



FORT ORD REUSE AUTHORITY

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) ADMINISTRATIVE COMMITTEE

Wednesday, December 18, 2019 at 8:30 a.m.

920 2nd Avenue, Suite A, Marina, CA 93933 (FORA Conference Room)

AGENDA

1. CALL TO ORDER/ESTABLISHMENT OF QUORUM

2. PLEDGE OF ALLEGIANCE

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

4. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

5. APPROVAL OF MEETING MINUTES

ACTION

- a. December 4, 2019 Meeting Minutes

6. DECEMBER 13, 2019 BOARD MEETING FOLLOW-UP

- Bond Issuance Status Report
- Marina Coast Water District ("MCWD") Budget

7. BUSINESS ITEMS

INFORMATION/ACTION

- a. ESCA Long Term Obligation Management Program Update
 - i. Follow up on Draft February 5th Initial ESCA Long Term Obligation Management Program Meeting Invitation
 - ii. 2019 Fort Ord Annual Land Use Control Report status
- b. Habitat Conservation Plan Update
 - i. Draft Habitat Conservation Plan
 - ii. Joint Powers Authority Formation
- c. 2018 Transition Plan Status
 - i. 2020 Committee Meeting Schedule

8. ITEMS FROM MEMBERS

INFORMATION

Receive communication from Committee members as it pertains to future agenda items.

9. ADJOURNMENT

NEXT MEETING: TBD

Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at www.fora.org.



FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE MEETING MINUTES
8:30 a.m., Wednesday December 4, 2019 | FORA Conference Room
920nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Chair Dino Pick called the meeting to order at 8:31 a.m.

The following were present:

Dino Pick* (City of Del Rey Oaks)
Anya Spear (CSUMB)
Patrick Breen (MCWD)
Layne Long* (City of Marina)
Todd Muck (TAMC)
Craig Malin* (City of Seaside)

Jonathan Brinkmann (LAFCO)
Melanie Beretti* (County of Monterey)
Elizabeth Caraker* (City of Monterey)
Steve Matarazzo (UCMBEST)
Vicki Nakamura (MPC)
*Voting member

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City of Monterey Community Development Department Manager Elizabeth Caraker.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

- Senior Program Manager Stan Cook provided the Administrative Committee (“AC”) with an Environmental Services Cooperative Agreement (“ESCA”) draft Long-Term Obligation Management Program meeting calendar. Mr. Cook requested the AC review the draft schedule and return to the December 18, 2019 meeting with feedback and confirm management personnel attendance for the first scheduled meeting on February 5, 2020.
- Executive Officer Michael Houlemard reported staff and colleagues traveled to Washington, D.C. two weeks prior and met with the US Army regarding the future transfer of ESCA long-term obligations, as well as how economic development conveyance may be impacted.

4. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Administrative Committee on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes.

No public comments were received.

5. APPROVAL OF MEETING MINUTES

ACTION

a. November 13, 2019 Meeting Minutes

MOTION: On motion by Committee member Malin, second by Committee member Beretti and carried by the following vote, the Administrative Committee moved to approve the November 13, 2019 meeting minutes.

MOTION PASSED UNANIMOUSLY

6. DECEMBER 13, 2019 BOARD MEETING AGENDA REVIEW

Assistant Executive Officer Josh Metz reviewed the items proposed to appear on the draft Board agenda for December 13, 2019. Mr. Houlemard noted that the Executive Committee will likely approve adding LAFCO Indemnification Agreement as a Consent Item.

