

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF SEASIDE AND THE COUNTY OF MONTEREY REGARDING TRANSFER OF CERTAIN PROPERTY ON THE FORMER FORT ORD**

This Memorandum of Understanding (MOU) is made by and between the City of Seaside (“Seaside”), the federally recognized Local Redevelopment Authority for the former Fort Ord, and the County of Monterey (“County”), a political subdivision of the State of California. The date of this MOU for reference purposes is \_\_\_\_\_, 2022 and is made with reference to the following facts and circumstances.

**RECITALS**

- A. In 1994, the Fort Ord Reuse Authority (FORA), a regional governmental entity, was established pursuant to the Fort Ord Reuse Authority Act (California Government Code Sections 67650 et seq.) to plan, facilitate and manage the transfer of property of the former Fort Ord from the United States Army to the governing local jurisdictions or their designee(s).
- B. The Office of Economic Adjustment on behalf of the Secretary of Defense of the United States of America recognized FORA as the Local Redevelopment Authority (“LRA”) for property transfers from the Army.
- C. On or about June 23, 2000, FORA and the Army entered into an Economic Development Conveyance Memorandum of Agreement (“EDC MOA”), whereby FORA acquired portions of the former Fort Ord consisting of approximately five thousand two hundred (5,200) acres of land, including all buildings, personal property, appurtenances, rights-of-way, drainage areas, and other real property interests as defined (Document No. 2000040124, recorded on June 23, 2000 in the Office of the Monterey County Recorder).
- D. The EDC MOA, among other things, enumerated the property to be transferred with reference to Army parcel numbers and identified the local jurisdictions to which each of the referenced parcels were to be transferred.
- E. The EDC MOA identified Parcel No. L20.11.1, described as “ROW [Right of Way]/Blanco Road,” as a parcel to be transferred to the County of Monterey.
- F. FORA and the County entered into an Implementation Agreement, dated May 8, 2000, setting forth terms and conditions for transfer of certain identified properties to the County, including identifying Parcel No. L.20.11.1 as a parcel to be transferred to the County (Document No. 2001088380, recorded on October 18, 2001 in the Office of the Monterey County Recorder).
- G. Parcel No. L.20.11.1 consists of a 31.19 acre portion of Blanco Road, located north of Reservation Road within the County jurisdictional limits, as more fully described and shown in Exhibit A, attached hereto and incorporated herein by reference.

H. FORA dissolved by operation of law on June 30, 2020 pursuant to California Government Code section 67700.

I. On or about February 21, 2020, in anticipation of the dissolution of FORA, FORA and Seaside entered into an agreement in which FORA nominated the City of Seaside as the LRA to succeed FOR A, and Seaside agreed to assume the LRA designation and the remaining responsibilities under the EDC after FORA dissolution (Exhibit B).

J. On or about April 30, 2020, the United States Department of Defense accepted the City of Seaside as the successor LRA to FORA, effective July 1, 2020, for the purpose of implementing the EDC at the former Fort Ord (Exhibit C).

K. After the dissolution of FORA, the County discovered that it had no record of transfer of Parcel L.20.11.1 from FORA to the County.

L. Seaside and County confirmed through research that the Army had transferred the parcel to FORA as part of a quitclaim deed (Document No. 2000050371, recorded on August 8, 2000 in the Office of the Monterey County Recorder), but FORA had not transferred Parcel L.20.11.1 to the County or to any other jurisdiction.

M. The parties recognize that Seaside as LRA has the authority and responsibility to transfer Parcel L.20.11.1 to the County; and

N. The parties intend by this MOU to set forth their mutual understandings to effectuate the transfer of Parcel L.20.11.1 from Seaside to the County.

O. The transfer of Parcel L.20.11.1 from Seaside to the County is not a project under California Environmental Quality Act Guidelines section 15378(b)(5) because it is an administrative action that does not involve any commitment to any specific project that may result in a potentially significant impact on the environment.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Seaside and County agree as follows:

1. County acknowledges that Seaside, as the Successor LRA to FORA, has the authority to transfer Parcel L.20.11.1 to the County.
2. Seaside and County agree that County was the intended recipient of Parcel L.20.11.1, as identified in the EDC MOA and the Implementation Agreement.

3. Seaside agrees to transfer Parcel L.20.11.1 to the County, subject to preparation of an appropriate quitclaim deed and approval of the quitclaim deed by the City of Seaside acting in its capacity as LRA Successor to FORA.
4. County agrees to accept Parcel L.20.11.1, subject to County Counsel review as to form of the quitclaim deed and approval of the quitclaim deed by the Monterey County Board of Supervisors.
5. The parties agree to cooperate fully and with all due diligence and speed to carry out the intent of this MOU to transfer Parcel L.20.11.1 to the County.
6. This MOU shall take effect upon final execution by both parties.

