



Tom Leatherwood
Shelby County Register

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01/23/2006 ~ 01:38 PM	
11 PGS : R - QUIT CLAIM	
HERTHA 374793-6013051	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	55.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	0.00
TOTAL AMOUNT	57.00
TOM LEATHERWOOD	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

P¹/₄LAT 1 of 1

HAYS ROAD

PROJECT NO. PW 071

This Instrument Prepared By:
James A. Wagoner, III
Assistant District Counsel
U.S. Army Corps of Engineers
Mobile District
P.O. Box 2288
Mobile, AL 36628
251-690-3295

QUITCLAIM DEED
TO
THE CITY OF MEMPHIS
SHELBY COUNTY, TENNESSEE

This QUITCLAIM DEED, between the UNITED STATES OF AMERICA (hereinafter the "GRANTOR"), acting by and through the Deputy Assistant Secretary of the Army (Installations & Housing), 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, and the CITY OF MEMPHIS, TENNESSEE (hereinafter the "GRANTEE").

WITNESSETH THAT:

WHEREAS, Defense Distribution Depot Memphis, Tennessee (DDMT) closed on September 30, 1997, and

WHEREAS, the GRANTEE made application to the U.S. Department of Transportation, Federal Highway Administration (FHWA) requesting the transfer of certain lands that are a part of the former DDMT as a Public Benefit Conveyance at no cost, and

WHEREAS, the FHWA recommended the application and requested that the Army proceed with the transfer to the GRANTEE for use as roadway;

NOW THEREFORE, the GRANTOR, for and in consideration of the benefits which shall accrue to the public by virtue of the use of the property hereinafter described for public transportation purposes, 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 Shelby, in the State of Tennessee, containing approximately 1.57 acres as shown on Exhibits A-1 and A-2, attached hereto and made a part hereof (hereinafter referred to as the "Property").

The legal description of the Property has been provided by the GRANTEE and the GRANTEE shall be responsible for the accuracy of the survey and description of the Property conveyed herein and shall indemnify and hold the GRANTOR harmless from any and all liability resulting from any inaccuracy in the description.

SUBJECT TO all valid and existing restrictions, reservations, covenants, and conditions, and easements, including but not limited to rights-of-way for 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.

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, including the Environmental Protection Provisions set forth in Exhibit B, attached hereto and made a part hereof, 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) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. Section 9620 et seq (“CERCLA”):

The GRANTOR hereby notifies the GRANTEE of the storage, release and disposal of hazardous substances on the Property. However, remaining concentrations are not inconsistent with unrestricted reuse; therefore, no remedial actions were required for the purpose of this deed.

2. CERCLA COVENANT - The GRANTOR hereby covenants that: All remedial action necessary to protect human health and the environment with respect to any such hazardous substances remaining on the Property has been taken before the date of conveyance hereunder; and

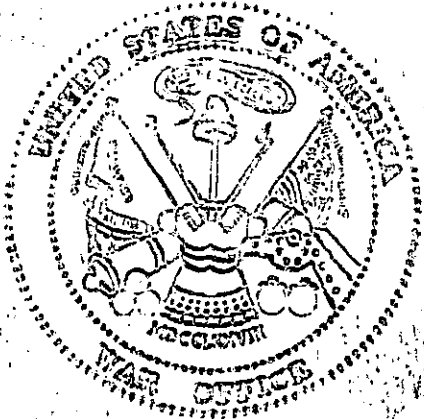
Any additional remedial action found to be necessary with regard to such hazardous substances remaining on the Property after the date of this Deed

that resulted from past activities of the GRANTOR shall be conducted by the GRANTOR. This covenant shall not apply to the extent such remedial actions are caused by activities of the GRANTEE, its successors or assigns.

