

**MEMORANDUM OF AGREEMENT BETWEEN THE
TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND
THE STATE OF CALIFORNIA (DEPARTMENT OF PARKS AND RECREATION)
REGARDING UTILITY AND PROPERTY ACCESS
AT THE
FORT ORD DUNES STATE PARK
(First Street Undercrossing)**

WHEREAS, the Transportation Agency for Monterey County (TAMC) and the State of California, by and through the California Department of Parks and Recreation (State Parks) have a cooperative working relationship for park project planning, development, implementation, and maintenance within Monterey County; and

WHEREAS, State Parks has ownership of certain property located west of State Highway 1 and consisting, commonly known as the Fort Ord Dunes State Park; and

WHEREAS, in 2003, TAMC purchased the entire Monterey Branch Line right-of-way from Union Pacific Railroad for the purpose of developing a mass transportation/intercity rail service in the 16-mile corridor reaching from the City of Monterey to the community of Castroville on tracks running roughly adjacent to State Highway 1; and

WHEREAS, part of the Monterey Branch Line right-of-way acquired by TAMC included an undercrossing, located north of the Lightfighter Drive and State Highway 1 interchange, under State Highway 1 between First Street to the east and Beach Range Road to the west (hereinafter, "First Street Undercrossing"), adjacent to the boundaries of the Fort Ord Dunes State Park; and

WHEREAS, State Parks proposes to construct the Fort Ord Dunes State Park Campground and Beach Access Project (Campground Project) at the Fort Ord Dunes State Park; and

WHEREAS, State Parks did not acquire a utility easement across that portion of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way when it obtained the Fort Ord Dunes State Park; and

WHEREAS, a Vicinity Map of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way is shown on Exhibit A; and

WHEREAS, a more detailed representation of that portion of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way is shown on Exhibit B; and

WHEREAS, State Parks proposes to construct utilities and provide access to the Campground Project within State Parks Property through the First Street undercrossing; and

WHEREAS, State Parks will require a permanent non-exclusive easement for multiple utilities and an encroachment permit across that portion of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way; and

WHEREAS, TAMC has ownership of the that portion of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way located adjacent to the Fort Ord Dunes State Park property; and

WHEREAS, State Parks is constructing improvements to the Fort Ord Dunes State Park and along Beach Range Road as part of the Campground Project; and

WHEREAS, State Parks desires to obtain a permanent non-exclusive easement for multiple utilities and an encroachment permit prior to the start of construction to provide assurances State Parks Administration and other agencies that the proposed Campground Project is ready to proceed to construction; and

WHEREAS, TAMC desires assurances that State Parks, based on terms agreeable to both agencies, will provide for necessary easements, encroachment rights and public access through the Fort Ord Dunes Park property at such time that TAMC starts, pre-construction, construction, maintenance, operations and public access to, improvements for proposed Monterey Branch Line rail, busway, and bikeway projects; and

WHEREAS, TAMC and State Parks recognize and agree that there are shared interests in accommodating the needs of both agencies as detailed herein;

NOW, THEREFORE, the parties hereto acknowledge and agree as follows:

1. Subject to the terms and conditions set forth therein, TAMC will issue all necessary temporary and permanent non-exclusive easements and encroachment permits for utilities across that portion of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way and more particularly described in a written deed with legal description and map, within a reasonable timeframe, to allow State Parks to construct, maintain and operate State Park support facilities for the Fort Ord Dunes State Park Campground and Beach Access Project.
2. Within 10 business days of receipt of State Parks' approval and execution of this Memorandum of Agreement, TAMC will convey to the State a permanent non-exclusive easement for multiple utilities across that portion of the First Street Undercrossing within the TAMC Monterey Branch Line rail right-of-way, as shown on Exhibit C, attached hereto.
3. TAMC and State Parks each agrees that the consideration for this easement to be conveyed and the compensation to be paid by State Parks for this easement is Nine Hundred Twenty-Two Dollars (\$922.00).

4. Each Party shall use its best efforts to cooperate with each other, and third parties, to eliminate obstacles to accommodating the needs of both Parties with respect to the use of the Monterey Branch Line and the Fort Ord Dunes State Park and Beach. The Parties shall designate appropriate staff to confer, as needed, to facilitate this effort.
5. This Agreement has been arrived at through good faith negotiation between the Parties; each Party waives the provisions of Civil Code Section 1654 concerning the interpretation of this Agreement.
6. Time is of the essence in this Agreement. Each party hereto shall act in good faith to expeditiously carry out each party's respective obligations under this Agreement.
7. No amendment to, or modification of, this Agreement shall be valid or enforceable unless set forth in writing and signed by each of the Parties hereto.
8. This Agreement may be executed in one or more counterparts, each of which is deemed to be an original hereof, and all of which shall together constitute one and the same instrument.
9. This Agreement contains the entire agreement of the Parties and supersedes all prior agreements, negotiations, or representations with respect to the Property which are not expressly set forth herein.
10. This Agreement shall take effect only upon execution by both the parties hereto.