IN WITNESS WHEREOF, the parties have executed this MOU as of the dates written below.

Dated: \_\_\_\_\_, 2022 County of Monterey

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By: Randell Ishii, MS, PE, TE, PTOE  
Title: Director of Public Works, Facilities,  
and Parks  
Address: 1441 Schilling Place,, 2<sup>rd</sup> Floor  
Salinas, CA 93901

APPROVED AS TO FORM:  
Office of the County Counsel  
Leslie J. Girard, County Counsel

DocuSigned by:  
*Michael J. Whilden*  
0F98C5BE9B6F476...

By: Michael J. Whilden  
Title: Deputy County Counsel

Dated: 9/19/2022 | 10:43 AM PDT, 2022

City of Seaside

DocuSigned by:  

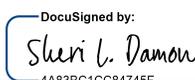

9/19/2022 | 10:30 AM

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By: Jamie M. Fontes  
Title: City Manager  
Address: 440 Harcourt Avenue  
Seaside, CA 93955

APPROVED AS TO FORM:

CITY ATTORNEY  
Sheri Damon

By:   
4A83BC4CC84746F...  
9/19/2022 | 9:49 AM PDT

EXHIBITS:

- A. LEGAL DESCRIPTION AND MAP
- B. AGREEMENT BETWEEN FORA AND SEASIDE
- C. LETTER FROM U.S. DEPARTMENT OF DEFENSE

## LEGAL DESCRIPTION

### PARCEL 1A:

Certain real property being that portion of Fort Ord Military Reservation and a portion of Blanco Road being Parcel 1A as shown by map on file in Volume 20, of Surveys, at Page 110, records of Monterey County, California, on sheet 2 of 14, more particularly described as follows:

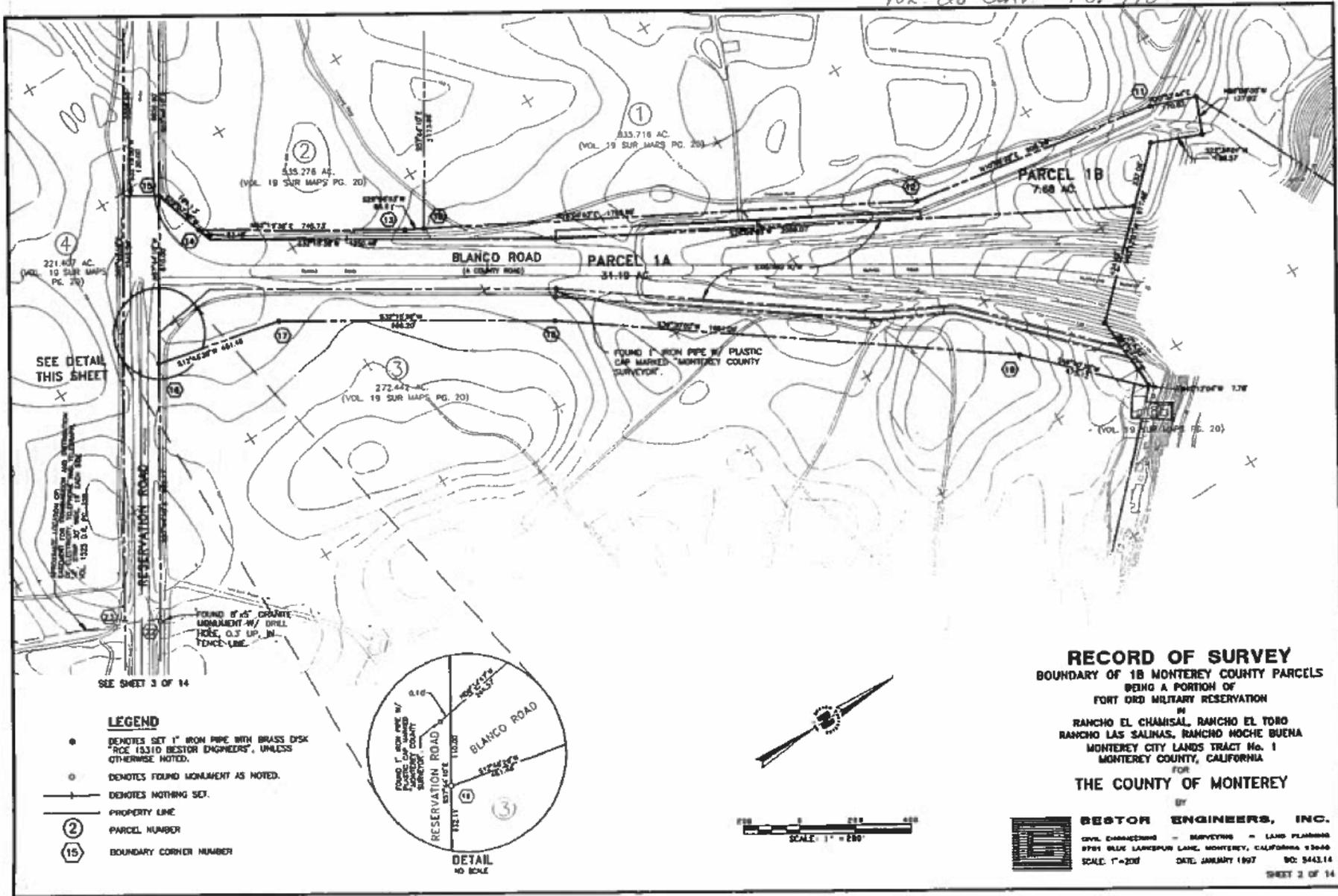
BEGINNING at the northeasterly right of way of Reservation Road with the intersection of the northwesterly line of Parcel 3 as shown on Volume 19, of Surveys, at Page 20, records of said County, also being the southerly terminus of that certain course shown as S 12°46'28"W, 461.46 feet as shown on map on file in Volume 20, of Surveys, at Page 110, records of said County; thence along said course