3. **RIGHT OF ACCESS** - Consistent with CERCLA Section 120(h)(3)(A)(iii) [42 U.S.C. §9620(h)(3)(A)(iii)], the United States, by and through the GRANTOR and its agents, reserves a future right of access in the event that any response action, corrective action, or remedial action is found to be necessary on the Property after transfer, or if such access to the Property is necessary to carry out a response action, corrective action, or remedial action on adjoining property. Such access may be necessary to carry out a response action or corrective action on adjoining property, including, but not limited to, the following purposes:
 - a. To verify continued compliance with the land use restrictions that have been selected by the Record of Decision for the adjoining property;
 - b. To conduct investigations and surveys, including, where necessary, drilling, soil and groundwater sampling, test-pit excavation, soil borings and other activities;
 - c. To construct, operate, maintain or undertake any other response or remedial actions as required or necessary including, but not limited to monitoring wells, pumping wells and treatment facilities.
4. **PETROLEUM** - Based on a review of records there is not evidence that any petroleum or petroleum products in excess of 55 gallons were stored, released, or disposed of at one time on the Property.
5. **"AS IS"** - The GRANTEE has inspected, knows 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" and "WHERE 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 purposes intended by the GRANTEE, and no claim for allowance or deduction upon such grounds will be considered.
6. **PROXIMITY OF AIRPORT** - The Memphis Airport is in close proximity to the Property. Accordingly, in coordination with the Federal Aviation Administration, the GRANTEE covenants and agrees, on behalf of itself, its successors and assigns and every successor in interest to the Property herein described, or any part thereof, that there will be no construction or alteration unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14, Code of Federal Regulations, Part 77, entitled, "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

7. NOTICE OF NON-DISCRIMINATION – The GRANTEE covenants for itself, its heirs, 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. 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. HOLD HARMLESS – The GRANTOR recognizes its obligation to hold harmless, defend, and indemnify the GRANTEE and any successor, assignee, transferee, lender, or lessee of the GRANTEE or its successors and assigns, as required and limited by Section 330 of the National Defense Authorization Act of 1993, as amended (P.L. No. 102-484), and to otherwise meet its obligations under Federal law.
To the extent authorized by law, the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. Sec. 29-20-101, et seq., the GRANTEE, on behalf of itself, its successors, and assigns, covenants and agrees to hold harmless the GRANTOR, its officers, agents, and employees from any and all claims, damages, judgments, loss and costs, including fines and penalties, arising out of the violation of the NOTICES, USE RESTRICTIONS AND RESTRICTIVE COVENANTS in this Deed; and the GRANTOR shall not be responsible for any costs associated with activity under a conditional exception, amendment, or as an exception to the Grant or change in activity or use, including without limitation, costs associated with any additional investigation or remediation.
9. 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. Section 1341.
10. NO WAIVER – The failure of the GRANTOR to insist in any one or more instances upon complete performance of any of the said notices, covenants, conditions, restriction, or reservations shall not be construed as a waiver or a relinquishment of the future performance of any such covenants, conditions, restrictions, or reservation; 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 Deputy Assistant Secretary of the Army for Installations and Housing (I&H) and the seal of the Department of the Army to be hereunto affixed this 2nd day of September, 2005.



UNITED STATES OF AMERICA

By: Joseph W. Whitaker

Joseph W. Whitaker
Deputy Assistant Secretary of the Army
(Installations and Housing)
OASA (I&E)

Signed and sealed and delivered
In the presence of:

Witness: Charles L. Jones

Witness: Pat A. T. Hill

ACKNOWLEDGEMENT

COMMONWEALTH OF VIRGINIA)
) SS:
COUNTY OF ARLINGTON)

I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, County of Arlington, do hereby certify that this day personally appeared before me in the Commonwealth of Virginia, County of Arlington, Joseph W. Whitaker, Deputy Assistant Secretary of the Army (I&H), whose name is signed to the foregoing instrument and who acknowledged the foregoing instrument to be his free act and deed on the date shown and acknowledged the same for and on behalf of the UNITED STATES OF AMERICA.

