construction materials used at the lighthouse.

The **GRANTEE** Covenants and agrees, on behalf of themselves, their successors and assigns, that in their use and occupancy of the **Property**, or any part thereof, they will comply with all Federal, state and local laws relating to asbestos. The **GRANTOR** assumes no liability for damages for personal injury, illness, disability or death, to the **GRANTEE**, or to the **GRANTEE**'s successors, assigns, employees, invitees, or to any other person subject to the control or direction of the **GRANTEE**, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the **Property** described in this Quitclaim Deed, whether the **GRANTEE**, its successors or assigns has or have properly warned or failed to properly warn the individual(s) injured.

12. HAZARDOUS SUBSTANCE ACTIVITY.

Notice. 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, the United States gives notice that other than the substances identified in paragraphs 10 and 11, above, no hazardous substances have been released or disposed of or stored for one year or more on the **Property**.

Covenant. United States warrants that all remedial action necessary to protect human health and the environment has been taken before the date of this conveyance. United States 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.

This covenant shall not apply:

(a) In any case in which the **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**

(b) To the extent but only 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.

In the event the **GRANTEE**, its successor(s) or assign(s), seeks to have United States conduct any additional response action, and, as a condition precedent to United States incurring any additional cleanup obligation or related expenses, the **GRANTEE**, its successor(s) or assign(s), shall provide United States at least 45 days written notice of such a claim and provide credible evidence that:

(A) The associated contamination existed prior to the date of this conveyance; and

(B) 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.

Access For Environmental Investigation, Remediation or Other Corrective Action. United States reserves a right of access, at reasonable times and upon reasonable advance written notice to the **GRANTEE**, to all portions of the **Property** or to any adjoining properties, 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 United States. 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. United States shall exercise reasonable efforts to minimize any interference with the operations of any then existing tenants on the **Property** or any then ongoing development activity in carrying out such response or corrective actions. 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.

13. CONDITION OF PROPERTY.

The **GRANTEE** attests by its acceptance of this Quitclaim Deed that it has inspected, is aware of, and accepts the condition and state of repair of the **Property** herein conveyed. It is understood and agreed that the **Property** is conveyed "AS IS" and "WHERE IS" without any representation or warranty on the part of the **GRANTOR** to make any alterations, repairs, or additions. The **GRANTOR** shall not be liable for any latent or patent defects in the **Property**, except to the extent required by applicable law. The **GRANTEE** acknowledges by acceptance of this Quitclaim Deed that the **GRANTOR** has made no representation or warranty concerning the condition and state of repair of the **Property** nor any agreement or promise to alter, improve, adapt or repair the **Property** which has not been fully set forth in this Quitclaim Deed.

14. CONVEYANCES AND OBLIGATIONS.

- A. The **GRANTEE** attests by its acceptance of and recording of this Quitclaim Deed that all of the covenants and obligations stated in this conveyance run with the **Property** and are binding upon the **GRANTEE**, and agrees to perform all of its obligations related thereto.
- B. This Quitclaim Deed and its acceptance by the **GRANTEE** shall constitute the entire agreement between the **GRANTEE** and the United States of America, unless modified and approved in writing by both parties. This agreement becomes binding upon execution or delivery of the Quitclaim Deed by the United States.
- C. The **GRANTEE** shall save, hold harmless, defend, and indemnify the United States, its employees, agents, and representatives from any suit, claim, demand, or action, liability, judgment, cost or other fee

arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to the **Property** or economic loss) that arises from the **GRANTEE's** or the **GRANTEE's** employee's, agent's, or representative's use or occupancy of the **Property** and/or the **GRANTEE's** failure to comply with the terms and conditions of the conveyance excepting those claims arising out of the negligence of the United States.

- D. Except to the extent they conflict with California law, the **GRANTEE** further covenants and agrees for itself, its successors, and assigns, to comply with the provisions of the Federal Disaster Protection Act of 1973 (87 Stat. 975); Executive Order 11988, relating to the evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water

pollution; and Executive Order 11990, relating to the protection of wetlands, where and to the extent said Act and Orders are applicable to the **Property**, and the **GRANTEE** shall be subject to any use restrictions issued under said Act and Orders.

15. COMPLIANCE AND FAILURE OF GRANTOR.

The United States, and any representative it may so delegate, shall have the right of entry upon the **Property** at any time to conduct periodic inspection to ensure compliance with the terms and conditions of the conveyance. The failure of any agency of the United States to exercise any right, term, covenant, condition or remedy granted under this Quitclaim Deed shall not be deemed to be a waiver of the same or any other term, covenant, condition, right or remedy. No term, covenant, condition, right or remedy shall be deemed to have been waived by the United States unless such waiver is in writing executed by a duly

authorized representative of the United States, and the **GRANTEE's** obligations with respect to such future performance shall continue in full force and effect.

IN WITNESS WHEREOF, the **GRANTOR**, acting by and through the Commandant, U.S. Coast Guard, and by further delegation to the Commander, U.S. Coast Guard maintenance and Logistics Command Pacific, has caused this Quitclaim Deed to be executed as of the day and year first written above.

For the UNITED STATES OF AMERICA

J. A. BRECKENRIDGE
Rear Admiral, U.S. Coast Guard
Commander, Maintenance and Logistics Command Pacific

WITNESS:

CERTIFICATION BY NOTARY PUBLIC
State of California
County of Alameda

On _____, before me, _____, personally appeared _____, personally known to me, or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary

Notary Stamp

ACCEPTANCE of QUITCLAIM DEED

The **GRANTEE**, through its authorized representative, hereby accepts title to the conveyed **Property** and accepts and agrees to all of the terms, conditions, and restrictions contained in the QUITCLAIM DEED set forth above. Executed on behalf of the **GRANTEE** this _____ day of _____, 2005, at Monterey County.

CITY OF PACIFIC GROVE

By: _____
James W. Costello
Mayor of the City of Pacific Grove

EXHIBIT "A"

LEGAL DESCRIPTION

For Point Pinos Coast Guard Reservation
Point Pinos Rancho, City of Pacific Grove, California

EXHIBIT "B"

SURVEY PLAT

For Point Pinos Coast Guard Reservation
Pacific Grove, California