- (1) N 12°46'28" E, 461.46 feet; thence continuing along said Parcel 3 and the southeasterly line of said Parcel 1A as shown on last said map
- (2) N 32°15'38" E, 996.20 feet; thence continuing along said Parcel 3 and said Parcel 1A
- (3) N 36°30'00" E, 1681.00 feet; thence continuing along said Parcel 3 and said Parcel 1A
- (4) N 46°40'30" E, 475.12 feet, to a point on the northeasterly boundary of Fort Ord as shown on said map; thence along said northeasterly line of said boundary and said Parcel 1A
- (5) N 45°12'04" W, 7.78 feet, to an angle point on said northeasterly boundary and the northeasterly line of said Parcel 1A as shown on said map; thence continuing along said boundary and said Parcel 1A
- (6) S 87°24'01" W, 274.92 feet, to an angle point on said northeasterly boundary and the northeasterly line of said Parcel 1A as shown on said map; thence continuing along said boundary and said Parcel 1A
- (7) N 43°12'01" W, 434.42 feet, to the existing northwesterly right of way Blanco Road as shown on said map; thence along said right of way and the northwesterly line of said Parcel 1A
- (8) S 29°06'03" W, 2089.07 feet, along said right of way Blanco Road and said Parcel 1A to an angle point as shown on said map; thence continuing said right of way and said northwesterly line of Parcel 1A
- (9) S 32°15'38" W, 1250.49 feet, continuing along said right of way and said Parcel 1A to an angle point as shown on said map; thence continuing along said right of way and said Parcel 1A

- (10) S 73°07'49" W, 244.62 feet, continuing along said right of way line and said Parcel 1A to the northerly right of way of Reservation Road as shown on said map; thence along said northerly right of way of Reservation Road and the southerly line of said Parcel 1A
- (11) S 57°44'10" E, 610.00 feet, to the POINT OF BEGINNING



Vol. 20 Surv. Pg. 110



SEE DETAIL THIS SHEET

SEE SHEET 3 OF 14

**LEGEND**

- DENOTES SET 1" IRON PIPE WITH BRASS DISK "RCE 18310 BESTOR ENGINEERS", UNLESS OTHERWISE NOTED.
- DENOTES FOUND MONUMENT AS NOTED.
- DENOTES NOTHING SET.
- PROPERTY LINE
- ② PARCEL NUMBER
- 15 BOUNDARY CORNER NUMBER



**RECORD OF SURVEY**  
 BOUNDARY OF 1B MONTEREY COUNTY PARCELS  
 BEING A PORTION OF  
 FORT ORD MILITARY RESERVATION  
 IN  
 RANCHO EL CHAMISAL, RANCHO EL TORO  
 RANCHO LAS SALINAS, RANCHO NOCHE BUENA  
 MONTEREY CITY LANDS TRACT No. 1  
 MONTEREY COUNTY, CALIFORNIA  
 FOR  
**THE COUNTY OF MONTEREY**

BY **BESTOR ENGINEERS, INC.**

CIVIL ENGINEERS - SURVEYING - LAND PLANNING  
 8781 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93946  
 SCALE: 1"=200' DATE: JANUARY 1997 NO: 5443.14

**Execution Version**

1                   **FORT ORD REUSE AUTHORITY AND CITY OF SEASIDE**  
2                   **ENVIRONMENTAL SERVICES COOPERATIVE AGREEMENT (ESCA) AND**  
3                   **LOCAL REDEVELOPMENT AUTHORITY (LRA)/ECONOMIC DEVELOPMENT**  
4                   **CONVEYANCE AGREEMENT (EDC AGREEMENT)**  
5                   **SUCCESSOR IMPLEMENTING AGREEMENT**  
6

