



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) ADMINISTRATIVE COMMITTEE
Wednesday, April 1, 2020 at 8:30 a.m.
AGENDA

This meeting may only be accessed remotely using the following Zoom link:
<https://zoom.us/j/956115894>

Please review FORA's updated meeting protocol and remote meeting best practices here:
https://fora.org/remote_meetings_protocols

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. Due to the [Governors Stay at Home Order](#) and recent [Executive Order related to Public Meetings Protocols](#), all FORA Meetings will now be conducted via Zoom. Public comments should be emailed to board@fora.org. Thank for your patience and understanding during these unprecedented times.

5. APPROVAL OF MEETING MINUTES ACTION
 - a. March 6, 2020 Special Meeting Minutes
6. April 9, 2020 BOARD MEETING AGENDA REVIEW INFORMATION
7. ITEMS FROM MEMBERS INFORMATION

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

NEXT REGULAR MEETING: Wednesday, April 15, 2020 at 8:30 a.m.



FORT ORD REUSE AUTHORITY
SPECIAL ADMINISTRATIVE COMMITTEE MEETING MINUTES
Friday, March 6, 2020 at 12:00 p.m. | FORA Conference Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Joshua Metz called the meeting to order at 8:30 a.m.

The following members were present:

Melanie Beretti* (County of Monterey)
Mike Zeller (TAMC)
Layne Long* (City of Marina)
Craig Malin* (City of Seaside)
Patrick Breen (MCWD)
Lisa Rheinheimer (MST)
*Voting Member

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City of Seaside City Manager Craig Malin.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

- Executive Officer Joshua Metz noted the Board received a letter from the Monterey County Resource Management Agency regarding the County's request for reallocation of bond proceeds.

4. PUBLIC COMMENT PERIOD

Public comment was received.

5. BUSINESS ITEMS

INFORMATION/ACTION

a. Building Removal Bond Proceeds Distribution

Mr. Metz reviewed the item and stated the Committee is to provide a recommendation to the Board regarding modifications to the proposed building removal bond proceeds distribution. Committee member Beretti discussed the County's proposed changes to the building removal bond distribution and the Committee engaged in robust discussion.

MOTION: On motion by Committee member Malin, seconded by Committee member Beretti, and approved by the following vote, the Administrative Committee moved to accept the County's proposal, contingent on the County not filing an answer to the bond validation action.

MOTION WITHDRAWN

After further discussion, Committee members agreed to take this information for review by counsel and return to the March 11, 2020 Special Administrative Committee meeting to consider making a recommendation for the March 20, 2020 Special Board Meeting.

6. ITEMS FROM MEMBERS

None.

7. ADJOURNMENT at 12:37 p.m.

Minutes Prepared By:
Natalie Van Fleet



FORT ORD REUSE AUTHORITY

REGULAR MEETING FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS Thursday, April 9, 2020 at 2:00 p.m.

AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON APRIL 8, 2020.

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1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE *(If able, please stand)*

3. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, one potential case

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

6. ROLL CALL

FORA is governed by 13 voting members: (a) 1 member appointed by the City of Carmel; (b) 1 member appointed by the City of Del Rey Oaks; (c) 2 members appointed by the City of Marina; (d) 1 member appointed by Sand City; (e) 1 member appointed by the City of Monterey; (f) 1 member appointed by the City of Pacific Grove; (g) 1 member appointed by the City of Salinas; (h) 2 members appointed by the City of Seaside; and (i) 3 members appointed by Monterey County. The Board also includes 12 ex-officio non-voting members.

7. CONSENT AGENDA

INFORMATION/ACTION

CONSENT AGENDA consists of routine information or action items accompanied by staff recommendation. Information has been provided to the FORA Board on all Consent Agenda matters. The Consent Agenda items are normally approved by one motion unless a Board member or the public request discussion or a separate vote. Prior to a motion, any member of the public or the Board may ask a question or make comment about an agenda item and staff will provide a response. If discussion is requested, that item will be removed from the Consent Agenda and be considered separately at the end of the Consent Agenda.

