

**Memorandum of Agreement  
By and Between  
The Fort Ord Reuse Authority  
And  
The City of Del Rey Oaks Regarding Property Ownership and Responsibilities  
During the Period of Environmental Services to Remove Munitions and  
Explosives of Concern**

This Agreement is made by and between the Fort Ord Reuse Authority ("FORA") and the City of Del Rey Oaks ("Del Rey Oaks") to establish the terms for holding and managing (ownership and responsibilities) property during remedial work performed under an Environmental Services Cooperative Agreement ("ESCA") between the U.S. Army ("Army") and FORA. This Agreement is dated for reference on November 20, 2007.

**I. RECITALS**

1.1 The Army will transfer certain real property to FORA ("ESCA properties") under a Finding of Suitability for Early Transfer ("FOSET"). That real property is described in the attached FOSET 5 document; and

1.2 The FOSET 5 refers to certain Covenants Restricting Use of Property (CRUP). The CRUP restricts the use of the ESCA properties until Munitions and Explosives of Concern ("MEC") have been removed to standards set by the US Environmental Protection Agency and California Department of Toxic Substance Control; and

1.3 The FORA Board appointed a FORA Negotiating Team consisting of voting Board members to negotiate a contract with the Army for FORA to perform MEC remediation services under an ESCA grant; and

1.4 Del Rey Oaks is a member of the FORA Board of Directors and participated in negotiations that resulted in an ESCA grant award from the Army; and

1.5 FORA and Del Rey Oaks acknowledge that the ESCA is both an essential contract and a timely benefit for the Monterey Peninsula Region, where the Army provides FORA \$100 million in grant funding to remove MEC from approximately 3,500 acres of the former Fort Ord on the behalf of Del Rey Oaks and the other Jurisdictions, which will result in Del Rey Oaks acquiring this property sooner than if the Army continued MEC removal process; and

1.6 The parties to this agreement acknowledge that rapid MEC cleanup is in the best interest of the general public;

1.7 The ESCA grant award has been funded and the MEC cleanup activities will occur once the Army transfers the ESCA properties to FORA; and

1.8. The ESCA Grant pays for insurance coverage for FORA and its MEC removal contractor, LFR, Inc. (hereinafter referred to as "LFR") during the ESCA MEC remedial period; and

1.9. Del Rey Oaks and FORA acknowledge that this agreement is necessary to describe the terms under which FORA will retain ownership of Del Rey Oaks lands during the ESCA MEC removal period; and

1.10. The ESCA properties that pertain to Del Rey Oaks consist of Army Corps of Engineers parcel numbers L20.13.1.2, L20.13.3.1, and L6.2; and

1.11. The Implementation Agreement between FORA and Del Rey Oaks specifies that, "Concurrently with FORA's acquisition of Jurisdiction Property from the Army (or at such other times as the Parties may agree in writing), FORA shall transfer such property to the Jurisdiction, and the Jurisdiction shall accept such property."; and

1.12. The parties acknowledge the mutual advantages of FORA retaining ownership during the ESCA MEC remedial period; and

1.13. The FORA Act (CA Government Code Section 67650) states that FORA "shall become inoperative June 30, 2014," which limits FORA's term of operation; and

1.14. The FORA Act (CA Government Code Section 67650) did not provide FORA with police powers or emergency response capabilities, which was to be Jurisdiction responsibilities under agreement between FORA and the Jurisdictions.

## II. AGREEMENT

**Now, Therefore, Be it Resolved** that FORA and Del Rey Oaks agree as follows:

2.1. FORA retains ownership for the ESCA/FOSET 5 properties during the MEC Remedial Period. FORA agrees to promptly transfer title to the property to Del Rey Oaks, and Del Rey Oaks agrees to accept title, upon Notice of Completion and regulatory approval of completed remediation.

2.2. Del Rey Oaks will provide public safety response as needed for police, fire, and other emergency needs upon FORA taking ownership of the ESCA properties.

2.3. LFR will have primary responsibility for controlling access to the ESCA properties during the MEC Remedial Period and will coordinate with the Jurisdictions for Jurisdiction approved activities that are not related to MEC removal.

2.4. This Memorandum of Agreement shall become inoperative on the earlier of the following two dates:

- a. when the FORA Board determines that 80 percent of the territory of Fort Ord that is designated for development or reuse in the 1997 Fort Ord Base Reuse Plan ("Plan") has been reused, or
- b. June 30, 2014.

III. EXECUTION

FORT ORD REUSE AUTHORITY

BY:

Joe Russell  
Joe Russell

Approved as to form:

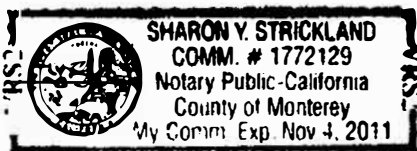
BY:

Gerald D. Bowden  
Gerald D. Bowden  
Authority Counsel

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF MONTEREY )

On November 21, 2007  
before me, Sharon Y. Strickland, a Notary Public in and for said  
State,  
personally appeared Joe Russell personally  
known to me (or 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.



Sharon Y. Strickland  
Notary Public, State of California

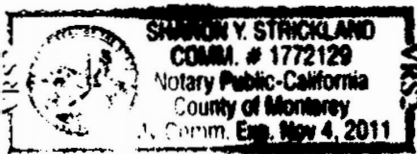
City of Del Rey Oaks

BY: Joseph P. Russell

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF MONTEREY )

On November 24, 2007  
before me, Sharon Y. Strickland, a Notary Public in and for said  
State,  
personally appeared Joseph P. Russell personally  
known to me (or 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.



Sharon Y. Strickland  
Notary Public, State of California

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