7                   **RECITALS.**  
8

9                   **WHEREAS**, the Fort Ord Reuse Authority ("FORA") is a regional agency and a  
10 Corporation of the State of California established under California State Law Government  
11 Code Sections 67650, et seq., to plan, facilitate and manage the transfer of former Fort  
12 Ord property and is acknowledged as the federally recognized local reuse authority for  
13 property transfers from the Army, to the governing local jurisdictions or their designees.  
14

15                   **WHEREAS**, the City of Seaside, California ("Seaside"), is a general law Municipal  
16 Corporation of the State of California.  
17

18                   **WHEREAS**, FORA and Seaside are each a "Party", and together the "Parties" to  
19 this Agreement.  
20

21                   **WHEREAS**, Fort Ord, California was placed on the National Priorities List  
22 (Superfund) in 1990 due to leaking underground storage tanks, contaminated  
23 groundwater and a 150-acre landfill.  
24

25                   **WHEREAS**, in 1990, the Army executed a Federal Facility Agreement ("FFA")  
26 under CERCLA Section 120 outlining the Army's Comprehensive Environmental  
27 Response, Compensation, and Liability Act ("CERCLA") clean up responsibilities with  
28 respect to the former Fort Ord. The Army remains responsible for certain actions under  
29 that FFA. The FFA was amended on or about July 26, 2007, the effect of which  
30 suspends the FFA for FORA's ESCA obligations so long as FORA or its successors are  
31 in compliance with the AOC.  
32

33                   **WHEREAS**, the former Fort Ord was closed on September 30, 1994 pursuant to  
34 and in accordance with the Defense Base Closure and Realignment Act of 1990, as  
35 amended (Public Law 101-510; hereinafter referred to as the "Base Closure Act").  
36

37                   **WHEREAS**, in accordance with Section 2905(b)(4) of the Base Closure Act, as  
38 amended by Section 2821 of the Defense Authorization Act for Fiscal Year 2000, Pub. L.  
39 No. 106-65 (1999), and the implementing regulations of the Department of Defense (32  
40 CFR Parts 90 and 91), FORA executed an economic development conveyance  
41 agreement and acquired portions of the former Fort Ord consisting of approximately five  
42 thousand two hundred (5,200) acres of land, including all buildings, personal property,  
43 appurtenances, rights-of-way, and drainage areas upon and subject to the terms and  
44 conditions of a June 23, 2000 Memorandum of Agreement with the United States of  
45 America ("EDC Agreement").  
46  
47

**Execution Version**

1           **WHEREAS**, the EDC Agreement provided for transfers of property in accordance  
2 with the Army's clean-up schedule. Subsequent to the EDC Agreement execution, FORA  
3 and the local communities decided to pursue an early transfer process pursuant to Title 42  
4 United States Code, section 9620(h)(3)(C) in order to expedite the property transfers and  
5 ultimate reuse and economic recovery for the communities affected by the Fort Ord  
6 closure.

7  
8           **WHEREAS**, in furtherance of the early transfer process, the Army, with the  
9 approval of the EPA Administrator and the concurrence of the Governor of California,  
10 transferred title of 3,337 acres of munitions impacted Fort Ord property by quitclaim deed  
11 to FORA before all action to protect human health and the environment had been  
12 completed. Concurrent with this transfer without the otherwise required CERCLA  
13 covenant mandated by Title 42 United States Code, section 9620 (h)(3), FORA accepted  
14 title and agreed to perform the Army's environmental remediation with funding from the  
15 Army. Excluded from FORA's performance obligation are matters related to the  
16 groundwater at the former Fort Ord, as well as other Army responsibilities enumerated in  
17 the ESCA and elsewhere.

18  
19           **WHEREAS**, in 2007 an "*Administrative Order on Consent ("AOC")*" [Docket No. R9-  
20 2007-003] [was] *entered into voluntarily by the United States Environmental Protection*  
21 *Agency ("EPA"), the California Department of Toxic Substances Control ("DTSC"), and*  
22 *the Fort Ord Reuse Authority. The AOC concerns the preparation and performance of*  
23 *potential removal actions, one or more remedial investigations and feasibility studies*  
24 *("RI/FS") and one or more remedial designs and remedial actions ("RD/RA") for*  
25 *contaminants present on portions of the former Fort Ord located at Monterey, California*  
26 *("Site") and the reimbursement for future response costs incurred by EPA and DTSC in*  
27 *connection with such CERCLA response actions."*

28  
29           **WHEREAS**, in 2007 the Army executed an amendment to the Federal Facilities  
30 Agreement.