Shekinah Z. Hill Notary Public
My Commission Expires: 30 September 2008

Embossed Hereon is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires September 30, 2008
SHEKINAH Z. HILL



ACCEPTANCE BY GRANTEE

The City of Memphis, Tennessee, 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 May, 2005.

ATTEST:

Valerie C. Snipis
City Comptroller

CITY OF MEMPHIS, TENNESSEE

By: [Signature]
Dr. W. W. Herenton
Title: Mayor

APPROVED AS TO FORM:

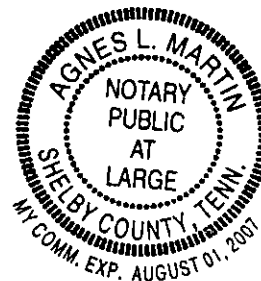
[Signature]
City Attorney W.O.

STATE OF TENNESSEE)
) SS:
COUNTY OF SHELBY)

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared DR. W.W. HERENTON, Mayor of the City of Memphis, Tennessee, with whom I am personally acquainted, and who, upon his oath, acknowledges himself to be the Mayor of the City of Memphis, Tennessee, the within named GRANTEE, a Municipal Corporation of the State of Tennessee, and that he as such Mayor of said City, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as such Mayor of said City.

Witness my hand and seal at office in Memphis, Shelby County, Tennessee, this the 20th day of May, 2005.

Agnes L. Martin Notary Public
My Commission Expires: 8/1/2007



Property Address: Vacant

Property Owner's Address same as below

Mail Tax Bills to: City of Memphis (Exempt)

125 N. Main, Room 568

Address: Memphis, Tennessee 38103

Ward: 060 Block: 086 Parcel: 001 (portion- Hays ROW Acquisition)

EXHIBIT A-1

Legal Description:

Commencing at the intersection of the proposed centerline of Hays Road (60' R.O.W.) at the proposed centerline of Person Avenue (80' R.O.W.); thence along the proposed centerline of Person Avenue North $89^{\circ}59'34''$ East, a distance of 36.02 feet to a point, thence leaving said centerline South $01^{\circ}04'31''$ East, a distance of 139.59 feet along the ex. West R.O.W. line to a point, said Point also being the Point of Beginning; thence continuing along said R.O.W. line South $01^{\circ}04'31''$ East, a distance of 1267.15 feet to a point on a curve said point also being on the proposed West R.O.W. of Hays Road; thence along said proposed R.O.W. with a non-tangent curve to the left having a radius of 2070.00 feet, a central angle of $4^{\circ}20'29''$, a chord bearing of North $06^{\circ}54'51''$ West, and an arc distance of 156.84 feet to a point of tangency, thence North $09^{\circ}05'06''$ West, a distance of 209.28 feet to a point; thence along a curve to the right having a radius of 2130.00 feet, a central angle of $8^{\circ}00'01''$, a chord bearing of North $05^{\circ}05'05''$ West, and an arc distance of 297.41 feet to a point of tangency, thence North $01^{\circ}05'05''$ West, a distance of 563.18 feet to a point; thence North $55^{\circ}03'05''$ East, a distance of 79.47 feet to the Point of Beginning. Containing 1.46 Acres, more or less.

EXHIBIT A-2

Legal Description:

Commencing at the intersection of the proposed centerline of Hays Road (60' R.O.W.) at the existing centerline of Dunn Avenue (85.5' R.O.W. in this area); then along the proposed centerline of Hays Road North $01^{\circ}05'05''$ West, a distance of 49.50 feet, thence leaving said centerline and along the existing North R.O.W. line South $89^{\circ}17'58''$ West, a distance of 8.33 feet to the Point of Beginning; thence South $89^{\circ}17'58''$ West, a distance of 28.55 feet to a point on the proposed West R.O.W. line of Hays Road; then along said West R.O.W. line with a non-tangent curve to the left having a radius of 30.00 feet, a central angle of $39^{\circ}33'38''$, a chord bearing of North $18^{\circ}41'44''$ East, and an arc distance of 20.71 feet to a point of tangency; thence North $01^{\circ}05'05''$ West, a distance of 99.53 feet to a point of curvature; thence along a curve to the right having a radius of 429.99 feet, a central angle of $9^{\circ}09'57''$, a chord bearing of North $03^{\circ}29'54''$ East, and an arc distance of 68.79 feet to a point of tangency; thence North $08^{\circ}04'53''$ East, a distance of 100.00 feet to a point of curvature; thence along a curve to the left having a radius of 370.00 feet, a central angle of $0^{\circ}17'52''$, a chord bearing of North $07^{\circ}55'57''$ East, and an arc distance of 1.92 feet to a point on the existing West R.O.W. line of Hays Road; thence reversing direction and along said existing R.O.W. line South $01^{\circ}04'31''$ East, a distance of 287.95 feet to the Point of Beginning. Containing 0.11 Acres, more or less.

Exhibit B

Environmental Protection Provisions

1. INCLUSION OF PROVISIONS

The person or entity to whom the property is transferred 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 such environmental protection provisions in all further deeds/easements, transfers, leases, or grant of any interest, privilege, or license.

2. NPL PROPERTY

The United States acknowledges that Defense Depot Memphis, Tennessee, has been identified as a National Priority List (NPL) site under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. The Transferee/Grantee acknowledges that the United States has provided it with a copy of the Defense Depot Memphis, Tennessee Federal Facility Agreement (FFA) entered into by the United States Environmental Protection Agency (EPA), Region 4, the Tennessee Department of Environment and Conservation, and the Defense Logistics Agency, effective on March 6, 1995 and will provide the Transferee/Grantee with a copy of any amendments thereto. The person or entity to whom the property is transferred agrees that should any conflict arise between the terms of the FFA as they presently exist or may be amended, and the provisions of this property transfer, the terms of the FFA will take precedence. The person or entity to whom the property is transferred further agrees that notwithstanding any other provisions of the property transfer, the United States assumes no liability to the person or entity to whom the property is transferred should implementation of the FFA interfere with their use of the property. The person or entity to whom the property is transferred or any subsequent transferee, shall have no claim on account of any such interference against the United States or any officer, agent, employee or contractor thereof.

3. INDEMNIFICATION OF TRANSFEERS OF CLOSING DEFENSE PROPERTY

GRANTOR and GRANTEE are aware of their respective obligations and responsibilities under section 330, National Defense Authorization Act of Fiscal Year 1993, Public Law 102-484, Oct. 23, 1992, 106 Stat. 2371, as amended by section 1002, National Defense Authorization Act for Fiscal year 1994, Public Law 103-160, Nov. 30, 1993, 107 Stat. 1745. (see 10 U.S.C § 2687, note)

4. CERCLA ACCESS CLAUSE

A. Consistent with CERCLA §120(h)(3)(A)(iii) [42 U.S.C. §9620(h)(3)(A)(iii)], the United States, by and through the Grantor and its agents, reserves a future right of access in the event that any response action, corrective action, or remedial action is found to be necessary on the Property after transfer, or if such access to the Property is necessary to carry out a response action, corrective action, or remedial action on adjoining property. Such access may be necessary to carry out a response action or corrective action on adjoining property, including, but not limited to, the following purposes;

B. To verify continued compliance with the land use restrictions that have been selected by the Record of Decision for the adjoining property;

C. To conduct investigations and surveys, including, where necessary, drilling, soil and groundwater sampling, test-pit excavation, soil borings and other activities;

D. To construct, operate, maintain or undertake any other response or remedial actions as required or necessary including, but not limited to monitoring wells, pumping wells and treatment facilities.

5. NO LIABILITY FOR NON-ARMY CONTAMINATION

The Army shall not incur liability for additional response action or corrective action, found to be necessary after the date of transfer, in any case in which the person or entity to whom the property is transferred, or other non-Army entities, is identified as the party responsible for contamination of the property.