- a. Approve February 21, 2020 Meeting Minutes
Recommendation: Approve February 21, 2020 Meeting Minutes.
- b. Administrative Committee
Recommendation: Receive a report from the Administrative Committee.
- c. Habitat Working Group Ad-Hoc Committee Report
Recommendation: Receive a report from the Habitat Working Group Ad-Hoc Committee.
- d. Environmental Services Cooperative Agreement Quarterly Report ("ESCA")
Recommendation: Receive an ESCA Quarterly Status Report.
- e. Transition to Sunset Status
Recommendation: Receive a Transition to Sunset Status Report

8. BUSINESS ITEMS

INFORMATION/ACTION

*BUSINESS ITEMS are for Board discussion, debate, direction to staff, and/or action. Comments from the public are **not to exceed 3 minutes** or as otherwise determined by the Chair.*

- a. FY 19/20 Mid-Year Budget Review
Recommendation: Approve FY 19/20 Mid-Year Budget
- b. Habitat Set-aside Distribution
Recommendation: Approve habitat set-aside distribution
- c. 2020 Transition Plan
Recommendation: Approve 2020 Transition Plan
- d. Bond Distribution Methodology Review
Recommendation: Review bond distribution methodology

9. PUBLIC COMMENT PERIOD

INFORMATION

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10. ITEMS FROM MEMBERS

INFORMATION

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

11. ADJOURNMENT

NEXT SPECIAL MEETING: Thursday, April 17, 2020 AT 2:00 P.M.

Placeholder for Item 7a

February 21, 2020 Meeting Minutes

This item will be included in the final Board packet.

Placeholder for Attachment to Item 7b

**Receive a report from the Administrative
Committee**

This item will be included in the final Board packet.

Placeholder for Attachment to Item 7c

**Receive a report from the Habitat
Working Group Ad-Hoc Committee**

This item will be included in the final Board packet.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Environmental Services Cooperative Agreement Quarterly Report	
Meeting Date:	April 9, 2020	INFORMATION/ACTION
Agenda Number:	7d	

RECOMMENDATION:

Receive an Environmental Services Cooperative Agreement (“ESCA”) Quarterly Status Report.

BACKGROUND:

In Spring 2005, the U.S. Army (“Army”) and the Fort Ord Reuse Authority (“FORA”) entered into negotiations toward an Army-funded Environmental Services Cooperative Agreement (“ESCA”) for removal of remnant Munitions and Explosives of Concern (“MEC”) on 3,340 acres of the former Fort Ord. FORA and Army signed the ESCA agreement in early 2007. Under the ESCA terms, the Army awarded FORA approximately \$98 million to perform Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”) MEC cleanup on those parcels. FORA also entered into the Administrative Order on Consent (“AOC”) with United States Environmental Protection Agency (EPA) and California Department of Toxic Substance Control (“DTSC”) (collectively referred to as Regulators) defining FORA’s contractual conditions to complete the Army remediation obligations for the “ESCA parcels.” FORA received ESCA property ownership after EPA approval and gubernatorial concurrence under a Finding of Suitability for Early Transfer in 2009.

To complete the ESCA and AOC obligations, FORA entered into a Remediation Services Agreement (“RSA”) in 2007 by competitively selecting LFR Inc. (now Arcadis) to provide MEC remediation services. Arcadis remediation services are executed under a combination of cost-cap insurance policy through American International Group (“AIG”) and Army ESCA Contingent Funding, assuring financial resources to complete the work and offer other protections for FORA and the jurisdictions. Arcadis ESCA contracting team included Westcliffe Engineers, Inc. and Weston Solutions, Inc. to provide Engineering, MEC Remediation and Public/Regulatory Outreach services.

The ESCA requires FORA, acting as the Army’s contractor, to address safety issues resulting from historic Fort Ord munitions training operations. Through the ESCA, FORA and the ESCA Remediation Program (“RP”) team have successfully addressed three (3) historic concerns: 1) yearly federal appropriation funding fluctuations that delayed Army cleanup and necessitated costly mobilization and demobilization expenses; 2) Regulator questions about protectiveness of previous actions for sensitive uses; and 3) the local jurisdiction, community and FORA’s desire to reduce MEC property access risks.