31  
32           **WHEREAS**, in 2007 the Army and FORA executed an Environmental Services  
33 Cooperative Agreement W9128F 07 2-0162 ("ESCA") under the authority of Title 10 United  
34 States Code, Section 2701(d) - Environmental Restoration Program (10 U.S.C. 2701)  
35 whereby FORA would perform the Army's environmental responsibilities as the Army  
36 Response Action Contractor pursuant to Title 42 United States Code, section 9619, with  
37 the Army providing funding to perform these services.

38  
39           **WHEREAS**, the ESCA has been amended several times, the ESCA Mod 9  
40 amendment in 2017 which provided approximately \$6.8 million for Regulatory Oversight  
41 Through 31 December 2019, FORA ESCA Administrative costs during the EPA/DTSC  
42 remedial-completion documentation, property transfer process through 30 June 2020 and  
43 to perform the required long-term land management tasks, including Munitions and  
44 Explosives of Concern ("MEC") Find Assessments, inspections, enforcement, monitoring  
45 and reporting through June 30, 2028.

**Execution Version**

1

ESCA Mod. Number	ESCA Contract Line Item Number (CLIN) and Description	Expiration Date	Amount
MOD 09	CLIN 02 – Department of Toxic Substance Control (DTSC) and United States EPA Technical Oversight Services	31 Dec. 2019	\$745,913
	CLIN 03 – FORA ESCA Administrative Funds	30 June 2020	\$1,865,848
	CLIN 04 – Post-Closure MEC Find Assessments	30 June 2028	\$528,651
	CLIN 05 – Long Term/LUCs Management	30 June 2028	\$3,705,792
		<b>Totals</b>	<b>\$6,846,204</b>

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**WHEREAS**, due to changes and delays in the transfer of properties, modifications were made to the ESCA grant leaving post-June 30, 2020 funds available are ESCA CLIN 0004 Post Closure MEC Find Assessments \$528,651 and ESCA CLIN 0005 for Long-Term Management and Land Use Control (LUC) management are \$3,705,792 (Totaling \$4,234,443 available from June 30, 2020 through June 30, 2028):

ESCA Mod. Number	ESCA Contract Line Item Number (CLIN) and Description	Expiration Date	Amount
MOD 09	CLIN 04 – Post-Closure MEC Find Assessments	30 June 2028	\$528,651
	CLIN 05 – Long Term/LUCs Management	30 June 2028	\$3,705,792
		<b>Totals</b>	<b>\$4,234,443</b>

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**WHEREAS**, in 2018 FORA adopted a Transition Plan as required by State Law that specifies that FORA engage the Successor-in-Interest (“Successor”) provisions of the ESCA contract.

**WHEREAS**, the Successor assumes responsibility and will be tasked with performing the remaining LTOs under the ESCA, including the recent amendment. It is assumed that all work under the previous \$98,000,000 contract will have been accomplished prior to FORA’s dissolution as evidenced by the 2019 EPA Remedial Action Completion letters, per AOC Section XVII, Certification of Completion, housed in the Army Administrative Record located at: <http://fortordcleanup.com/documents/administrative-record/>.

**WHEREAS**, the City of Seaside is prepared, subject to funding, to assume ESCA responsibility and attendant local reuse authority status, including the execution of the AOC in order to complete the ESCA obligations and any property-related transfer actions required after June 30, 2020.

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## Execution Version

1 **NOW, THEREFORE**, the Parties agree as follows:  
2

3 1. Incorporation of Recitals. The above recitals are hereby incorporated herein by  
4 reference.  
5

6 2. Acknowledgement. FORA agrees to acknowledge Seaside as the ESCA  
7 Successor-In-Interest under the 2018 Transition Plan, and nominate Seaside to the  
8 Department of Defense as the LRA Successor.  
9

10 3. Insurance Policies. FORA will request the transfer of its two pollution legal  
11 liability insurance policies and limits to Seaside. FORA shall also transfer any self-insured  
12 retention funds to Seaside to be used exclusively for ESCA and claims-related obligations.  
13 Seaside acknowledges that these insurance policies will expire in 2022 and 2024,  
14 respectively, and that Seaside's designation will be subject to approval by the insurers.  
15 Seaside's successful designation through December 31, 2024 is a condition precedent to  
16 becoming FORA's ESCA successor. Pollution legal liability insurance will be required by  
17 the ESCA from 1 January 2025 through no earlier than 30 June 2028, a requirement to be  
18 funded by the Army.  
19

20 4. ESCA LTO Program Evidence of Fiduciary and Technical Capability. FORA  
21 agrees to provide technical and/or financial assistance to Seaside to meet the terms  
22 required by the Army, EPA, and DTSC that the Successor be a single entity and  
23 demonstrate technical and financial competence to complete the work.  
24

