

RESOLUTION NO. 2024-115

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH PACIFIC GAS & ELECTRIC FOR JOINT USE OF RIGHTS OF WAY AND EASEMENTS RELATED TO THE UNDERGROUNDING OF CERTAIN UTILITIES WITHIN THE PROJECT BY SHEA HOMES LIMITED PARTNERSHIP SHOWN ON “TRACT 1566 THE DUNES ON MONTEREY BAY PHASE 2 WEST” IN THE VICINITY OF 1ST AVENUE BETWEEN 8TH STREET AND 6TH STREET, CITY OF MARINA, SUBJECT TO REVIEW AND APPROVAL BY THE CITY ATTORNEY.

WHEREAS, at the regular meeting of November 21, 2023, the City Council adopted Resolution No. 2023-123, approving the Phase 2 West/Residential Final Map for the Dunes on Monterey Bay Development Project Subdivision. This map included the establishment of right of way and utility easements for proposed infrastructure servicing residential development; and

WHEREAS, all existing underground gas and overhead electrical facilities within Fort Ord were transferred to PG&E from the US Army and the Fort Ord Reuse Authority between 1996 and 1997. Since then, improvement plans associated with Phase 2 West Residential Development included the relocation and undergrounding of overhead PG&E facilities from their current alignment; and

WHEREAS, in order to relocate these facilities from their existing easement into the City right-of-way, PG&E is requiring a Joint Use Agreement between the City and PG&E to establish responsibilities of each agency once the facilities are relocated and for any future relocations if needed by the City or PG&E; and

WHEREAS, the intended right-of-way area/area of joint use through City properties are in substantial conformance with the tentative map as amended as well as the project Specific Plan. With these findings, staff is recommending moving forward with negotiating and executing an agreement with PG&E to accomplish the relocation and undergrounding of utilities; and

WHEREAS, there is no fiscal impact should the City Council approve this request. Relocation of utilities into the right-of-way will be funded by the Developer; and

WHEREAS, the right-of-way designation and use thereof for undergrounding of utilities is consistent with the certified Environmental Impact Report (EIR) (SCH No. 2004091167). Section 15162, Paragraph C of the CEQA Guidelines states that if an EIR or negative declaration has been adopted for a project, no subsequent EIR is to be prepared unless there have been substantial changes to the project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Authorize the City Manager to negotiate and execute an agreement with Pacific Gas & Electric for joint use of rights of way and easements related to the undergrounding of certain utilities within the project by Shea Homes Limited Partnership shown on “Tract 1566 The Dunes on Monterey Bay Phase 2 West” in the vicinity of 1st Avenue between 8th Street and 6th Street, City of Marina, subject to review and approval by the City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting held on the 15th day of October 2024, by the following vote:

AYES: COUNCIL MEMBERS: McAdams, McCarthy, Biala, Delgado, Visscher

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Liesbeth Visscher, Mayor Pro Tem

ATTEST:

Anita Sharp, City Clerk

RECORDING REQUESTED BY AND RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY
300 Lakeside Drive, Suite 210
Oakland, CA 94612
Attn: Land Rights Library

Location: _____ City of Marina _____

Recording Fee \$ _____

Document Transfer Tax \$ _____ 0 _____

☒ [X] This is a conveyance where the consideration and Value is less than \$100.00 (R&T 11911).

☐ [] Computed on Full Value of Property Conveyed, or

☐ [] Computed on Full Value Less Liens

& Encumbrances Remaining at Time of Sale

☐ [] Exempt from the fee per GC 27388.1 (a) (2); This document is subject to Documentary Transfer Tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

Signature of declarant or agent determining tax

LD# 2215-01-10057

AGREEMENT

JOINT USE AGREEMENT AND CONSENT TO COMMON USE

THIS JOINT USE AGREEMENT AND CONSENT TO COMMON USE, hereinafter called "**Agreement**", entered into this _____ day of _____, 20____, by and between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called "**PG&E**", and the CITY OF MARINA, a municipal corporation, hereinafter called "**Agency**",

RECITALS

A. PG&E is the owner in possession of certain rights of way and easements, hereinafter referred to as "**PG&E's Easement**", described as follows:

The easement from the United States of America acting through the Secretary of the Army to PG&E dated January 28, 1997 and recorded in Reel 3506 at page 1533, Records of the County of Monterey, State of California (PG&E Land

Document No. 2214-02-0474), the unrecorded gas transmission easement from Fort Ord Reuse Authority to PG&E dated July 1, 1996, a copy of which is attached hereto as EXHIBIT "B" (PG&E Land Document No. 2214-01-10010), and the unrecorded electric and gas distribution easement from Fort Ord Reuse Authority to PG&E dated July 1, 1996, a copy of which is attached hereto as EXHIBIT "C" (PG&E Land Document No. 2214-01-10011).

B. Shea Homes Limited Partnership, hereinafter called "**Developer**", has a project known as "Tract 1566 The Dunes On Monterey Bay Phase 2 West" in the vicinity of 1st Avenue between 8th Street and 6th Street, City of Marina, County of Monterey. Developer is required, by Agency, to underground certain existing PG&E overhead electric facilities, and construct road improvements as conditions of approval for Developer's projects, hereinafter called "**Project**."

C. Agency has acquired certain lands for public road and utility purposes in the vicinity of Developer's Project, hereinafter referred to as "**Agency Right of Way**", which said Agency Right of Way is subject to PG&E's Easement.

D. PG&E's facilities installed pursuant to PG&E's Easement will interfere with Developer's Project and Developer desires to eliminate such interference, by relocating a portion of PG&E's facilities to a new location within Agency Right of Way, hereinafter referred to and designated as "**Area of Joint Use**", a ten (10) foot wide strip of land lying five (5) feet on each side of the relocated underground facilities, shown upon the print of PG&E's drawing, EXHIBIT "A", attached hereto and made a part hereof.

E. The Agency Right of Way also occupies a portion of PG&E's Easement which will not interfere with Developer's Project and will remain in the Agency Right of

Way, which said portion is hereinafter referred to and designated as "**Area of Common Use**" upon the print of PG&E's drawing, EXHIBIT "A".

NOW, THEREFORE, PG&E and Agency hereby mutually agree as follows:

1. The portion of PG&E's Easement interfering with Developer's Project, so far as it now lies within said Agency Right of Way, is hereby changed to the strip of land designated as the "Area of Joint Use" on the print of PG&E's drawing, EXHIBIT "A".

2. Agency acknowledges PG&E's title to PG&E's Easement in said Area of Joint Use and Area of Common Use and the priority of PG&E's title over the title of Agency therein. PG&E has and reserves the right and easement to use, in common with the public's use of Agency's Right of Way, said Area of Joint Use and Area of Common Use for all of the purposes for which PG&E's easement was acquired, without need for any further permit or permission from Agency. Except in emergencies, PG&E shall give reasonable notice to Agency before performing any work on PG&E's facilities in said Area of Joint Use and Area of Common Use where such work will be performed in, on or over the traveled way or improved shoulders of said Agency Right of Way or obstruct traffic. PG&E shall make adequate provisions for the protection of the traveling public

3. In the event that the future use of said Agency Right of Way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of PG&E's facilities then existing in said Area of Joint Use and Area of Common Use, the Agency shall notify PG&E in writing of such necessity and agree to reimburse PG&E on demand for its costs incurred in complying with such notice. PG&E will provide Agency with plans of its proposed rearrangement and an estimate of the cost thereof

and, upon approval of such plans by Agency and the execution of a relocation contract, PG&E will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. PG&E shall make adequate provisions for the protection of the traveling public. No further permit or permission from Agency for such rearrangement shall be required and if such rearrangement shall require relocation of any of PG&E's facilities outside of said Area of Joint Use and Area of Common Use, Agency will (1) enter into PG&E's standard form of Joint Use Agreement covering the new location of PG&E's Easement within the Agency's Right of Way, (2) provide executed document(s) granting to PG&E good and sufficient easement(s) outside of the Agency's Right of Way if necessary to replace PG&E's Easement or any part thereof, and (3) reimburse PG&E for any costs it may be required to expend to acquire such easement, provided it is mutually agreed in writing that PG&E shall acquire such easement.

4. PG&E does hereby surrender and quitclaim to Agency all of PG&E's right, title and interest under and by virtue of PG&E's Easement in the existing location within said Agency Right of Way and not included in said Area of Joint Use and Area of Common Use.

5. PG&E hereby consents to the construction, reconstruction, maintenance or use by Agency of Developer's Project over, along and upon PG&E's Easement in the Area of Joint Use and Area of Common Use subject to PG&E's right and easement to use said Area of Joint Use and Area of Common Use for all of the purposes for which PG&E's Easement was acquired and to the terms and conditions herein contained. PG&E does not by this Agreement and shall not be deemed to subordinate its rights in the Area of Joint Use and Area of Common Use to any use which Agency shall make of said area.

6. Except as expressly set forth herein, this Agreement shall not in any way alter, modify or terminate any provision of PG&E's Easement or the priority thereof over the title of Agency in said Area of Joint Use and Area of Common Use. Both Agency and PG&E shall use said Area of Joint Use and Area of Common Use in such a manner as not to interfere unreasonably with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which PG&E or Agency may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either Agency or PG&E in such a manner as to cause an unreasonable interference with the use of said Area of Joint Use and Area of Common Use by the other party.

7. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of both parties.

8. The legal description herein, or the map attached hereto, defining the location of this Area of Joint Use, was prepared by Grantee pursuant to Section 8730(c) of the Business and Professions Code.

9. This document may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

(signatures on next page)

The parties have caused this Agreement to be executed by their respective duly authorized officials.

PACIFIC GAS AND ELECTRIC COMPANY, a
California corporation

By_____

Name _____

Its _____

CITY OF MARINA, a municipal corporation

By_____

Name _____

Its _____

I hereby certify that a resolution was adopted on the _____ day of _____, 20_____,
by the _____ authorizing
the foregoing grant of easement.