In witness whereof, the parties hereto have executed this Agreement as set forth below:

Transportation Agency for Monterey County

Debra L. Hale
Executive Director

Date

Approved as to Form

Katherine Hansen
Transportation Agency Counsel

Date

California State Parks

Brent Marshall
Monterey District Superintendent
California Department of Parks and Recreation

Date

LIST OF EXHIBITS

- EXHIBIT A: FIRST STREET UNDERCROSSING VICINITY MAP**
- EXHIBIT B: FIRST STREET UNDERCROSSING PLAT MAP**
- EXHIBIT C: TAMC NON-EXCLUSIVE EASEMENT TO STATE PARKS**

EXHIBIT A
FIRST STREET UNDERCROSSING
VICINITY MAP



FIRST STREET
UNDERCROSSING

TAMC
BALLOON SPUR

EXHIBIT B

PLAT TO ACCOMPANY

 **DRAFT**



FORT ORD DUNES STATE PARK

DOC. #XXXXXXXXX OR

N74°27'36"W
60.70'

S60°32'26"W
50.84'

POR. UNDERCROSSING A
PER DOC. #2009010456 OR

N18°59'53"W
61.01'

EXISTING PAVEMENT

0.19 ACRES

STATE HIGHWAY 1
WEST RIGHT OF WAY

POR. RAILROAD
RIGHT OF WAY
PER 19 S 138

POB
UNDERCROSSING A
PER DOC. #2009010456 OR

N CORNER
20.09 ACRE PARCEL
PER 19 S 138
AND POINT "AA"
PER DOC. #2009010456 OR



File: H:\Data\SHARED\SURV_OWN\FORT ORD DUNES SP\2019 RW Research\Exhibits\TAMC\PUES.dwg Layout: Layout1 Date: March 13 2020 - 10:55 am User: sguay


DATE 3/13/20	 OF 	TAMC	 ACQUISITION & REAL PROPERTY SERVICES One Capitol Mall Sacramento, CA 95814-3229
DRAWN SG		NON-EXCLUSIVE UTILITY EASEMENT	
CHECKED		COUNTY OF MONTEREY	

EXHIBIT C

Legal Description

A portion of the real property located in the former Fort Ord Military Reservation, in Rancho Noche Buena, County of Monterey, conveyed to the Transportation Agency for Monterey County by Document No. XXXXXXXXXXXX of Official Records recorded in the Office of the Recorder of Monterey County, State of California being a portion of "Undercrossing A" as described in Doc. #2009010456 of Official Records and also being a portion of the Railroad Right of Way as shown on the Record of Survey filed in Volume 19 of Surveys at Page 138 also on file in said Office of the Recorder, described as follows:

Beginning at the Point of Beginning of said "Undercrossing A";

Thence along said "Undercrossing A" the following two courses and distances:

- 1.) North 25° 32' 23" East a distance of 71.29 feet and
- 2.) North 60° 32' 26" East a distance of 50.84 feet to the west right of way of Highway 1, thence along said west right of way and across said "Undercrossing A", North 18° 59' 53" West a distance of 61.01 feet, thence along said "Undercrossing A" the following three courses and distances:

- 1.) South 60° 32' 26" West a distance of 50.84 feet,
- 2.) North 74° 27' 36" West a distance of 60.70 feet and
- 3.) South 18° 59' 53" East a distance of 146.24 feet to the Point of Beginning.

CONTAINING 0.19 Acres, more or less.

The basis of bearings for this description is said Record of Survey.

See the Plat attached hereto and made a part hereof.

End of description.

Stephen Guay, PLS 8277

Date

 **DRAFT**

ATTACHMENT A
 PLAT TO ACCOMPANY

 **DRAFT**



FORT ORD DUNES
 STATE PARK

DOC. #XXXXXXXXX OR

N74°27'36"W
 60.70'

S60°32'26"W
 50.84'

POR. UNDERCROSSING A
 PER DOC. #2009010456 OR

N18°59'53"W
 61.01'

EXISTING
 PAVEMENT

0.19 ACRES

STATE HIGHWAY 1
 WEST RIGHT OF WAY

POR. RAILROAD
 RIGHT OF WAY
 PER 19 S 138

POB
 UNDERCROSSING A
 PER DOC. #2009010456 OR

N CORNER
 20.09 ACRE PARCEL
 PER 19 S 138
 AND POINT "AA"
 PER DOC. #2009010456 OR

S18°59'53"E 148.24'


N25°32'23"E
 71.29'

N60°32'26"E
 50.84'

S18°59'53"E 111.83'



File: H:\Data\SHARED\SURV_OWN\FORT ORD DUNES SP\2019 RW Research\Exhibits\TAMC\PUES.dwg Layout: Layout1 Date: March 13 2020 - 10:55 am User: sguay

DATE 3/13/20	 OF 	TAMC	 ACQUISITION & REAL PROPERTY SERVICES One Capitol Mall Sacramento, CA 95814-3229
DRAWN SG		NON-EXCLUSIVE UTILITY EASEMENT	
CHECKED		COUNTY OF MONTEREY	