25 5. ESCA records and contracts funds. FORA and Seaside shall establish a  
26 mechanism for transfer of all ESCA records, back-up documents, computer files and  
27 accounting records, and contract funds to Seaside for meeting FORA's ESCA obligations.  
28

29 6. Technical Assistance. FORA agrees to request the Army extend the funding  
30 expiration date on any remaining ESCA funds (not dedicated to Post-Closure MEC Find  
31 Assessments and Long Term/LUCs Management) for Seaside to provide technical  
32 assistance and funding to complete the ESCA transfer process through June 30, 2020,  
33 including specialized legal, drafting and other staff or contract support. FORA agrees to  
34 establish and fund a pool of monies to support Seaside's assumption of responsibilities  
35 and obligations of the EDC Agreement.  
36

37 7. Obligations. FORA agrees to nominate and Seaside agrees to assume the  
38 Federal local redevelopment authority "LRA" designation and the remaining reporting,  
39 monitoring, and stewardship or other identified responsibilities associated with (i) the  
40 FORA-Army 2007 ESCA, as FORA's Successor through the end of the ESCA Contract  
41 June 30, 2028 in order to complete property transfers and the ESCA to the extent that  
42 ESCA performance does not obligate or put at risk Seaside's municipal non-ESCA funds,  
43 and (ii) the EDC Agreement, as FORA's successor. Exhaustion or unavailability of ESCA  
44 funds with which to compensate Seaside for the performance of ESCA obligations will  
45 constitute a force majeure under the ESCA and the AOC, thereby relieving Seaside of its  
46 responsibility to perform FORA's surviving ESCA obligations.  
47

## Execution Version

1           8. ESCA LTO Program Evidence of Fiduciary and Technical Capability. Seaside  
2 agrees to provide evidence of its fiduciary and technical capability to comply with the  
3 terms of the ESCA and manage the contract financial assets with associated invoicing  
4 and reporting responsibilities, to assure the Army, EPA and DTSC of continued ESCA  
5 fiduciary capability.

6  
7           Seaside agrees to assume FORA's ESCA Long Term Obligations Management  
8 Program, as approved by the US Army, EPA and DTSC, and:

- 9  
10           i. Personnel. Hire (2) full-time qualified staff to manage ESCA as required under  
11 the contract provisions as currently amended through 2028, but with allowances  
12 for indirect administrative overhead to assure the Army, EPA and DTSC of  
13 continued ESCA technical capacity.  
14  
15           ii. ESCA Long-Term Obligation Support Services Contract. Enter into Support  
16 Services Contracts through 2028 with specialists Arcadis, Weston Solutions,  
17 Inc. and Westcliffe Engineers, Inc. (or other qualified vendors), including  
18 allowances for indirect administrative overhead to assure the Army, EPA and  
19 DTSC of continued ESCA technical capacity.  
20  
21           iii. Representation. Contract with Counsel reasonably qualified on environmental  
22 issues with experience in working with state and federal entities (Army, EPA  
23 and DTSC) for review and compliance as noted in the ESCA and the AOC.  
24  
25           iv. No Obligation of Other Entities. Monterey Peninsula Community College  
26 District, the Board of Trustees of the California State University (on behalf of the  
27 Monterey Bay campus), the County of Monterey, the Cities of Del Rey Oaks,  
28 Marina and Monterey, the Marina Coast Water District (hereinafter collectively  
29 "Grantees"), will not be a party to the ESCA, and will not bear any financial  
30 liability as a result of the ESCA.  
31

32           9. Coordination with other Entities. Seaside agrees to enter into agreements with  
33 the Grantees for the property transfers and other necessary property-related rights to  
34 effectuate the reuse and the oversight, reporting, response, and other long-term  
35 stewardship obligations listed in and consistent with (a) the ESCA through 2028 on behalf  
36 of the Army, and (b) the EDC Agreement.

- 37  
38           i. Water Rights Allocations. Until such time as such allocations may be amended  
39 by agreements, Seaside agrees to honor and abide by the water rights'  
40 allocations set forth in Exhibit A attached hereto, for Government Water Rights  
41 as defined in Subsection 5.02 of the EDC Agreement, that may be released by  
42 the Government in the future, subject to compliance with all applicable laws.  
43  
44           ii. Wastewater Discharge Rights. Until such time as such allocations may be  
45 amended by future agreements, Seaside agrees to establish and apply, in  
46 consultation with Grantees, pursuant to Section 5.04 of the EDC Agreement, a  
47 fair process to ensure that all Grantees will enjoy equitable utilization of

**Execution Version**

1 Wastewater Discharge Rights that may be released by the Government in the  
2 future, subject to compliance with all applicable laws.  
3