By _____

Name _____

Title _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____, before me, _____ Notary Public,

Insert name

personally appeared _____

_____ ,
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Seal)

CAPACITY CLAIMED BY SIGNER

- ☐ Individual(s) signing for oneself/themselves
- ☐ Corporate Officer(s) of the above named corporation(s)
- ☐ Trustee(s) of the above named Trust(s)
- ☐ Partner(s) of the above named Partnership(s)
- ☐ Attorney(s)-in-Fact of the above named Principal(s)
- ☐ Other _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____)

On _____, before me, _____ Notary Public,

Insert name

personally appeared _____

_____ ,
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

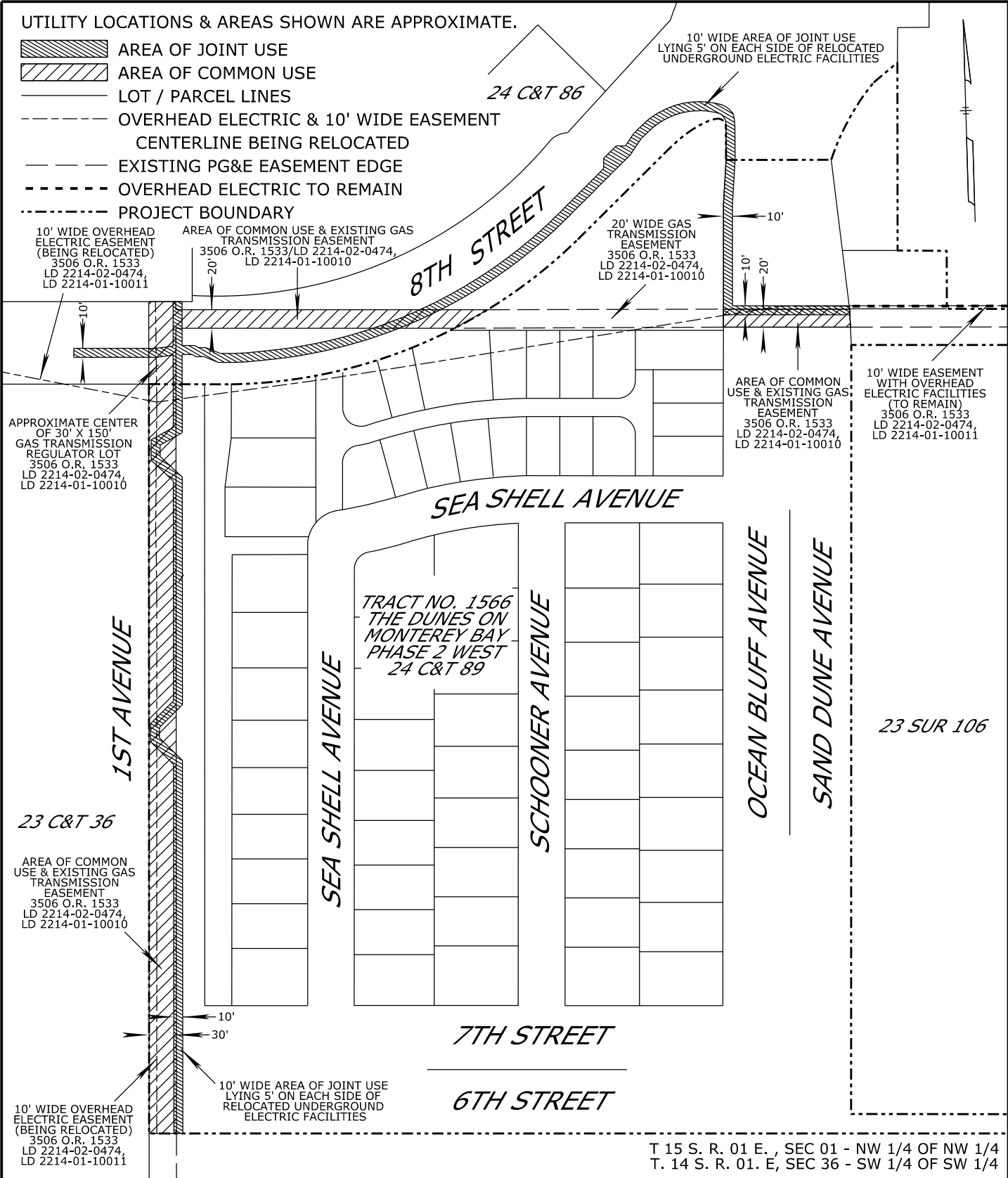
Signature of Notary Public

(Seal)

CAPACITY CLAIMED BY SIGNER

- ☐ Individual(s) signing for oneself/themselves
- ☐ Corporate Officer(s) of the above named corporation(s)
- ☐ Trustee(s) of the above named Trust(s)
- ☐ Partner(s) of the above named Partnership(s)
- ☐ Attorney(s)-in-Fact of the above named Principal(s)
- ☐ Other _____

EXHIBIT "A"



Applicant:				SCALE		DATE	
Joint & Common Use Areas - The Dunes Phase 2 West				1"=150'		10/3/2024	
SECTION (01)	TOWNSHIP (15 S.)	RANGE (01 E.)	MERIDIAN (MDB&M)	COUNTY OF: MONTEREY	CITY OF: MARINA		
				F.B.: N/A	DR.BY: BFF3	CH.BY: KECE	
PLAT MAP H0508 (E), 3897-B06 (G) REFERENCES 2214-02-0474, 2214-01-10010/11				PG&E	Central Coast DIVISION	35370047 AUTHORIZ	EXHIBIT "A" DRAWING NO.

EXHIBIT "B"

2214-01-10010

**Fort Ord Reuse Authority
Easement
for
Gas Transmission Pipeline Right-of-Way
Located on Presidio of Monterey Annex and
Excess Lands
(Formerly Designated as Fort Ord Military
Installation)
Monterey, California**

FORT ORD REUSE AUTHORITY
EASEMENT FOR GAS TRANSMISSION
PIPELINE RIGHT-OF-WAY
LOCATED ON
PRESIDIO OF MONTEREY ANNEX AND EXCESS LANDS
(FORMERLY DESIGNATED AS FORT ORD MILITARY INSTALLATION)
MONTEREY, CALIFORNIA

FORT ORD REUSE AUTHORITY (FORA) hereby grants and assigns to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, and its successors, hereinafter referred to as the Grantee, an easement and right-of-way for one or more underground pipe with suitable service pipes, above ground appurtenances and connections necessary for the conveyance of gas (Gas Transmission Easement), over, across, in and upon the lands of FORA, which were granted to FORA by the United States of America through the Secretary of the Army (Army) by deed dated January 28, 1996¹⁹⁹⁷, and recorded in Book _____ of the Official Records of Monterey County, at page _____, located in the County of Monterey, State of California, hereinafter referred to as the "Premises." Said Gas Transmission Easement is more fully described as follows:

GAS TRANSMISSION EASEMENT

PARCEL 1: (Easement for Gas Line Transmission Facilities)

The strip of land described and designated as "Description for location of Pacific Gas and Electric Company's gas line within the boundary lines of Fort Ord Military Reservation, County of Monterey, State of California" in the deed from the Secretary of the Army to Pacific Gas and Electric Company dated June 15, 1972 and recorded on Reel 810 of Official Records at page 669, Monterey County Records, and therein more particularly described as follows:

Within a strip of land of the uniform width of 30 feet the centerline of which is described as follows:

Beginning at a point in the southerly boundary line of said Fort Ord Military Reservation from which the 6 inch by 6 inch concrete monument marking the intersection of the easterly boundary line of State Highway 05-MON-1 (formerly V-MON-56-I) with the southerly boundary line of Lot 9 of the Rancho Noche Buena bears north 87° 42' 23" west 40.0 feet distant, and running thence north 12° 48' 55" east 94.40 feet; thence north 5° 55' 37" west 457.10 feet; thence north 20° 51' 37" west 102.30 feet; thence north 38° 41' 23" east 923.20 feet; thence north 29° 35' 23" east 407.10 feet; thence north 20° 49' 23" east 860.10 feet; thence north 46° 40' 53" east 233.90 feet; thence north 44° 46' 53" east 133.50 feet; thence north 45° 30' 53" east 1408.90 feet; thence north 38° 50' 23" east 247.30 feet; thence north 23° 19' 23" east 251.90 feet; thence north 8° 04' 23" east 218.61 feet to a point herein for convenience called Point "A"; thence north 39° 00' 41" east 443.68 feet; thence north 48° 02' 47" east 350.91 feet; thence north 31° 39' 24" east 420.09 feet; thence north 52° 39' 49" east 510.29 feet; thence north 52° 03' 27" east 1298.19 feet; thence north 48° 03' 38" east 200.85 feet; thence north 54° 06' 58" east 389.92 feet; thence north 52° 03' 27" east 332.00 feet; thence north 7° 03' 27" east 54.05 feet; thence north 52° 03' 27" east 120.62 feet; thence south 81° 24' 18" east 28.27 feet; thence north 53° 35' 42" east 427.42 feet; thence north 48° 47' 13" east 175.15 feet; thence north 52° 03' 27" east 899.86 feet; thence north 56° 35' 27" east 563.13 feet; thence north 50° 58' 12" east 74.10 feet; thence north 54° 08' 22" east 755.38 feet; thence north 60° 11' 00" east 469.67 feet; thence north 2° 00' 00" west 207.80 feet; thence north 44° 43' 22" west 473.67 feet; thence north 0° 57' 06" west 338.76 feet; thence north 6° 18' 34" west 504.59 feet; thence north 1° 37' 48" east 1118.90 feet; thence north 5° 05' 12" west 111.20 feet; thence north 1° 37' 48" east 839.90 feet; thence north 10° 45' 48" east 122.70 feet; thence north 1° 37' 09" east 1436.89 feet to a point herein for convenience called Point "B"; continuing thence north 1° 37' 09" east 1623.00 feet; thence north 6° 53' 26" east 159.68 feet; thence north 17° 21' 22" east 159.68 feet; thence north 26° 48' 58" east 107.37 feet; thence north 31° 14' 19" east 305.00 feet; thence north 31° 07' 02" east 202.71 feet; thence tangentially northeasterly along the arc of a circular curve to the right, having a radius of 628.00 feet, a central angle of 26° 28' 30" and an arc length of 290.18 feet; thence tangentially north 57° 35' 32" east 278.17 feet; thence north 1° 38' 04" east 400.84 feet; thence north 21° 58' 44" east 93.69 feet; thence south 89° 25' 42" east 130.10 feet; thence north 31° 21' 48" east 741.40 feet; thence north 24° 59' 18" east 932.00 feet; thence north 48° 38' 48" east 499.50 feet; thence north 21° 58' 08" east 662.80 feet; thence north 6° 57' 01" east 615.90 feet to a point in the northeasterly boundary line of said Fort Ord Military Reservation from which the 6 inch by 6 inch concrete monument marking the intersection of said northeasterly boundary line with the southeasterly boundary line of the parcel of land described in the deed from Anna McGown and husband to the State of California dated July 2, 1942 and recorded in the office of the Recorder of said County of Monterey in Volume 775 of Official Records at page 125 bears north 57° 28' 41" west 154.50 feet distant; excepting the portion of said strip of land lying outside the boundary lines of said Fort Ord Military Reservation. Said Point "A"

bears south 4° 39' 52" east 188.05 feet distant from the 3/4 inch pipe designated "Mon. Mar. 3" in State Highway Map Book 4, pages 711 to 717, dated April 14, 1966, and filed for record in the office of the Recorder of said County of Monterey.
(Ref. PG&E Doc. No. 2214-01-0098, Dept. of Army No. DACA05-269-170)

