



**Memorandum of Agreement
By and Between
The Fort Ord Reuse Authority
And
The City of Monterey 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 Monterey ("Monterey") 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 October 11, 2007.

[Handwritten signature]

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 Monterey 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 Monterey 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 Monterey and the other Jurisdictions, which will result in Monterey 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

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

1.10. The ESCA property that pertains to Monterey consists of Army Corps of Engineers parcel number E29.1; and

1.11. The Implementation Agreement between FORA and Monterey 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 Monterey 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 Monterey, and Monterey agrees to accept title, upon Notice of Completion and regulatory approval of completed remediation.

2.2. Monterey 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. Access to the ESCA properties will be governed by restrictions included in the CRUP accompanying the transfer of the property as defined by federal and State regulatory agencies. Those restrictions are attached hereto as the CRUP attachments to the FOSET 5 document.

2.5. 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

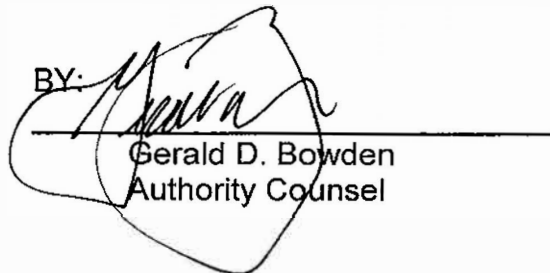
FORT ORD REUSE AUTHORITY

BY:


Joe Russell

Approved as to form:

BY:


Gerald D. Bowden
Authority Counsel

STATE OF CALIFORNIA)
) ss
COUNTY OF MONTEREY)

On November 30, 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.




Notary Public, State of California

City of Monterey

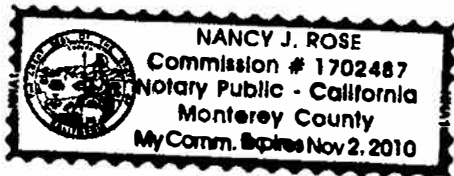
BY: Fred Meyer

STATE OF CALIFORNIA)
) ss
COUNTY OF MONTEREY)

PROVED BY:
Dalt
Attorney's Office

On December 11, 2007
before me, Nancy J. Rose, a Notary Public in and for said
State,
personally appeared Fred Meyer 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.



Nancy J. Rose
Notary Public, State of California

RESOLUTION No. 07-178 C.S.

**AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT
BY AND BETWEEN THE FORT ORD REUSE AUTHORITY (FORA) AND THE CITY OF
MONTEREY REGARDING PROPERTY OWNERSHIP AND RESPONSIBILITIES DURING
THE PERIOD OF ENVIRONMENTAL SERVICES TO REMOVE MUNITIONS AND
EXPLOSIVES OF CONCERN**

WHEREAS this agreement, which is made between the City of Monterey and FORA establishes the terms for holding and managing property ownership during the period of environmental services to remove munitions and explosives of concern from properties scheduled to be transferred to the City.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTEREY THAT: The City Manager is hereby authorized to execute a Memorandum of Agreement with the Fort Ord Reuse Authority for this purpose.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 18th day of September, 2007, by the following votes:

AYES:	5	COUNCILMEMBERS:	Della Sala, Downey, Haferman, Selfridge, Sollecito
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

APPROVED:


Mayor of Said City

ATTEST:


City Clerk thereof