4 iii. Creates No Land-Use Authority. Nothing in this Agreement, nor Seaside's  
5 designation as the local redevelopment authority or as FORA's successor under  
6 the ESCA or EDC Agreement creates in Seaside any land-use decision-making  
7 authority with respect to any land not within Seaside's City limits. Further,  
8 Seaside shall not require that any land-use decisions of other entities be in  
9 compliance with the Fort Ord Base Reuse Plan.  
10

11 iv. Seaside shall not require payment of any sale or lease proceeds or revenues  
12 (or the equivalent use of property such as licenses, permits, concession  
13 agreements etc.), from other entities for the transfer of property, water rights, or  
14 wastewater discharge rights received from the Army pursuant to the EDC  
15 Agreement.  
16

17 10. ESCA Amendment. The parties agree to work cooperatively to successfully  
18 receive Army, EPA and DTSC concurrence that Seaside is the formal ESCA Successor  
19 and execute the ESCA upon review and approval of terms and conditions. Seaside  
20 agrees to execute an ESCA Agreement and to comply to comply with the U.S. Army  
21 Corps of Engineers ("USACE") oversight and grant management requirements for funding  
22 to Seaside under the ESCA terms, provided however, that the Successor activities are  
23 fully funded, including without limitation provision for PLL insurance coverage, funding  
24 shall be provided from January 1, 2024 through June 30, 2028 or the completion of the  
25 ESCA obligations. Seaside will not pay for Regulatory Oversight unless it is a  
26 reimbursement funded by the Army through the end of the ESCA obligations.  
27

28 11. Administrative Order on Consent. The parties agree to work cooperatively  
29 to successfully receive EPA and DTSC approval that Seaside is the formal Successor to  
30 execute an AOC upon review of terms and conditions.  
31

32 12. Amendment. This Agreement or any provision hereof may be changed,  
33 waived, or terminated only by a statement in writing signed by the Party against which  
34 such change, waiver or termination is sought to be enforced.  
35

36 13. No Waiver. No delay in enforcing or failing to enforce any right under this  
37 Agreement will constitute a waiver of such right. No waiver of any default under this  
38 Agreement will operate as a waiver of any other default or of the same default on a future  
39 occasion.  
40

41 14. Partial Invalidity. If any one or more of the terms, provisions, covenants or  
42 conditions of this Agreement are to any extent declared invalid, unenforceable, void or  
43 voidable for any reason whatsoever by a court of competent jurisdiction, the finding or  
44 order or decree of which becomes final, the Parties agree to amend the terms in a  
45 reasonable manner to achieve the intention of the Parties without invalidity. If the terms  
46 cannot be amended, the invalidity of one or several terms will not affect the validity of the  
47 Agreement as a whole, unless the invalid terms are of such essential importance to this

**Execution Version**

1 Agreement that it can be reasonably assumed that the Parties would not have contracted  
2 this Agreement without the invalid terms. In such case, the Party affected may terminate  
3 this Agreement by written notice to the other Party without prejudice to the affected Party's  
4 rights in law or equity.

5  
6 15. Entire Agreement. This Agreement is intended by the Parties as a final  
7 expression of their agreement and is intended as a complete and exclusive statement of  
8 the terms and conditions thereof. Acceptance of or acquiescence in a course of  
9 performance rendered under this Agreement shall not be relevant to determine the  
10 meaning of this Agreement even though the accepting or acquiescing Party had  
11 knowledge of the nature of the performance and opportunity for objection.

12  
13 16. Choice of Law. This Agreement will be construed in accordance with the  
14 laws of the State of California.

15  
16 17. Further Assurances. Each Party agrees to execute and deliver all further  
17 instruments and documents and take all further action that may be reasonably necessary  
18 to complete performance of its obligations hereunder and otherwise to effectuate the  
19 purposes and intent of this Agreement.

20  
21 18. Headings. The headings of the sections hereof are inserted for convenience  
22 only and shall not be deemed a part of this Agreement.

23  
24 19. Notices. Any notice, demand, offer, or other written instrument required or  
25 permitted to be given pursuant to this Agreement shall be acknowledged by the Party  
26 giving such notice, and shall to the extent reasonably practicable be sent by hand  
27 delivery, and if not reasonably practicable to send by hand delivery, then by telecopy,  
28 overnight courier, electronic mail, or registered mail, in each case to the other Party at the  
29 address for such Party set forth below (Note: A Party may change its place of notice by a  
30 notice sent to all other Parties in compliance with this section):

31  
32 City of Seaside  
33 Attn: City Manager  
34 440 Harcourt Avenue  
35 Seaside, CA 93955

36  
37 Fort Ord Reuse Authority  
38 Attn: Executive Officer  
39 920 2nd Avenue, Suite A  
40 Marina, CA 93933

41 w/ an email copy to [cityattorney@ci.seaside.ca.us](mailto:cityattorney@ci.seaside.ca.us)

42  
43 20. Term of Agreement: This Agreement shall be effective on the Effective Date  
44 specified at the beginning of the Agreement and shall remain in effect unless and until  
45 terminated by mutual agreement of the Parties or upon the legal dissolution of the Fort  
46 Ord Reuse Authority, provided, however, that this Agreement shall survive as to the  
47 Grantees who are third party beneficiaries of this Agreement as set forth in paragraph 22,  
for so long as Seaside remains the successor LRA.