PARCEL 2: (Easement for Gas Regulator Lot Facilities)

Commencing at said Point "B" and running thence

(a) south 88° 22' 51" east 3.0 feet in this description to the **TRUE POINT OF BEGINNING**; thence

(1) south 01° 37' 09" west 74.0 feet; thence

(2) north 88° 22' 51" west 30.0 feet; thence

(3) north 01° 37' 09" east 150.0 feet; thence

(4) south 88° 22' 51" east 30.0 feet; thence

(5) south 01° 37' 09" west 76.0 feet to the True Point of Beginning.

The bearings and distances used in the above described PARCELS 1 and 2 are based on the California Coordinate System, Zone 4.

(Ref. PG&E Doc. No. 2214-01-0098, Dept. of Army No. DACA05-269-170)

PARCEL 3: (Easement for Gas Line Transmission Facilities)

The strips of land described and designated as "Description of Gas Main" in the unrecorded license from the Secretary of the Army to Pacific Gas and Electric Company dated June 20, 1963 and therein more particularly described as follows:

1. A strip of land of the uniform width of 10.0 feet lying equally on each side of a line that begins at a point in that certain 10.236 acre parcel of land situate in Fort Ord Military Reservation, Monterey County, described in that certain lease between the Department of the Army and the Monterey Public Schools recorded March 20, 1961 in Volume 2132 of Official Records at page 11, records of said Monterey County, from which point the most westerly corner of said 10.236 acre parcel bears south 56° 19' 45" west, 496.91 feet distant, and runs thence north 53° 48' west, 80.47 feet, thence north 7° 11' west, 93.75 feet, thence south 72° 57' west, 111.52 feet, thence south 67° 36' west, 149.0 feet, thence southwesterly to the right along an arc of a circular curve having a radius of 641.33 feet through a central angle of 37° 53' for a distance of 424.00 feet, thence north 74° 31' west, 767.73 feet, thence north 14° 57' east, 64.00 feet to a point herein for convenience called Point "C", thence north 74° 30' west, 583.50 feet, thence north 11° 42' east, 162.00 feet, thence north 4° 47' west, 190.00 feet, more or less, to a point in an existing gas line in California Road.

2. A strip of land of the uniform width of 10.0 feet lying equally on each side of a line that begins at said Point "C", and runs thence north 36° 00' east, 343.00 feet, more or less, to a point.

(Ref. PG&E Doc No. 2215-01-0099, Dept. of Army No. DA-04-167-ENG-2815)

PARCEL 4: (Easement for Gas Line Transmission Facilities)

The strips of land described and designated as "Description of Easement for Gas Mains" in the unrecorded deed from the Secretary of the Army to Pacific Gas and Electric Company dated February 19, 1986 and therein more particularly described as follows:

1. A strip of land of the uniform width of 20 feet extending westerly from the general easterly boundary line of Fort Ord Military Reservation, County of Monterey, State of California, and lying 10 feet on each side of the line that begins at a point in said general easterly boundary line from which the 4 inch by 4 inch post (with tack scribed "U.S. 8") at an angle point in said general easterly boundary line bears south 13° 20' east 81.2 feet distant; and runs thence north 75° 43' west 1290.8 feet; thence north 75° 36' west 2188.9 feet; thence north 78° 07' west 1660.7 feet; thence north 38° 01' west 606.4 feet; thence north 56° 46' west 2083.8 feet to a point herein for convenience called Point "D"; thence continues north 56° 45' west 2113.6 feet; thence north 83° 44' west 439.1 feet; thence north 80° 51' west 722.5 feet; thence north 63° 39' west 469.8 feet; thence north 81° 39' west 12541.6 feet; thence north 69° 21' west 4185.2 feet; thence north 82° 26' west 161.3 feet; thence south 4° 25' west 43.4 feet; thence north 85° 35' west 134.6 feet; thence north 89° 41' west 213.2. feet; thence north 39° 54' west 106.0 feet; thence north 89° 56' west 688.4 feet; thence north 72° 34' west 214.5 feet; thence north 85° 28' west 120.0 feet; thence 89° 51' west 840.9 feet to a point herein for convenience called Point "E"; thence continues north 89° 51' west 1497.5 feet; thence south 88° 49' west 24.5 feet to a point in the centerline of the 30 foot wide easement described in the grant from The Secretary of the Army to Pacific Gas and Electric Company recorded November 17, 1972, on Reel 810 of Official Records at page 669, Monterey County Records (Easement No. DACA05-2-69-170); said Point "D" bears south 19° 07' 47" west 6767.1 feet distant from the 6 inch by 6 inch concrete monument marking the intersection of the northeasterly boundary line of said Fort Ord Military Reservation with the southeasterly boundary line of the parcel of land described in the deed from Anna McGown and husband to the State of California, dated July 2, 1942 and recorded in Volume 775 of Official Records at page 125, Monterey County Records.

2. A strip of land of the uniform width of 10 feet extending northerly from the northerly boundary line of the strip of land hereinbefore described and designated 1, and lying 5 feet on each side of the line that begins at said Point "E" and runs thence north 29° 10' east 186.2 feet; thence north 28° 37' east 147.2 feet; thence north 11° 42'

east 100.0 feet; thence north 6° 57' west 430.0 feet; thence north 29° 02' east 395.0 feet; thence north 29° 32' east 133.6 feet to a point in said Fort Ord Military Reservation. (Ref. PG&E Doc. No. 2215-01-0677, Dept. of Army No. DACA05-2-86-532)

PARCEL 5: (Easement for Gas Metering Lot Facilities)

The parcel of land described and designated as "Description of Easement for Gas Metering Lot" in the unrecorded deed from the Secretary of the Army to Pacific Gas and Electric Company dated February 19, 1986 and therein more particularly described as follows:

Beginning at point in the northerly boundary line of the 20.0 foot wide strip of land hereinbefore described and designated 1 under PARCEL 4 and running thence along said northerly boundary line north 89° 51' west 48.3 feet; thence leaving said northerly boundary line and running north 0° 09' east 50.0 feet; thence south 89° 51' east 47.6 feet; thence south 0° 38' 30" east 50.0 feet, more or less, to the point of beginning; said point of beginning bears north 0° 09' east 10.0 feet distant from said Point "B". (Ref. PG&E Doc. No. 2215-01-0677, Dept. of Army No. DACA05-2-86-532)

PARCEL 6: (Easement for Gas Regulator Lot)

Commencing at the found granite monument marked "NB4A" shown as Corner #1 of Parcel 1 on the Record of Survey showing the Perimeter Boundary of the Fort Ord Military Reservation filed for record September 7, 1994 in Volume 19 of Survey Maps at page 1, Monterey County Records, said Corner # 1 being at coordinate Northing=2121541.64 and Easting=5734939.34; thence

(a) north 36° 47' 10" east 15723.03 feet to the TRUE POINT OF BEGINNING of the parcel of land herein described, being at coordinate Northing=2134133.86 and Easting=5744354.73; thence

(1) south 5° 49' 00" west 75.00 feet; thence

(2) south 84° 11' 00" east 60.00 feet; thence

(3) north 5° 49' 00" east 75.00 feet; thence

(4) north 84° 11' 00" west 60.00 feet to the True Point of Beginning.

The bearings used in the above described PARCEL 6 are grid bearings based on the Lambert projection for California State Plane Zone 4.

The coordinates listed in PARCEL 6 are not State Plane coordinates. They were derived by methods described in said Record of Survey filed for record September 7, 1994.

The strips and parcels of land described on Exhibit A attached hereto.

The legal description herein, or any map(s) referenced herein, defining the location of this utility easement, was prepared by Grantee pursuant to Section 8730(c) of the Business and Professions Code.

1. TERM

This easement is hereby granted in perpetuity, and at no cost to Grantee.

2. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the Grantee, to Pacific Gas & Electric, Mail Code N10A, P.O. Box 770000, San Francisco, CA 94177, and, if to FORA, to 100 12th Street, Building 2880, Marina, California 93933. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

3. RELOCATION OF FACILITIES

Grantee will not be required to relocate its facilities. If the parties mutually agree, Grantee may relocate its facilities, but at no expense to it. FORA will grant a non-exclusive easement for any Grantee facilities needed to be relocated, otherwise, Grantee will not be obligated to relocate the facility.