7. BUSINESS ITEMS

INFORMATION/ACTION

a. Habitat Conservation Plan Update

Mr. Metz reported the November 20, 2019 public review meeting's main focus was the Environmental Impact Survey/Environmental Impact Report ("EIS/EIR") and noted public comment period ends December 16, 2019. At the November 20th "all permittees" meeting Mr. Metz reported jurisdictions raised concerns regarding funding and legal liability associated with Joint Powers Authority ("JPA") formation. He stated staff continues to work with the Habitat Conservation Plan ("HCP") consultant team to address these questions and have scheduled follow-up meetings on December 11, 2019 with the County of Monterey and Cities of Seaside and Marina to clarify financial aspects of JPA. Mr. Metz emphasized that FORA will no longer be in place to facilitate these discussions after its June 30, 2020 sunset and encouraged permittees to designate a lead agency to coordinate the JPA and HCP administration.

i. Draft Habitat Conservation Plan

Denise Duffy & Associates consultant Erin Harwayne provided a review of information presented at the November 20th "all permittees" meeting, and public meeting. Ms. Harwayne stated FORA, as lead California Environmental Quality Act agency, must certify the EIR prior to June 30, 2020 in order to be used by jurisdictions for Incidental Take Permits going forward. If the EIR is not certified by FORA by that time each jurisdiction will be responsible for performing its own EIS/EIR at the jurisdiction's expense. Mr. Metz emphasized it is much easier to amend existing EIS/EIR than to create new ones and regardless of whether the JPA, is formed the certified EIR would be a valuable document to the entire region. Ms. Harwayne and Mr. Metz responded to questions from members and public.

ii. Joint Powers Authority Formation

Mr. Metz introduced the item and noted that jurisdictions have expressed concern regarding two aspects of JPA formation: legal liability and financial feasibility. He reported the consultant team is developing a comparative analysis of FORA's HCP and other California HCPs, focusing on start-up costs, operating costs and administration methods. Regional Government Services consultant Kendall Flint and Economic Planning Systems consultants will review "legal" issues, initial costs and how JPA formation may be affected by development pace at the December 11th meetings with the County of Monterey, City of Marina, and City of Seaside. Ms. Flint emphasized that a lead jurisdiction must be identified as soon as possible and begin scheduling weekly JPA formation meetings no later than January 2020 in order to meet the April 1, 2020 deadline established in the Base Reuse Plan. FORA will not be setting these meetings; however, staff and consultant team are available to facilitate. Ms. Flint stated a list of JPA formation questions submitted by Monterey County, Seaside, and Marina are being compiled for discussion and encouraged all to submit questions. Staff and consultants answered additional questions from members and public.

**Chair Dino Pick of Del Rey Oaks requested a Habitat Management Plan ("HMP") and HCP cost-benefit analysis by jurisdiction. Ms. Flint stated EPS would provide this information at the December 11th meeting.*

**Committee member Melanie Beretti of Monterey County requested a copy of the current list of questions and Ms. Flint stated she would provide the list attached to the meeting invitation.*

**Mr. Houlemard noted FORA staff and Ms. Flint's assistance in JPA formation is included in FORA's budget. He reported Board members approve JPA formation due to consolidation of jurisdictional efforts and FORA is prepared to incur costs of assisting JPA formation, including legal counsel and consultant fees.*

b. 2018 Transition Plan Status

Ms. Flint gave a brief status update noting to date she has not received back any questions, details, legal opinions from the proposed signatories. Ms. Flint encouraged all Permittees' counsels review the agreement and submit any final comments/concerns so that a final Transition Planning Implementing Agreement can be adopted by the respective counsels between January and February of 2020. Ms. Flint and staff responded to questions from members and public.

i. 2020 Proposed Meeting Schedule

Mr. Metz introduced the item and Mr. Houlemard noted the FORA Administrative Committee meets twice a month, on the Wednesday one week prior to the FORA Board meeting and on the Wednesday following the Board Meeting. This item will be brought back to the Administrative Committee for approval/adoption on December 18, 2019. Staff responded to questions and comments from the Committee.