48  
49 21. Authorization. Each party affirms that it is fully authorized to enter into this  
50 Agreement. The Seaside City Manager is designated on behalf of Seaside, subject to

**Execution Version**

1 review and approval of documents by the Seaside City Attorney, to enter into the terms  
2 and conditions of this Agreement, the AOC and the ESCA and sign related ESCA and  
3 AOC reporting and financial documents.  
4

5 22. Third-Party Rights. The Grantees are intended to be third-party  
6 beneficiaries of this Agreement as it relates to future transfers of property, water rights,  
7 and wastewater discharge rights pursuant to the EDC Agreement, and shall have the right  
8 to enforce the provisions hereof as if they were direct parties hereto. Nothing in this  
9 Agreement is intended to confer upon any individual or entity, other than the Parties and  
10 the above-identified third-party beneficiaries, any rights or remedies whatsoever.  
11

12  
13 **IN WITNESS WHEREOF**, each Party has executed the Agreement with the  
14 approval of its governing body as of the date first written above.  
15

16  
17 **CITY OF SEASIDE:**

18  
19   
20 \_\_\_\_\_  
21 Craig Malin  
22 City Manager  
23

Date: 2/21/20

24 **APPROVED AS TO FORM:**

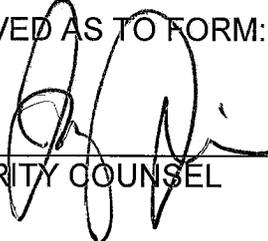
25  
26   
27 \_\_\_\_\_  
28 CITY ATTORNEY  
29

30  
31 **FORT ORD REUSE AUTHORITY:**

32  
33   
34 \_\_\_\_\_  
35 Joshua Metz Executive Officer  
36

Date: 2/21/20

37 **APPROVED AS TO FORM:**

38  
39   
40 \_\_\_\_\_  
41 AUTHORITY COUNSEL  
42  
43

**Execution Version**1  
2  
3  
4  
5  
6  
7  
8**EXHIBIT A****Current Water Allocations & Percentage-based Allocations of Future Army Water\***

	Current Water Allocations in Acre Feet	Allocation of Future Army Water Based on Percentage of Current Water Allocation
City of Marina	1340	<b>29%</b>
City of Monterey	65	<b>1%</b>
City of Seaside	1012.5	<b>22%</b>
County of Monterey	720	<b>15%</b>
CSUMB	1035	<b>22%</b>
City of Del Rey Oaks	242.5	<b>5%</b>
CA State Parks	44.5	<b>1%</b>
UCMBEST	230	<b>5%</b>

9 \*In the unlikely event of availability of additional water from the US Army it would be  
10 distributed following the percentage-based allocation provided above. These allocations  
11 reflect previously agreed upon water distribution as per FORA Board Resolution No. 07-1  
12 (potable water), and are consistent with the Marina Coast Water District Urban Water  
13 Management Plan (2105). They also incorporate the Memorandum of Understanding  
14 between the County of Monterey, the City of Seaside, and the FORA allocating 10 acre-  
15 feet (af) to the Central Coast Veterans Cemetery (2009), and includes the transference of  
16 15 af to the City of Marina for Veterans Transition Center housing (effective Nov 20,  
17 2017).



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

Mr. Joshua Metz  
Executive Officer  
Fort Ord Redevelopment Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

Mr. Craig Malin  
City Manager  
City of Seaside  
440 Harcourt Avenue  
Seaside, CA 93955

Dear Mr. Metz and Mr. Malin:

On behalf of the Secretary of Defense and pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, this letter serves as recognition of the City of Seaside as the successor Local Redevelopment Authority with an effective date of July 1, 2020, for the purposes of implementing the Economic Development Conveyance Agreement with the U.S. Army at the former Fort Ord.

Questions pertaining to this recognition or requests for assistance to guide your implementation activity may be directed to Ms. Liz Chimienti, Office of Economic Adjustment Project Manager, at (703) 901-7644.

Sincerely,

O'BRIEN.PATRIC  
K.J.1231200319

Digitally signed by  
O'BRIEN.PATRICK.J.123120031  
9  
Date: 2020.04.30 17:42:28 -04'00'

Patrick J. O'Brien  
Director  
Office of Economic Adjustment

cc:  
DASA(IH&P)