4. INDEMNITY TO GRANTEE

a. FORA will obtain a covenant from the United States to FORA and to the Grantee that the United States is responsible for remedial action relating to releases of hazardous substances by the United States on lands owned or formerly owned by the United States at Fort Ord to the extent provided by the Congress in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) as amended; 42 U.S.C. § 9620), Resource, Conservation, and Recovery Act (RCRA) (42 U.S.C. 6093), and Environmental Protection Agency (EPA) regulations pertaining to hazardous substances and federal facilities (40 CFR 373). The United States is also liable for injuries or damages caused to third persons for its negligent or wrongful acts or omissions.

b. FORA shall obtain a warranty from the United States for FORA and to the Grantee that the United States will be required to perform all response actions and corrective actions for which the United States is liable under applicable law with respect to hazardous substances, unexploded ordnance, and petroleum products released or disposed of during the time that the property was owned by the United States.

c. FORA shall obtain a covenant from the United States that should Grantee discover any such hazardous substances and petroleum products released or disposed of during the time that the property was owned by the United States, it shall notify Office of the Garrison Commander or its successors, and the United States shall timely dispatch competent personnel to dispose of the material properly. Grantee may suspend work until remediation is complete. If Grantee takes any actions to install or maintain service while awaiting the United States to remediate the hazardous condition, all costs incurred by Grantee will be reimbursed by the United States under the law specified in subparagraph (e).

d. FORA will obtain a warranty from the United States to it and Grantee that

- i. all remedial action necessary to protect human health and the environment with respect to hazardous substances, including but not limited to, PCB's, dioxin, oil or any petroleum derivative, any nuclear, chemical, biological agent or military ordnance remaining on the Premises has been taken before the date of transfer from FORA to Grantee and

- ii. any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.

e. FORA will obtain a covenant from the United States to it and to Grantee that the United States shall hold harmless, defend, and indemnify in full FORA and Grantee, in accordance with the conditions specified in Public Law 102-484, section 330, as amended by Public Law 103-160, section 1002 as it exists when this Easement is granted, as a result of United States' activities at Fort Ord.

5. INGRESS AND EGRESS

FORA grants the right of ingress to and egress from said easement area over and across said Premises by means of roads and lanes thereon, if such there be, otherwise by such route or routes as shall occasion the least practicable damage and inconvenience to FORA, provided that such right of ingress and egress shall not extend to any portion of said lands which is isolated from said easement area by any public road or highway, now crossing or hereafter crossing said lands.

6. CLEARANCE

FORA grants the right from time to time to trim and cut down and clear away or otherwise destroy any and all trees and brush now or hereafter on said easement area and to trim and to cut down and clear away any trees on either side of said easement area which now or hereafter in the opinion of Grantee may be a hazard to the facilities installed hereunder by reason of the danger of falling thereon, or may interfere with the exercise of Grantee's rights hereunder; provided, however, that all trees which Grantee is hereby authorized to cut and remove, if valuable for timber or wood, shall continue to be the property of FORA, but all branches, brush, and refuse wood shall be burned, removed or chipped and scattered by Grantee.

7. REPLACEMENT

FORA grants to Grantee the right to use such portion of said lands contiguous to said easement areas as may be reasonably necessary in connection with the installation and replacement of said facilities.

8. GATES

FORA grants the right to install, maintain and use gates in all fences which now cross or shall hereafter cross said easement area.

9. MARKING

FORA grants to Grantee the right to mark the location of said easement area by suitable markers set in the ground; provided that said markers shall be placed in fences or other locations which will not interfere with any reasonable use FORA shall make of said easement area.

10. FENCES

Grantee agrees not to fence said easement area, except as to Parcels 5 and 6 of said Gas Transmission Easement more fully described herein, which said easement areas are for regulator lots.

11. BACKFILL

Grantee agrees to promptly backfill any excavations made by it on said easement area and repair any damage it shall do to FORA's roads or lanes on said lands.

12. INDEMNITY TO FORA

Grantee agrees to indemnify FORA against any loss and damage which shall be caused by the exercise of the rights herein granted, or by any wrongful or negligent act or omission of Grantee or of its agents or employees in the course of their employment, provided, however, that this indemnity shall not extend to that portion of such loss or damage that shall have been caused by FORA's comparative negligence or willful misconduct.

13. FORA'S USE

FORA reserves the right to use said easement area for purposes which will not interfere with Grantee's full enjoyment of the rights hereby granted; provided that FORA shall not allow to be erected or erect or construct any building or other structure, or allow to be drilled or drill or operate any well, or allow to be constructed or construct any reservoir or other obstruction within said easement area, or diminish or substantially add to the ground cover over said facilities, or allow to be constructed or construct any fences that will interfere with the maintenance and operation of said facilities.

For the purpose of this section, the term structure shall not include any street, road, right-of-way, or related improvements, including curbs, gutters, and sidewalks, constructed in a manner consistent with applicable rules and tariffs of the CPUC.

Relocations will be at the requester's expense and subject to Grantee's approval. Proper clearance and operational/safety considerations will be the determining factors in approving a transportation route.

14. SUCCESSORS

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the Grantee and FORA, and all covenants shall apply to and run with the land.

15. EFFECTIVE DATE

This easement will become effective when FORA signs it, and the California Public Utilities Commission approves or accepts the Utilities Services Contract between Pacific Gas and Electric Company (PG&E) and the Army for utility service to the Presidio of Monterey Annex. The Commission acceptance or approval of the Utilities Services Contract must be as it was submitted or without conditions unacceptable to either PG&E or Army.

16. FORA - PG&E AGREEMENT

The "Agreement Among Pacific Gas and Electric Company and the Fort Ord Re-Use Authority" is attached as Exhibit A, and incorporated herein.

In the event of inconsistencies between the Agreement and this easement, the terms of the Agreement will control.

IN WITNESS WHEREOF, FORA has executed this Easement this 1 day of

July, 1996.

BY:

Jack D. Barlich
(signature)

Jack D. Barlich, Chairman
Fort Ord Reuse Authority

APPROVED AS TO FORM BY:

Douglas Holland
(signature)

Douglas Holland, Legal Counsel
Fort Ord Reuse Authority

IN WITNESS WHEREOF, PG&E has received this Easement this 16th day of September

_____, 1996. PG&E, acting by and through

BY:

Lu de Silva
(signature)

Lu de Silva
Director, Land Rights and Resource Management

State of California

County of San Francisco

On September 25, 1996 before me, Lian Houghton,
Date Notary Public

personally appeared Lu de Silva,
Name of Signer(s)

☒ 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), of the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Lian Houghton
Signature of Notary

EXHIBIT A

AGREEMENT BETWEEN PACIFIC GAS & ELECTRIC COMPANY AND THE FORT ORD REUSE AUTHORITY

This Agreement is made by and between its Parties, Pacific Gas & Electric Company (PG&E), a California corporation and the Fort Ord Reuse Authority (FORA), a public corporation of the State of California organized pursuant to California Government Code Section 67650 et seq.

RECITALS

- A. Fort Ord, as defined in California Government Code Section 67655(h), is currently owned by the Department of the Army (Army) of the United States.
- B. The Army currently owns the electric and gas distribution facilities within Fort Ord.
- C. The Parties expect that in the near future the Army will transfer the ownership of the realty of Fort Ord to FORA.
- D. The Parties expect that in the near future the Army will transfer the ownership of the gas and electric distribution systems to PG&E.
- E. For PG&E to own and operate these gas and electric distribution systems, PG&E must have appropriate interest in property consistent with the interest described in this Agreement.
- F. The Army's gas and electric distribution facilities within Fort Ord require repair and reconstruction to provide reliable and safe service under the California Public Utilities Commission's (CPUC) rules and regulations.

THEREFORE, the parties mutually agree as follows:

1. Upon the receipt by FORA of perpetual, no cost, non-exclusive easements from the Army for gas and electric transmission and distribution facilities, FORA shall immediately grant and assign those easements to PG&E in the

forms acceptable to PG&E. Those forms of easement are Exhibits A, B, and C, which are incorporated herein.

2. FORA and PG&E agree that the assigned easements will be non-exclusive, perpetual, and at no cost to PG&E.
3. For the distribution facilities located within the road widths of streets identified in Exhibit D, entitled Designated Area, which is based upon the FORIS Transportation Corridors Plan, PG&E will relocate those facilities once in the course of its upgrades at its expense for only 100% publicly funded projects for the period of 25 years for electric overhead facilities and 35 years for underground gas and electric facilities from the Effective Date of this Agreement. Any relocation other than provided in this paragraph will be at the requester's expense and at no expense to PG&E.
4. For all other distribution facilities located within Fort Ord but not within the Designated Area (non-Designated Area), any relocation will be at the requester's expense for 25 years for electric overhead facilities and 35 years for electric and gas underground distribution facilities, respectively, from the Effective Date of this Agreement. In no event will such relocations be at any expense to PG&E.
5. After the 25 year (electric overhead) and 35 year (electric and gas underground) periods have expired for facilities in the Designated Area and in the non-Designated Area, PG&E will relocate at its expense any distribution facilities which are adjacent to existing streets and within 15 feet of the face of curb or edge of roadway in order to accommodate 100% publicly funded projects.
6. PG&E will not object to the use of its non-exclusive gas and electric distribution and transmission easements, as long as any other use does not interfere with PG&E's use in its sole determination.
7. All relocations are to be made on a like for like basis. That is, overhead facilities will be relocated overhead and underground facilities will be relocated underground. FORA and its successors will grant non-exclusive easements for any PG&E distribution facilities which need to be relocated, otherwise PG&E will not be obligated to relocate.
8. PG&E may in the future obtain non-exclusive easements from the Army for gas and electric transmission and distribution facilities in the area known as

the POM Annex. Should there be any future public/private development in that area, it shall be in accordance with PG&E's new business tariffs then filed with the CPUC.

9. For PG&E's gas and electric transmission easements, all relocation will be at the requester's expense, subject to PG&E approval.
10. PG&E will review all requests for crossing transmission easements. Proper clearances and operational/safety considerations will be the determining factors in approving a transportation route.
11. FORA and PG&E will review and coordinate utility work and development plans for Fort Ord and such review and coordination will include appropriate representatives of the cities of Marina, Seaside, and County of Monterey.
12. Undergrounding of electric overhead facilities will be subject to PG&E's Electric Rule 20 for qualified projects within the cities of Seaside, Marina and the County of Monterey (within Fort Ord territory), unless otherwise ordered by the CPUC.
13. The Agreement shall not in any way modify or alter the existing franchise fee structure (revenue based) for the cities of Seaside or Marina, or the (length of line formula) for the County of Monterey.
14. FORA agrees to take all steps necessary so that the terms and conditions of this Agreement will apply to any future annexations of Fort Ord property.
15. FORA acknowledges that its rights and obligations in the easements conveyed to PG&E will ultimately be conveyed to successor public entities. FORA agrees that its rights and obligations in the subject easements will only be conveyed to public entities and that each such conveyance shall be expressly conditioned on the successor public entities accepting the rights and obligations of FORA as described in this Agreement and the respective easements. In the event any successor public entity to FORA, public entity Grantee of FORA, or any Member of FORA contests or in any way challenges either this condition of the conveyance or the rights afforded to PG&E under this Agreement or the respective easements, FORA agrees that it will indemnify and hold PG&E harmless from the effects of such challenge, and at PG&E's option, and defend or pay PG&E's expenses in the defense of such challenge.