c. Eucalyptus Road Storm Water Infiltrator Repair

Senior Project Manager Peter Said provided background regarding the Eucalyptus Road storm water infiltrator repair project and noted the proposed Construction Management Plan has been approved by Department of Toxic Substances Control and US Army. Environmental Protection Agency approval is expected by year end. Mr. Said reported engineering consultants decreased the project's scope by developing a solution to replace the five failing storm water infiltrators with three storm water basins. Mr. Said stated construction is expected to begin February 2020 and noted this is the only Capital Improvement Plan project that is repair rather than roadway construction or mitigations. He stated staff will bring this information to the Board to request approval to solicit bids and award necessary contracts in order to complete construction by May 2020. Mr. Said responded to questions from the members and the public.

d. Marina Coast Water District Capacity Fees and Water/Wastewater Oversight Committee

Mr. Said reported the Water/Wastewater Oversight Committee ("WWOC") met on December 2, 2019 and reviewed Marina Coast Water District ("MCWD") 10-year master plans, which are the basis for the capacity fees. The Committee approved the master plan on the condition MCWD hold a technical engineer's meeting with the development community to refine the plans. At the technical meeting, MCWD decreased the scope in the master plans which reduced the proposed fees by \$13M. The WWOC has been reviewing the capacity fees since June 2019, and the documents have been available for public review for the last six months. The development community has strong concerns about the methodology and the planning level contingency of 48%. Mr. Said advised the Committee the Building Industry Association submitted letters outlining the development communities' position. The WWOC reviewed the increase in fees, and noted that the increase includes a Community Facilities District ("CFD") replacement for the FORA CFD. The FORA CFD currently collects a certain amount of money to pay for water augmentation. MCWD will need to collect the same amount, the way they will collect the funds is through the capacity fees. In addition, it includes cost indexing as the

capacity fee from 2013 has not been indexed. In reviewing those components, there is a significant increase in the fees of about 45%. After viewing these documents for a number of months the WWOC approved to recommend the Draft Capacity Fees to the FORA Board, with the caveat that if a 10% or more reduction occurs within the next two months from another technical meeting between MCWD and the developer community, the WWOC would support the reduction. Mr. Said responded to questions and comments from the committee and public.

8. ITEMS FROM MEMBERS

None.

9. ADJOURNMENT at: 9:30 a.m.

Minutes Prepared By:
Heidi Gaddy
Deputy Clerk

Natalie Van Fleet
Administrative Assistant

DRAFT



Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.
Acting Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

December 10, 2019

Stan Cook
Fort Ord Reuse Authority
920 2nd Avenue, Suite A
Marina, California 93933
Stan@fora.org

Ric Encarnacion
County of Monterey Department of Health
1270 Natividad Rd.
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DRAFT MODIFICATION OF THE MEMORANDUM OF AGREEMENT:

MODIFICATION OF THE MEMORANDUM OF AGREEMENT AMONG THE FORT ORD REUSE AUTHORITY, MONTEREY COUNTY AND CITIES OF SEASIDE, MONTEREY, DEL REY OAKS AND MARINA, CALIFORNIA STATE UNIVERSITY MONTEREY BAY, UNIVERSITY OF CALIFORNIA SANTA CRUZ, MONTEREY PENINSULA COLLEGE, AND THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL CONCERNING MONITORING AND REPORTING ON ENVIRONMENTAL RESTRICTIONS ON THE FORMER FORT ORD, MONTEREY COUNTY, CALIFORNIA (HEREINAFTER REFERRED TO AS "AGREEMENT")

Dear Mr. Cook and Mr. Encarnacion:

The Department of Toxic Substances Control ("Department") and the Fort Ord Reuse Authority ("FORA"), Monterey County (County), the City of Seaside ("Seaside"), the City of Monterey ("Monterey"), the City of Del Rey Oaks ("Del Rey Oaks"), the City of Marina ("Marina"), California Sates University Monterey Bay ("CSUMB"), University of California Santa Cruz ("UCSC"), and Monterey Peninsula College ("MPC") entered into a Memorandum of Agreement ("Agreement") pursuant to Health and Safety Code section 25355.5 (a)(1)(c) on or about February 27, 2008. The cities, County, CSUMB, UCSC, and MPC are collectively referred to as "jurisdictions." Section 2.3 of the Agreement requires that FORA, and after FORA ceases to exist, the County submit an Annual Report to the Department by September 1 of each year. The Department, FORA and the jurisdictions agree to move the due date for submitting the Annual Report to the Department from September 1 of each year, to December 1 of each year. The additional time will allow the

jurisdictions to acquire and compile the information required by the Agreement and by the various Land Use Controls Implementation Plans/Operation and Maintenance Plans (LUCIP/OMP), and to consolidate and present the information in one Annual Report.

