

Joseph F. Pitta
Monterey County Recorder
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RAUBREY
3/25/2002
15:04:12

WHEN RECORDED MAIL TO:

FORT ORD REUSE AUTHORITY

100 12th STREET

BUILDING 2880

MARINA, CA 93933

ATTN: LINDA STIEHL

Stewart Title

DOCUMENT: **2002028533**

Titles: 1/ Pages: 8



2002028533

Fees....

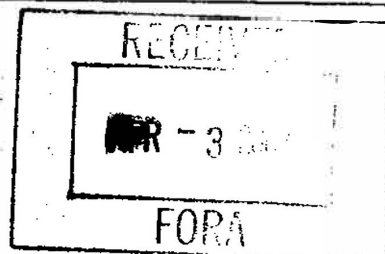
Taxes....

Other....

AMT PAID

THIS SPACE FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT



AMENDMENT NO. 1 TO THE
MEMORANDUM OF AGREEMENT

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**AMENDMENT NO. 1
TO THE
MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
ACTING BY AND THROUGH
THE SECRETARY OF THE ARMY
UNITED STATES DEPARTMENT OF THE ARMY
AND
THE FORT ORD REUSE AUTHORITY
FOR THE SALE OF
PORTIONS OF THE FORMER FORT ORD
LOCATED IN MONTEREY COUNTY, CALIFORNIA**

THIS AMENDMENT NO. 1 to the *Memorandum of Agreement between the United States of America acting by and through the Secretary of the Army, United States Department of the Army, and the Fort Ord Reuse Authority for the Sale of Portions of the Former Fort Ord Located in Monterey County, California dated June 20, 2000* (“Agreement”) is entered into on this 23rd day of October 2001 by and between **THE UNITED STATES OF AMERICA**, acting by and through the Department of the Army (“Government”), and **THE FORT ORD REUSE AUTHORITY** (“Authority”), recognized as the local redevelopment authority by the Office of Economic Adjustment on behalf of the Secretary of Defense. Government and Authority are sometimes referred to herein collectively as the “Parties.”

RECITALS

WHEREAS, the Parties did enter into the Agreement for the “No Cost” Economic Development Conveyance (“EDC”) to the Authority of a portion of the former Fort Ord, California (“Property”) pursuant to Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, as amended, and the implementing regulations of the Department of Defense (32 CFR Part 175);

WHEREAS, subsequent to the execution and delivery of the Agreement, the Parties determined that in accordance with the Reuse Plan and in order to facilitate the economic redevelopment of the Property, it is desirable and necessary to include within the scope of the Agreement the Water and Wastewater Systems at the former Fort Ord (“Water Systems”), more particularly described in the Quitclaim Deed attached as Exhibit A to this Amendment No. 1, for transfer through the Authority to the Marina Coast Water District (“District”) in lieu of a direct transfer of the Water Systems from the Government to the District under a Public Benefit Conveyance (“PBC”);

FORT ORD MOA AMENDMENT NO. 1

1 **Article 2. Bay View Community/Brostrom Housing Area Water and Wastewater**
2 **Systems**

3
4 a. In the event the Government conveys the real property underlying the Bay View
5 Community/Brostrom Housing Area ("Bay View") to The RINC Organization, then and upon
6 the happening of that event, and notwithstanding Article 5.02 of the MOA, the Government and
7 the Authority agree that the water rights reserved to the Government shall be reduced by 38 afy
8 for a total reservation of water rights for the Government of 1691 afy. The Government and the
9 Authority agree further that the Government shall then, and upon the happening of that event,
10 convey such 38 afy of water rights to the Authority by quitclaim deed in a form substantially
11 similar to the Deed attached as Exhibit A to this Amendment No. 1 for a total conveyance of
12 water rights to the Authority of 4,909 afy.

13
14 b. In the event the Government conveys the real property underlying the Bay View
15 Community/Brostrom Housing Area ("Bay View") to The RINC Organization, and
16 simultaneously with the conveyance of the aforementioned 38 afy of water rights to the
17 Authority, the Authority, through allocation instructions to the District, the Authority selected
18 water purveyor, agrees to provide water service to the Bay View Community/Brostrom Housing
19 Area ("Bay View"), in an at equal to .21 afy per residential housing unit times 223
20 residential housing units, plus 38 afy $[(.21 \text{ afy} \times 223) + 38 \text{ afy}]$ as follows:

- 21
22 1. Under the same ms and conditions of any other existing residential
23 development in the City of Seaside, California ("Seaside").
24 2. Bay View residents will have three years to reduce consumption at Bay View to
25 meet Seaside's .21 afy per unit conservation requirement without penalty.
26 3. Bay View residents will be charged at the then District rate as any other user will
27 be charged for similar water services.
28 4. The same level of water service (.21 afy per residential housing unit times 223
29 residential housing units, and 38 afy) shall be available for future residential
30 development on the Bay View site when and if a project is approved in
31 conformity with Seaside's General Plan and Zoning requirements.
32 5. If a future development on the Bay View site can achieve a more efficient use of
33 this amount of water service, credit for such conservation may be applied to an
34 increase in units on the Bay View property in conformity with Seaside's General
35 Plan and Zoning requirements if and when a project is approved.