16. This Agreement will become effective upon final approval of the CPUC,
without conditions unacceptable to either FORA or PG&E.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of FORA this ____
1 day of July, 1996. FORA, acting by and through

BY: Jack D. Barlich
(signature)

Jack D. Barlich, Chairman
Fort Ord Reuse Authority

APPROVED AS TO FORM BY: Douglas Holland
(signature)

Douglas Holland, Legal Counsel
Fort Ord Reuse Authority

IN WITNESS WHEREOF, I have hereunto set my hand by authority of PG&E this ____
1 day of July, 1996. PG&E, acting by and through

Robert A. Stump
(signature)

Robert A. Stump, Division Manager
Central Coast Division

**Fort Ord Reuse Authority
Easement
for
Electric Power Distribution and Gas
Distribution Pipeline
Right-of-Way
Located on Presidio of Monterey Annex and
Excess Lands
(Formerly Designated as Fort Ord Military
Installation)
Monterey, California**

FORT ORD REUSE AUTHORITY
EASEMENT FOR ELECTRIC POWER DISTRIBUTION AND
GAS DISTRIBUTION PIPELINE RIGHT-OF-WAY
LOCATED ON
PRESIDIO OF MONTEREY ANNEX AND EXCESS LANDS
(FORMERLY DESIGNATED AS FORT ORD MILITARY INSTALLATION)
MONTEREY, CALIFORNIA

FORT ORD REUSE AUTHORITY (FORA) hereby grants and assigns to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, and its successors, hereinafter referred to as the Grantee, a non-exclusive easement and right-of-way for electric power and a pipeline right-of-way to construct, reconstruct, install, inspect, maintain, replace, remove, and repair, existing poles, towers, aerial wires, cables, electrical conductors with associated crossarms, braces, transformers, anchors, guy wires and cables (Electric Pole Line Easement); and such underground conduits, pipes, manholes, service boxes, wires, cables, and electrical conductors; aboveground marker posts, risers, and service pedestals; underground and aboveground switches, fuses, terminals and transformers with associated concrete pads; and fixtures and appurtenances necessary to any and all thereof (Underground Easement); and one or more underground pipes with suitable service pipes, above ground appurtenances and connections necessary for the conveyance of gas (Gas Easement), over, across, in and upon the lands of FORA, which lands were granted to FORA by the United States of America, through the Secretary of the Army, (Army) by deed dated January 28, 1996, and recorded in Book _____, of Official Records of Monterey County at Page _____, located in the County of Monterey, State of California, hereinafter referred to as the "Premises." The hereinabove mentioned easement is more fully described as follows:

1. Electric Pole Line Easement

- a. The strips of land of the uniform width of 10 feet, the center lines of which are marked by the existing lines of poles installed by both the Army and the Grantee for the distribution of electric energy within the boundary lines of the parcel of land shown and designated as "FORT ORD MILITARY RESERVATION, PARCEL 1", upon the Record of Survey

Map filed for record September 7, 1994 in Volume 19 of Surveys at page 1, Monterey County Records. The approximate locations of said existing lines of poles are as shown by the heavy dashed lines with dots upon the basic information maps of the Fort Ord Military Reservation entitled "GENERAL ELECTRICAL MAP" filed in the office of Monterey County Surveyor as No. SN21331 through SN21343, inclusive.

b. The strip of land described and designated as "Description for location of existing 12 KV power pole line" in the deed from the Secretary of the Army to Pacific Gas and Electric Company dated June 15, 1972 and recorded on Reel 810 of Official Records at page 669, Monterey County Records, and therein more particularly described as follows:

Within a strip of land of the uniform width of 10 feet the centerline of which is described as follows:

Beginning at a point in the easterly boundary line of State Highway 05-MON-1 from which the 6 inch by 6 inch concrete monument marking the intersection of the easterly boundary line of said State Highway 05-MON-1 with the southerly boundary of Lot 9 of the Rancho Noche Buena bears south 2° 17' 33" east 618.98 feet distant; and running thence north 35° 01' 30" east 269.5 feet; thence north 36° 53' 00" east 259.7 feet; thence north 36° 33' 00" east 391.8 feet; thence north 27° 44' 00" east 263.5 feet; thence north 25° 07' 00" east 294.6 feet; thence north 24° 52' 00" east 518.4 feet; thence north 26° 55' 00" east 90.4 feet; thence north 38° 46' 00" east 210.5 feet; thence north 53° 18' 00" west 46.0 feet, more or less, to a point in the easterly boundary line of said State Highway 05-MON-1.

The bearings and distances used in this description are based on the California Coordinate System, Zone 4.

(Ref. PG&E Doc. No. 2214-01-0098, Dept. of Army No. DACAo5-2-69-170)

c. The strip of land described and designated as "Description of Electric Pole Line" in the unrecorded license from the Secretary of the Army to Pacific Gas and Electric Company dated June 20, 1963 and therein more particularly described as follows:

A strip of land of the uniform width of 10.0 feet lying equally on each side of a line that begins at a point in Fort Ord Military Reservation, Monterey County, from which point the most westerly corner of that certain 10.236 acre parcel of land situate in said Fort Ord Military Reservation, described in that certain lease between the Department of the Army and the Monterey Public Schools recorded March 20, 1961 in Volume 2132 of

Official Records at Page 11, records of said Monterey County, bears south 11° 54' west, 316.11 feet distant, and runs thence south 82° 50' west, 265.70 feet, thence north 77° 05' west, 199.40 feet, thence north 74° 18' west, 680.48 feet, thence north 6° 52' east, 45.70 feet, more or less, to a point in an existing pole in said Fort Ord Military Reservation.
(Ref. PG&E Doc. No.2215-01-0182, Dept. of Army No. DA-04-167-ENG-2815)

d. The strips of land described in the unrecorded deed from the Secretary of the Army to Pacific Gas and Electric Company dated July 26, 1961 and therein more particularly described as follows:

1. (Easement for Electric Distribution Pole Line)

A strip of land of the uniform width of 10 feet lying equally on each side of the line which begins at a point in the center line of an existing pole line erected under and by virtue of the indenture by and between Lee L. Jacks and others and Pacific Gas and Electric Company, dated December 24, 1930 and recorded in the office of said County Recorder in Book 280 of Official Records at page 127, from which the granite monument "N.B.4A" marking the southeast corner of the 1735.24 acre tract conveyed by David Jacks Corporation to T. A. Work by deed dated May 8, 1916 and recorded in the office of said County Recorder in Book 144 of Deeds at page 142, bears S. 61° 15' W. 97.72 feet distant and runs thence N. 15° 30' W. 110.0 feet to a point herein for convenience called Point "A"; thence N. 89° 32' W. 310.0 feet.

2. (Easement for Guy and Anchor)

A strip of land of the uniform width of 5 feet extending northeasterly from the northerly boundary line of said strip of land designated c.1 and lying equally on each side of the line which begins at said Point "A" and runs thence N. 20° 05' E. 35 feet.

3. (Easement for Guy and Anchor)

A strip of land of the uniform width of 5 feet extending easterly from the easterly boundary line of said strip of land designated c.1 and lying equally on each side of the line which begins at said Point "A" and runs thence S. 89° 32' E. 35 feet.

(Ref. PG&E Doc. No. 2215-01-0306, Dept. of Army No. DA(s)-04-203-ENG-1264)

The Grantee shall also have the right to install, replace, maintain and use such anchors, guy wires and cables, guy stubs, and fixtures as deemed necessary, extending outside of said strips of land.

Grantee shall have the right, but not the obligation, to place any Electric Pole Line facility underground, and in that event, the Electric Underground Easement, as hereinafter defined, shall extend to such pole line facilities placed underground by Grantee.

2. Electric Underground Easement

The strips of land of the uniform width of 10 feet, the center lines of which are marked by the alignments of the existing underground facilities installed by both the Army and the Grantee for the distribution of electric energy within the boundary lines of said parcel of land designated as "FORT ORD MILITARY RESERVATION, PARCEL 1". The approximate locations of said existing underground facilities are as shown by the heavy dark and dashed lines with squares upon said "GENERAL ELECTRICAL MAP".

3. Gas Easement

a. The strips of land of the uniform width of 10 feet, the center lines of which are marked by the existing underground pipeline facilities installed by both the Army and the Grantee for the distribution of gas within the boundary lines of said parcel of land designated as "FORT ORD MILITARY RESERVATION, PARCEL 1". The approximate locations of said existing underground pipeline facilities are as shown by the heavy dark lines upon the basic information maps of the Fort Ord Military Reservation entitled "GENERAL GAS AND HEATING MAP" filed in the office of the Monterey County Surveyor as No. SN21344 through SN 21352 inclusive.

The legal description herein, or any map(s) referred to herein, defining the location of this utility easement, was prepared by Grantee pursuant to Section 8730(c) of the Business and Professions Code.

4. Easements Required to Complete Upgrades

The additional strips of land ten (10) feet in width insofar as said strips of land lie within the boundaries of the Premises, which strips of land are necessary to Grantee to upgrade its overhead and underground electric distribution facilities, and are described in a summary set forth on Exhibit "A" attached hereto. FORA and Grantee agree that said summary describes only the approximate location of said strips of land. Therefore, Grantee shall within nine (9) months from the effective date hereof survey the precise locations of said strips of land and prepare maps and/or legal descriptions thereof. Upon the approval of the Executive Officer of FORA of the maps and/or descriptions of the precise locations of said strips of land, Grantee shall file a notice of final description with the County

Recorder of Monterey County, and upon such recordation said strips of land shall be deemed to be a part of this easement grant.