Background

In 1990, Fort Ord was listed on the National Priorities List (Superfund). The entire property is undergoing, or has undergone remediation, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Land use covenants are required under state law for any properties having remnant hazardous materials. Covenants are placed on such properties being transferred from the federal government to a subsequent owner. The land use covenants on the property transferred to FORA under a Finding of Suitability for Early Transfer required annual reporting to the Department. The annual report is described in the Agreement.

The Agreement was signed by the Department, FORA and all the jurisdictions between November 15, 2007 and February 27, 2008. The Agreement requires the jurisdictions to monitor compliance with all Covenants to Restrict Use of Property (CRUP), including those imposed after the Agreement was executed, for all property on the former Fort Ord, except Fort Ord Dunes State Park, which was transferred to the State of California Department of Parks and Recreation. The Department requires the jurisdictions to report to FORA or the County concerning their compliance with all recorded CRUPs within their jurisdiction. The Agreement further requires FORA or the County to compile data in the jurisdiction report and transmit those data in a report to DTSC.

Each annual report required in the Agreement covers the twelve-month period starting from July 1 to June 30 of the following year. Section 2.3 of the Agreement includes the following statements:

"No later than September 1 of each year, FORA agrees to submit a report to the Department describing compliance with each of the prohibited activities and uses listed in the covenants. The County agrees to submit this report when FORA ceases to exist."

As FORA completes the CERCLA remediation on each Munitions Response Area (MRA), the remedy includes various land use controls (LUC) which include annual reporting requirements. The LUCs are documented in LUCIP/OMPs. Section 4.7.2 of the LUCIP/OMPs includes the statement:

"...The existing MOA with DTSC Annual LUC Report Outline has been expanded to include and fulfill the requirements in this LUCIP/OMP (Appendix J). Annual LUC monitoring reports cover the period from July 1 to June 30 of each year. [*The applicable jurisdictions*] will submit annual LUC monitoring reports to FORA by September 1 of each year (within 60 days). FORA will compile the annual LUC monitoring reports and submit them to the Army, EPA, and DTSC in annual LUC status reports within 90 days following receipt of reports from [*the applicable jurisdiction(s)*]."

The italicized words list the jurisdictions receiving property during the transfer of each MRA listed in the various LUCIP/OMPs.

Beginning with the 2019 Annual Report, the County is responsible for compiling and submitting the Annual LUC monitoring reports to the EPA and DTSC. The County is also responsible for preparation and submittal of annual MEC letter reports to the EPA and the Department summarizing any MEC found and changes in site conditions that could increase the possibility of encountering MEC; the submittal of the annual LUC status report satisfies this requirement. The annual LUC status reports will also be provided to the Army for inclusion in the five-year reviews.

Agreement Modification

The LUCIP/OMPs expand the MOA report outline to include reporting requirements of institutional controls listed in the LUCIP/OMPs. The additional requirements take additional time to acquire and compile. To accommodate the processing of the annual report, DTSC proposes modification of the Agreement Section 2.3 to extend the due date of the annual report from no later than September 1, to no later than December 1. Section 3.12 of the MOA includes the following statement:

"In addition to modification as provided elsewhere in this Agreement, this Agreement may only be modified or terminated by mutual written agreement of the parties at any time."

Please have the authorized person from the subsequently listed organizations print and sign their name in the appropriate signature block in the attached agreement to modify the Agreement. DTSC will send you a copy of the agreement modification with all the signatures after all the signatures are compiled.