36
37 **Article 3. Reporting Period**

38
39 In accordance with Section 2821 of the National Defense Authorization Act for Fiscal
40 Year 2001 (Pub. L. No. 106-398) and the Agreement, the Agreement is hereby amended as
41 follows:
42

FORT ORD MOA AMENDMENT NO. 1

1 a. In paragraph 1.20 of the Agreement, delete the definition of Reporting Period in
2 its entirety and substitute the following:

3
4 "A period of time, beginning with the recordation of the Deed or Lease in
5 Furtherance of Conveyance ("LIFO") for the initial transfer of property and
6 ending seven (7) years thereafter, within which the Authority will submit annual
7 statements as described in paragraph 2.01(F) of this Agreement."
8

9 b. In paragraph 2.01(F) of the Agreement delete the first sentence and substitute the
10 following:

11
12 "The Authority shall prepare and submit to the Government an annual financial
13 statement certified by an independent certified public accountant. The statement
14 shall cover the Authority's use of proceeds it receives from the sale, lease, or
15 equivalent use of the Property. The first such statement shall cover the 12 month
16 period beginning on the date of recordation of the first Deed or LIFO and shall
17 be delivered to Government within 60 days of the end of that period and annually
18 thereafter. The seven-year period will commence with the recordation of the
19 Deed or LIFO for the initial transfer of property. The last such statement shall
20 cover the 12 month period beginning on the date seven years following the
21 recordation of the Deed or LIFO for the initial transfer of property. The
22 financial statements shall cover all parcels of property that have been conveyed
23 during the seven-year period."
24

25 **Article 4. Survival and Benefit**

26
27 a. Unless defined separately, the terms used in this Amendment No. 1 shall be the
28 same as used and defined in the Agreement.

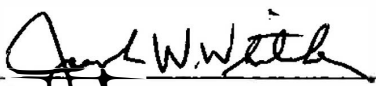
29
30 b. Except as set forth herein, and unless modified specifically by this Amendment
31 No. 1, the terms and conditions contained in the Agreement shall remain binding upon the
32 Parties and their respective successors and assigns as set forth in the Agreement.
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40 **[Signature Page Follows]**
41

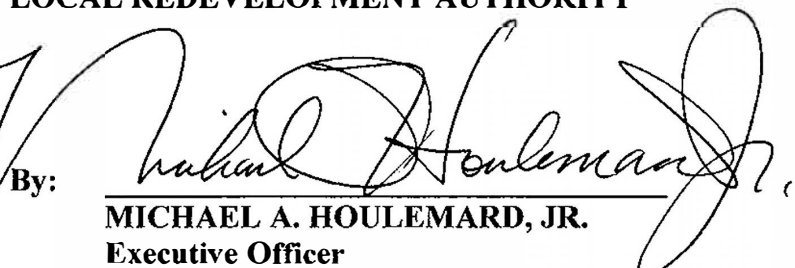
FORT ORD MOA AMENDMENT NO. 1

1
2 **In Witness whereof**, the Parties, intending to be legally bound, have caused their duly
3 authorized representatives to execute and deliver this Amendment No. 1 as of the date first above
4 written.
5
6

7 **UNITED STATES OF AMERICA,**
8 **Acting by and through the Department of the Army**
9

10
11
12
13 By: 
14 **Joseph W. Whitaker**
15 **Acting Deputy Assistant Secretary of the Army**
16 **Installations and Housing**
17
18
19

20 **FORT ORD REUSE AUTHORITY**
21 **LOCAL REDEVELOPMENT AUTHORITY**
22

23
24
25
26 By: 
27 **MICHAEL A. HOULEMARD, JR.**
28 **Executive Officer**

1 **FORT ORD MOA AMENDMENT NO. 1**

2
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4
5 COMMONWEALTH OF VIRGINIA)
6)SS
7 COUNTY OF ARLINGTON)
8

9 I, the undersigned, a Notary Public in and for the Commonwealth of Virginia,
10 County of Arlington, whose commission as such expires on the 30th day of
11 November, 2002, do hereby certify that this day personally appeared before me in
12 the Commonwealth of Virginia, County of Arlington, Joseph W. Whitaker, Acting
13 Deputy Assistant Secretary of the Army (I&H), whose name is signed to the foregoing
14 instrument and acknowledged the foregoing instrument to be his free act and deed, dated
15 this 23rd day of October, 2001, and acknowledged the same for and on behalf of
16 the UNITED STATES OF AMERICA.
17

18
19 My commission expires 30 November 2002
20 (PRINT EXPIRATION DATE)
21

22
23
24 Karen A. Cooper
25 (NOTARY PUBLIC SIGNATURE)
26

27
28 Karen A. Cooper
29 (PRINT COMMISSIONED OFFICIAL
30 NAME OF THE NOTARY PUBLIC)
31

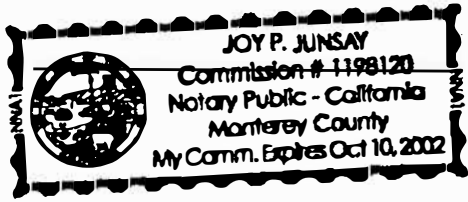
32 (IF APPLICABLE: PRINT COMMISSION NO. OF THE NOTARY PUBLIC)
33

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Monterey } ss.

On Oct 12, 2001, before me, Joy P. Junsay, Notary Public
Date Name and Title Officer (e.g., State Clerk, Notary Public)
personally appeared Michael A. Howland
Name(s) of Signer(s)

- personally known to me
- 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.

WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



END OF DOCUMENT