1. TERM

This easement is hereby granted in perpetuity at no charge to Grantee.

2. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the Grantee, to Pacific Gas & Electric, Mail Code N10A, P.O. Box 770000, San Francisco, CA 94177, and, if to FORA, to 100 12th Street, Building 2880, Marina, California 93933. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

3. FUTURE EASEMENTS

The proposed grant by FORA of any new easement or route in proximity to this easement will be coordinated with the Grantee, and FORA will not grant any easements to others which will interfere with the use of the premises by the Grantee. If a new easement, right-of-way, or other property interest is granted which is inconsistent or interferes with the rights herein granted to Grantee, the provision of the paragraph entitled Relocation of Facilities will govern.

4. RELOCATION OF FACILITIES

Grantee will be responsible for its costs for the relocation of facilities if requested by FORA, only under the following terms and conditions:

A. WITHIN THE FORIS TRANSPORTATION CORRIDOR:

1. Grantee will relocate gas and electric distribution facilities within this easement once while in the course of its initial upgrade plan within Designated Areas, attached as Exhibit B based on the FORIS Transportation Corridors Plan (Plan), at Grantee's expense when upgrading of facilities is required and the Plan calls for relocations.

2. After the useful life of the facilities, which has been determined to be 25 years (electric overhead) and 35 years (gas and electric underground) from the date of transfer, has expired for facilities in the Designated Area, Grantee will relocate at its expense for 100% publicly funded projects for distribution facilities which are adjacent to existing streets and within 15 feet of the face of the curb or edge of the roadway.
3. All relocations of facilities will be made on a "like for like" basis; that is overhead facilities will be relocated overhead, underground facilities underground.

B. REMAINDER OF THE PREMISES:

1. During the useful life of the gas and electric facilities, relocations of upgraded gas and electric facilities will be paid by the requester during the useful life of the facilities, which has been determined to be 25 years (electric overhead) and 35 years (gas and electric underground). In no event will relocation be at any expense to Grantee.
2. After the useful life of the gas and electric distribution facilities, which has been determined to be 25 years (electric overhead) and 35 years (gas and electric underground) from the date of this Easement, Grantee will relocate Grantee's facilities at its expense which are adjacent to existing streets and within 15 feet of face of curb or edge of roadway for 100% publicly funded projects.
3. All relocations of facilities will be made on a "like for like" basis; that is overhead facilities will be relocated overhead, underground facilities underground.

5. INDEMNITY

a. FORA will obtain a covenant from the United States to FORA and to the Grantee that the United States is responsible for remedial action relating to releases of hazardous substances by the United States on lands owned or formerly owned by the United States at Fort Ord to the extent provided in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) as amended; 42 U.S.C. § 9620), Resource, Conservation, and Recovery Act (RCRA) (42 U.S.C. 6093), and Environmental Protection Agency (EPA) regulations pertaining to hazardous substances

and federal facilities (40 CFR 373). The United States is also liable for injuries or damages caused to third persons for its negligent or wrongful acts or omissions.

b. FORA shall obtain a warranty from the United States for FORA and to Grantee that the United will be required to perform, themselves perform all response actions and corrective actions for which the United States is liable under applicable law with respect to hazardous substances, unexploded ordnance, and petroleum products released or disposed of during the time that the Fort Ord property was owned by the United States.

c. FORA shall obtain a covenant from the United States that should Grantee discover any such hazardous substances and petroleum products released or disposed of during the time that the property was owned by the United States, it shall notify Office of the Garrison Commander or its successors, and the United States shall timely dispatch competent personnel to dispose of the material properly. Grantee may suspend work until remediation is complete. If Grantee takes any actions to install or maintain service while awaiting the United States to remediate the hazardous condition, all costs incurred by Grantee will be reimbursed by the United States under the law specified in subparagraph (e).

d. FORA shall obtain a warranty from the United States to it and Grantee that

- i. all remedial action necessary to protect human health and the environment with respect to hazardous substances, including but not limited to, PCB's, dioxin, oil or any petroleum derivative, any nuclear, chemical, biological agent or military ordnance remaining on the Premises has been taken before the date of transfer from FORA to Grantee.

- ii. any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.

e. FORA shall obtain a covenant from the United States to it and to Grantee that the United States shall hold harmless, defend, and indemnify in full FORA and Grantee in accordance with the conditions specified in Public Law 102-144, section 330, as amended by Public Law 103-160 section 1002, as it exists when this easement is granted as a result of United States' activities at Fort Ord.

6. TREE AND SHRUB CLEARANCE

Grantee shall have the right to trim, cut down, and clear away or otherwise control trees or brush on said strip(s) of land, as hereinbefore set forth, whenever considered necessary for the complete enjoyment of the rights hereby granted.

7. SUBSEQUENT CONSTRUCTION OF OPERATIONS

FORA shall not allow to be erected, erect or construct any building or other structure, or allow to be drilled, or to drill or operate any well under or within 10 feet of any of Grantee's gas and electric distribution facilities installed hereunder.

8. SUCCESSORS

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties.

9. EFFECTIVE DATE

This easement will become effective when FORA signs it, and the California Public Utilities Commission approves or accepts the Utilities Services Contract between Pacific Gas and Electric Company (PG&E) and the Army for utility service to the Presidio of Monterey Annex. The Commission acceptance or approval of the Utilities Services Contract must be as it was submitted or without conditions unacceptable to either PG&E or Army.

10. FORA - PG&E AGREEMENT

The "Agreement Between Pacific Gas and Electric Company and the Fort Ord Re-Use Authority" is attached as Exhibit C, and incorporated herein.

In the event of inconsistencies between the Agreement and this Easement, the terms of the Agreement will control.

IN WITNESS WHEREOF, FORA has executed this Easement this 1 day of

July, 1996.

BY: Jack D. Barlich
(signature)

Jack D. Barlich, Chairman
Fort Ord Reuse Authority

APPROVED AS TO FORM BY:

Douglas Holland
(signature)

Douglas Holland, Legal Counsel
Fort Ord Reuse Authority

IN WITNESS WHEREOF, PG&E has received this Easement this 16th day of September
 , 1996. PG&E, acting by and through

BY: Lu de Silva
(signature)

Lu de Silva
Director, Land Rights and Resource Management

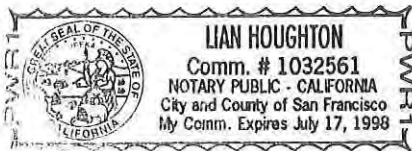
State of California

County of San Francisco

On September 25, 1996 before me, Lian Houghton,
Date Notary Public

personally appeared Lu deSilva,
Name of Signer(s)

☒ 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), of the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Lian Houghton
Signature of Notary

EXHIBIT A

ELECTRIC DISTRIBUTION EASEMENTS TO COMPLETE UPGRADES

Map SN 21331:

- A. Tie between pole 1-143 on Monterey Rd. and PG&E facilities on Leinbach Ave.

Map SN 21332:

- B. Tie between pole 41-73, at the radio transmitter, easterly along the dirt access road to the westerly edge of Polygon 21C, then southerly to pole 1-776 on Eucalyptus Rd.
- C. Tie from secondary pole at the intersection of Ardennes Circle and Colman Rd. southeasterly across the field to pole 1-773 on Eucalyptus Rd.
- D. Tie from pole 1-483 on Metz Rd. southeasterly across the field to pole 1-764 on Eucalyptus Rd.
- E. Tie along the westerly side of Parker Flat Cutoff from pole 1-778 at the Eucalyptus intersection to pole 41-59 located east of the Parker Flat Cutoff and Normandy Rd. intersection on Map SN 21334.
- F. Tie between pole 1-548 on North-South Rd. westerly to connect to PG&E line running along west side of North-South Rd.

Map SN 21333:

- G. Tie between Gigling Rd. along the west side of First Ave. to First St.

Map SN 21334:

- E. Continuation from Map SN 21332 along Parker Flat Cutoff.
- H. Tie along north side of Normandy Rd. from pole 1-235 to pole 41-58 on Parker Flat Cutoff.
- I. Line extension around west and north side of water tank at Sixth Ave. and Durham Rd.; starts at pole 41-34 on Durham Rd.
- J. Tie along Durham Rd. from pole 41-29 to pole 5-13.
- K. Realign feeder 6 to be along west side of Eighth Avenue from pole 6-34 to due west of pole 8-14 and then across Eighth Avenue to pole 8-14.
- L. Tie along north side of Inter-Garrison Rd. between pole 8-33 and pole 6-42.

Map SN 21335:

- M. Tie along west side of Third Ave. between pole 6-156 at Hayes Circle and new pole between poles 6-291 and 6-292 to the south.
- N. Tie from new pole interset between poles 6-120 and 6-121 on Hayes Circle to northeast corner of Gladys Stone School property, then westerly to first PG&E pole.

Map SN 21336:

- O. Tie along north side of Confinement Facility Access Rd. from pole 4-195, at the Equestrian Center, to pole 6-79 at Confinement Facility.
- P. Tie between pole 3-67 at water treatment plant and PG&E line 200 ft. north westerly
- Q. Tie between new pole interset between pole 3-142 and 3-143 and Marina city limit at Carmel Avenue extension.
- R. Tie northeasterly from pole 3-149 to Reservation Road right-of-way.
- S. Housing areas with existing underground electric - a ten foot, nonexclusive, contiguous easement adjacent to the road right-of-way along all roads in this area - for replacement of the existing backyard underground system to the street side of the buildings.

Map SN 21338 (East Garrison):

- T. Tie from pole 3-313 northerly approximately 1,100 feet to Reservation boundary as shown in a straight line.
- U. Tie from the intersection of Inter-Garrison Road and the old county road right-of-way (as shown on map). Along the north side of old county road to riser pole 3-281 northerly of Schoonover Park on Map SN 21339.
- V. Tie from pole 44-68 at East Garrison northwesterly approximately 800 feet in a straight line to Inter-Garrison Road, then follow along the north side of Inter-Garrison Road right-of-way to riser pole 8-76 located at the north side of the Inter-Garrison Road and Schoonover Road intersection.
- W. Tie from pole 44-45 southwesterly 400 feet to the Reservation boundary at the Watkins gate.