If you have any questions, please contact me at noel.shrum@dtsc.ca.gov, or (916) 255-3728.

Sincerely,



Noel Shrum
Unit Chief
Military and Corrective Action Unit
Cleanup Program – Sacramento Office
Department of Toxic Substances Control

cc: See next page.

cc: (Via email)

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MODIFICATION OF THE MEMORANDUM OF AGREEMENT AMONG THE
FORT ORD REUSE AUTHORITY, MONTEREY COUNTY AND CITIES OF SEASIDE, MONTEREY, DEL REY
OAKS AND MARINA, CALIFORNIA STATE UNIVERSITY MONTEREY BAY, UNIVERSITY OF CALIFORNIA
SANTA CRUZ, MONTEREY PENINSULA COLLEGE, AND THE DEPARTMENT OF TOXIC SUBSTANCES
CONTROL CONCERNING MONITORING AND REPORTING ON ENVIRONMENTAL RESTRICTIONS ON THE
FORMER FORT ORD, MONTEREY COUNTY, CALIFORNIA

The due date of the annual report will be changed from no later than September 1 to no later than December 1.
The first sentence of Section 2.3 is changed to the following:

Section 2.3 Annual Report

"No later than December 1 of each year, the County of Monterey agrees to submit a report to
the Department describing compliance with each of the prohibited activities and uses listed in
the covenants."

IN WITNESS WHEREOF, the authorized representatives below have executed this modification to the
Memorandum of Agreement among Fort Ord Reuse Authority, the County of Monterey, and the Cities of Seaside,
Monterey, Del Rey Oaks and Marina, the California State University Monterey Bay, the University of California
Santa Cruz, the Monterey Peninsula College, and the Department of Toxic Substances Control concerning the
due date for the annual report on the dates set forth below at Sacramento, California.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Charlie Ridenour
Branch Chief
Cleanup Program – Sacramento
Department of Toxic Substances Control

Date

FORT ORD REUSE AUTHORITY

Print Name
(Executive Officer)
Marina, California 93933
COUNTY OF MONTEREY

Signature

Date

Print Name
(Chair, Board of Supervisors)
Salinas, California 93901

Signature

Date

CITY OF SEASIDE

Print Name
(City Manager)
Seaside, California 93933

Signature

Date

CITY OF MONTEREY

Print Name
(City Manager)
Monterey, California 93940

Signature

Date

CITY OF DEL OAKS

Print Name
(City Manager)
Del Rey Oaks, California 93940

Signature

Date

CITY OF MARINA

Print Name
(City Manager)
Marina, California 93933

Signature

Date

UNIVERSITY OF CALIFORNIA SANTA CRUZ

Print Name
(Chancellor)
Santa Cruz, California 95064

Signature

Date

CALIFORNIA STATE UNIVERSITY MONTEREY BAY

Print Name

(Vice President of Administration and Finance)
Seaside, California 93955

Signature

Date

MONTEREY PENINSULA COLLEGE

Print Name

(Superintendent / President)
Monterey, California 93940

Signature

Date



FORT ORD REUSE AUTHORITY

920 2nd Avenue, Suite A, Marina, CA 93933

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2020 FORA ADMINISTRATIVE COMMITTEE MEETING SCHEDULE

January 2

January 15

February 5

February 19

March 4

March 18

April 1

April 15

April 29

May 13

June 3

June 17

The FORA Administrative Committee meets twice a month, on the Wednesday one week prior to the Board meeting and on the Wednesday following the Board meeting. The dates **in bold** above are the meetings that occur prior to the Board meeting, at which the Committee will review items for the upcoming Board agenda. Meetings begin at 8:30 a.m. in the FORA Conference room, unless otherwise posted.

Meeting dates and times are subject to change. Agendas and other meeting materials are posted on the FORA website www.fora.org and are available upon request.