Map SN 21339:

See Map SN 21338 description for U and V.

EXHIBIT B

DESIGNATED AREA

FORIS Transportation Corridors and Additional Streets

PG&E Expense, One-Time Relocations

FOR: 100% Publicly Funded Projects

<u>Jurisdiction</u>	<u>Roadway</u>	<u>Limits</u>	<u>Width</u>
County/Marina	Imjin Road	1. 12th St. to Abrams Dr.	340'
		2. Abrams Dr. to Reservation Rd.	260'
County	Inter-Garrison Road	3. 7th Ave. to Abrams Dr.	200'
		4. Abrams Dr. to East Garrison Rd.	400'
County	Abrams Dr.	5. Imjin Rd. to Inter-Garrison Rd.	200'
Marina	2nd Ave.	6. South City limits to 12th St.	160'
Marina	8th St.	7. Inter-Garrison Rd. to 2nd Ave.	160'
Marina	10th St.	8. 1st. Ave. to 3rd Ave.	100'
Marina	Abrams Dr.	9. Imjin Rd. to Williams Court	160'
Seaside	Gigling Rd.	10. North South Rd. to 8th Ave.	140'
Seaside	Col. Durham Rd.	11. Malmedy Rd. to 8th Ave.	100'
Seaside	North South Rd.	12. Lightfighter Dr. to Coe Ave.	160'
Seaside	Eucalyptus Rd.	13. North South Rd. to East City limits	300'

Seaside	North South Rd.	14. Coe Ave. to South Boundary	300'
Seaside	2nd Ave.	15. Lightfighter Dr. to North City limits	160'
Seaside	Lightfighter Dr.	16. Star Route 1 to North South Rd.	160'
Seaside	Coe Ave.	17. Along South Boundary Fence	120'
Marina	2nd Ave.	18. From 12th St. to 8th St.	200'
Marina	California Ave.	19. North Fort Ord Boundary to 12th St.	240'
Marina	California Ave.	20. 12th St. to 8th St.	160'
Marina	10th St.	21. 3rd Ave to 12th St. (@Imjin)	140'
Marina	Rail Corridor, West	22. West of 1st Ave. to Hwy One	100'
County	Reservation Rd.	23. Blanco Rd. to Fort Ord Boundary	3 poles
County	Chapel Hill Rd.	24. Inter-Garrison Rd. to Watkins Gate Rd.	1 pole
County	Watkins Gate Rd.	25. West Camp Rd. to Barloy Cyn Rd.	1 pole

EXHIBIT C

AGREEMENT BETWEEN PACIFIC GAS & ELECTRIC COMPANY AND THE FORT ORD REUSE AUTHORITY

This Agreement is made by and between its Parties, Pacific Gas & Electric Company (PG&E), a California corporation and the Fort Ord Reuse Authority (FORA), a public corporation of the State of California organized pursuant to California Government Code Section 67650 et seq.

RECITALS

- A. Fort Ord, as defined in California Government Code Section 67655(h), is currently owned by the Department of the Army (Army) of the United States.
- B. The Army currently owns the electric and gas distribution facilities within Fort Ord.
- C. The Parties expect that in the near future the Army will transfer the ownership of the realty of Fort Ord to FORA.
- D. The Parties expect that in the near future the Army will transfer the ownership of the gas and electric distribution systems to PG&E.
- E. For PG&E to own and operate these gas and electric distribution systems, PG&E must have appropriate interest in property consistent with the interest described in this Agreement.
- F. The Army's gas and electric distribution facilities within Fort Ord require repair and reconstruction to provide reliable and safe service under the California Public Utilities Commission's (CPUC) rules and regulations.

THEREFORE, the parties mutually agree as follows:

1. Upon the receipt by FORA of perpetual, no cost, non-exclusive easements from the Army for gas and electric transmission and distribution facilities, FORA shall immediately grant and assign those easements to PG&E in the forms acceptable to PG&E. Those forms of easement are Exhibits A, B, and C, which are incorporated herein.

2. FORA and PG&E agree that the assigned easements will be non-exclusive, perpetual, and at no cost to PG&E.
3. For the distribution facilities located within the road widths of streets identified in Exhibit D, entitled Designated Area, which is based upon the FORIS Transportation Corridors Plan, PG&E will relocate those facilities once in the course of its upgrades at its expense for only 100% publicly funded projects for the period of 25 years for electric overhead facilities and 35 years for underground gas and electric facilities from the Effective Date of this Agreement. Any relocation other than provided in this paragraph will be at the requester's expense and at no expense to PG&E.
4. For all other distribution facilities located within Fort Ord but not within the Designated Area (non-Designated Area), any relocation will be at the requester's expense for 25 years for electric overhead facilities and 35 years for electric and gas underground distribution facilities, respectively, from the Effective Date of this Agreement. In no event will such relocations be at any expense to PG&E.
5. After the 25 year (electric overhead) and 35 year (electric and gas underground) periods have expired for facilities in the Designated Area and in the non-Designated Area, PG&E will relocate at its expense any distribution facilities which are adjacent to existing streets and within 15 feet of the face of curb or edge of roadway in order to accommodate 100% publicly funded projects.
6. PG&E will not object to the use of its non-exclusive gas and electric distribution and transmission easements, as long as any other use does not interfere with PG&E's use in its sole determination.
7. All relocations are to be made on a like for like basis. That is, overhead facilities will be relocated overhead and underground facilities will be relocated underground. FORA and its successors will grant non-exclusive easements for any PG&E distribution facilities which need to be relocated, otherwise PG&E will not be obligated to relocate.
8. PG&E may in the future obtain non-exclusive easements from the Army for gas and electric transmission and distribution facilities in the area known as the POM Annex. Should there be any future public/private development in that area, it shall be in accordance with PG&E's new business tariffs then filed with the CPUC.

9. For PG&E's gas and electric transmission easements, all relocation will be at the requester's expense, subject to PG&E approval.
10. PG&E will review all requests for crossing transmission easements. Proper clearances and operational/safety considerations will be the determining factors in approving a transportation route.
11. FORA and PG&E will review and coordinate utility work and development plans for Fort Ord and such review and coordination will include appropriate representatives of the cities of Marina, Seaside, and County of Monterey.
12. Undergrounding of electric overhead facilities will be subject to PG&E's Electric Rule 20 for qualified projects within the cities of Seaside, Marina and the County of Monterey (within Fort Ord territory), unless otherwise ordered by the CPUC.
13. The Agreement shall not in any way modify or alter the existing franchise fee structure (revenue based) for the cities of Seaside or Marina, or the (length of line formula) for the County of Monterey.
14. FORA agrees to take all steps necessary so that the terms and conditions of this Agreement will apply to any future annexations of Fort Ord property.
15. FORA acknowledges that its rights and obligations in the easements conveyed to PG&E will ultimately be conveyed to successor public entities. FORA agrees that its rights and obligations in the subject easements will only be conveyed to public entities and that each such conveyance shall be expressly conditioned on the successor public entities accepting the rights and obligations of FORA as described in this Agreement and the respective easements. In the event any successor public entity to FORA, public entity Grantee of FORA, or any Member of FORA contests or in any way challenges either this condition of the conveyance or the rights afforded to PG&E under this Agreement or the respective easements, FORA agrees that it will indemnify and hold PG&E harmless from the effects of such challenge, and at PG&E's option, and defend or pay PG&E's expenses in the defense of such challenge.
16. This Agreement will become effective upon final approval of the CPUC, without conditions unacceptable to either FORA or PG&E.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of F.O.R.A. this

1 day of July, 1996. F.O.R.A., acting by and through

BY: Jack D. Barlich
(signature)

Jack D. Barlich, Chairman
Fort Ord Reuse Authority

APPROVED AS TO FORM BY: Douglas Holland
(signature)

Douglas Holland, Legal Counsel
Fort Ord Reuse Authority

IN WITNESS WHEREOF, I have hereunto set my hand by authority of PG&E this

1 day of July, 1996. PG&E, acting by and through

Robert A. Stump
(signature)

Robert A. Stump, Division Manager
Central Coast Division

**EXHIBIT B - Map
Presidio of Monterey Annex
(POM Annex)**

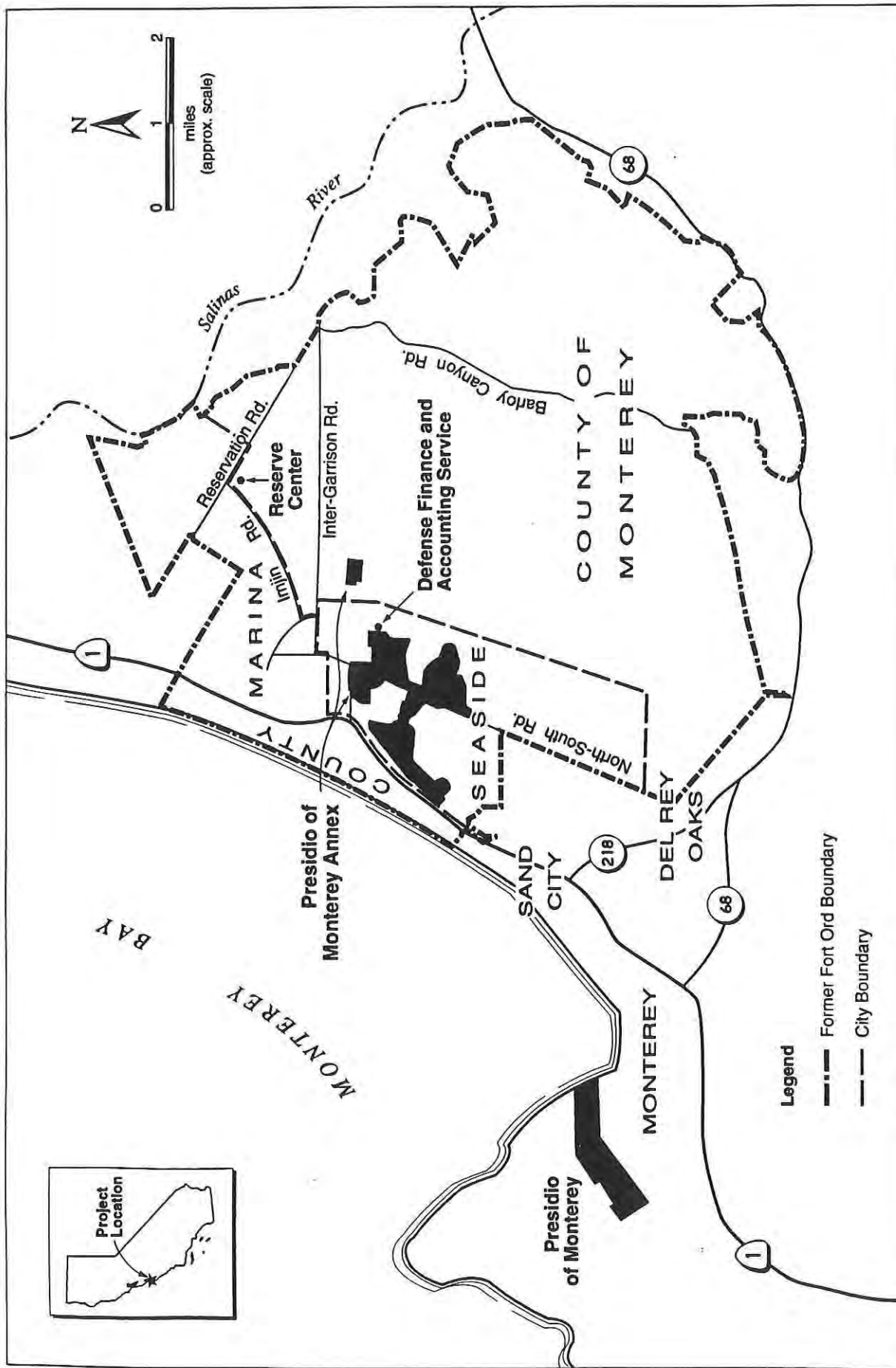
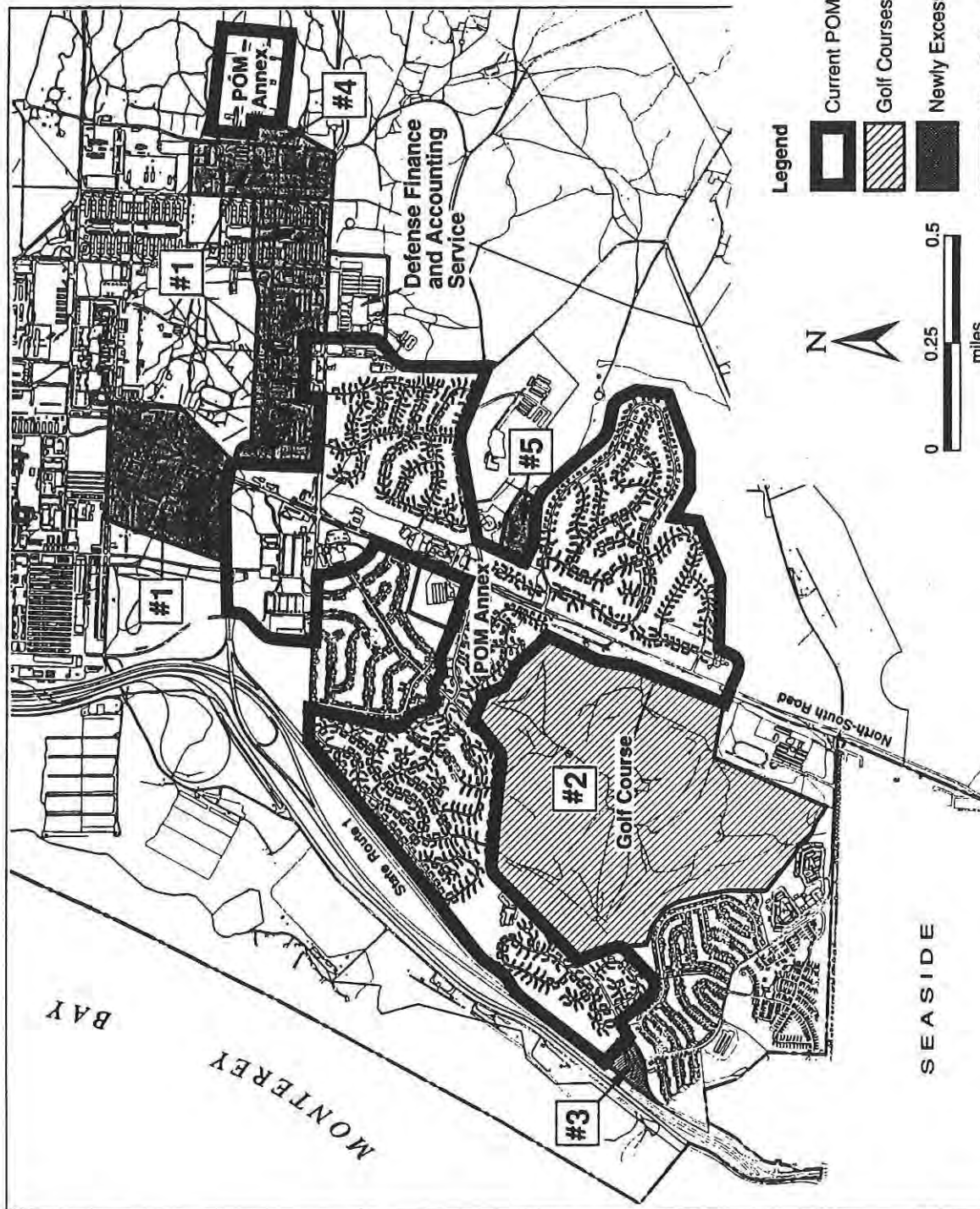


Figure 2-1
Regional Location of Presidio of Monterey
and Former Fort Ord Lands



Note: The parcel numbers for newly excessed lands in this figure correspond with parcel numbers in Table 4-1 and Appendix A.

Figure 2-2
Changes to the
Presidio of Monterey Annex

Attach to LD: 2215-01-10057
Area 3, Central Coast Region
Land Service Office: Salinas
Line of Business: Electric Distribution (43), Gas Transmission (52)
Business Doc Type: Agreements
MTRSQ: 22.15.01.01.44, 22.14.01.36.33
FERC License Number: N/A
PG&E Drawing Number: A
Plat No.: H0508(E), 3897-B06(G)
LD of Affected Documents: N/A
LD of Cross Referenced Documents: 2214-02-0474, 2214-01-10010, 2214-01-10011
Type of interest: Consent to Common Use (62), Joint Use Agreements (11J)
SBE Parcel: N/A
% Being Quitclaimed: N/A
Order or PM: 35370047 2200 / 35435465 5305
JCN: N/A
County: Monterey
Utility Notice Number: N/A
851 Approval Application No: ;Decision: N/A
Prepared By: BFF3
Checked By: KECE
Approved By: JQW3 10/3/2024

October 11, 2024

Item No. **10g(3)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of October 15, 2024

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2024-,
AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN
AGREEMENT WITH PACIFIC GAS & ELECTRIC FOR JOINT USE OF RIGHTS
OF WAY AND EASEMENTS RELATED TO THE UNDERGROUNDING OF
CERTAIN UTILITIES WITHIN THE PROJECT BY SHEA HOMES LIMITED
PARTNERSHIP SHOWN ON “TRACT 1566 THE DUNES ON MONTEREY BAY
PHASE 2 WEST” IN THE VICINITY OF 1ST AVENUE BETWEEN 8TH STREET
AND 6TH STREET, CITY OF MARINA, SUBJECT TO REVIEW AND
APPROVAL BY THE CITY ATTORNEY.**

RECOMMENDATION: It is recommended that the City Council consider:

1. Adopting Resolution No. 2024-, authorizing the City Manager to negotiate and execute an agreement with Pacific Gas & Electric for joint use of rights of way and easements related to the undergrounding of certain utilities within the project by Shea Homes Limited Partnership shown on “Tract 1566 The Dunes On Monterey Bay Phase 2 West” in the vicinity of 1st Avenue between 8th Street and 6th Street, City of Marina, subject to review and approval by the City Attorney.

BACKGROUND:

At the regular meeting of November 21, 2023, the City Council adopted Resolution No. 2023-123, approving the Phase 2 West/Residential Final Map for the Dunes on Monterey Bay Development Project Subdivision. This map included the establishment of right of way and utility easements for proposed infrastructure servicing residential development.

ANALYSIS:

All existing underground gas and overhead electrical facilities within Fort Ord were transferred to PG&E from the US Army and the Fort Ord Reuse Authority between 1996 and 1997. Since then, improvement plans associated with Phase 2 West Residential Development included the relocation and undergrounding of overhead PG&E facilities from their current alignment.

In order to relocate these facilities from their existing easement into the City right-of-way, PG&E is requiring a Joint Use Agreement between the City and PG&E to establish responsibilities of each agency once the facilities are relocated and for any future relocations if needed by the City or PG&E.

The intended right-of-way area/area of joint use through City properties are in substantial conformance with the tentative map as amended as well as the project Specific Plan. With these findings, staff is recommending moving forward with negotiating and executing an agreement with PG&E to accomplish the relocation and undergrounding of utilities.

FISCAL IMPACT:

There is no fiscal impact should the City Council approve this request. Relocation of utilities into the right-of-way will be funded by the Developer.

CEQA Findings:

The right-of-way designation and use thereof for undergrounding of utilities is consistent with the certified Environmental Impact Report (EIR) (SCH No. 2004091167). Section 15162, Paragraph C of the CEQA Guidelines states that if an EIR or negative declaration has been adopted for a project, no subsequent EIR is to be prepared unless there have been substantial changes to the project.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Edrie Delos Santos, P.E.
Public Works Department
City of Marina

REVIEWED/CONCUR:

Nourdin Khayata, P.E.
Interim Public Works Director/City Engineer
City of Marina

Layne P. Long
City Manager
City of Marina