Of the \$98 million that FORA ESCA RP received, FORA paid \$82.1 million up front, to secure an AIG “cost-cap” insurance policy. AIG controlled the \$82.1 million in a “commutation” account and payed Arcadis directly as work was performed. AIG provided up to \$128 million assuring additional work (known and unknown) is completed to the Regulators satisfaction (see table below). Under those agreements, AIG paid Arcadis directly while FORA oversaw Arcadis compliance with the ESCA and AOC requirements. On January 25, 2017, Arcadis notified FORA that the ESCA commutation account was exhausted and that future Arcadis work would be paid

under the terms of the AIG “cost-cap” insurance policy until March 30, 2019. Starting April 2019, the Army ESCA Contingent Funds have been used to pay for ESCA work. Arcadis continues to provide FORA with quarterly invoicing estimates.

Post-ESCA Amendment ESCA Fund Status as of December 2019:

Item	2017 & 2019 Amendment Allocations (to 9/1/19)	Accrued through December 2019	Invoiced to AIG Cost Cap-Policy
Line Item 0001 Environmental Services			
FORA Self-Insurance or Policy			
State of California Surplus Lines Tax, Risk Transfer, Mobilization			
Contractor's Pollution Liability Insurance			
ARCADIS/AIG Commutation Account -plus- AIG insurance			
Original FORA Administrative Fees			
Line Item 0001: Subtotal			
Line Item 0001A: Environmental Services: Post-Cost-Cap Insurance - Hourly			
Line Item 0001B: Environmental Services: Post-Cost-Cap Insurance - Lump Sum			
Line Item 0002: thru 31 Dec 2019 DTSC and EPA Technical Oversight Services			
Line Item 0003: thru 30 June 2020 FORA ESCA Adm. Funds			
Line Item 0003A: FORA ESCA Admin. Oversight: Post-Cost-Cap Insurance			
Line Item 0004: thru 30 June 2028 Post-Closure MEC Find Assessments			
Line Item 0005: thru 30 June 2028 Long Term/Land Use Control (“LUC”) Management			
Total			
	ESCA Remainder		N/A

The ESCA properties have received Records of Decision (“RODs”), documenting controls required to protect public health and safety, and Land Use Control Implementation Plan/Operation and Maintenance Plans (LUCIP/OMP) implementing, operating and maintaining ROD controls tailored to individual site conditions and historic MEC use. The Final ESCA LUCIP/OMP documents were accepted by the Army and Regulators in February 2019. The future property owner staff (California State University Monterey Bay, City of Del Rey Oaks, Monterey County, City of Monterey and Monterey Peninsula College [MPC]) have received LUCIP/OMP site-specific training workshops. The ESCA properties received the last EPA Remedial Action Completion letter February 2019. The EPA has outlined the requirements for a site-wide ESCA remedial completion and associated site-wide EPA Remedial Action Completion documents which are in progress. In January 2020, FORA ESCA staff negotiated ESCA Modification 00013 and received

ESCA Grant Officer permission to utilize ESCA Line Item Numbers 0001A and 0001B until June 30, 2020.

ESCA property cannot be transferred to the jurisdictions and remain closed for public access until DTSC Covenants Restricting Use of Property amendments, Army deed modifications and issuance of the Army CERCLA Warranties/Deed Amendments are completed. In 2019, FORA requested the Army CERCLA Warranties/Deed Amendments for the ESCA CSUMB Off-Campus, Seaside and MPC properties. The ESCA property Army CERCLA Warranty and Deed modification documents are under review with Army Headquarters in Washington, D.C., but delayed.

With FORA's sunset imminent, June 30, 2020 and with the ESCA property transfers unable to be completed before this date due to the Army CERCLA Warranty and Deed modification delays, the FORA Board nominated the City of Seaside as its ESCA Successor-In-Interest. The nomination was memorialized by the FORA Board February 21, 2020 in the Fort Ord Reuse Authority and City of Seaside ESCA and Local Redevelopment Authority/Economic Development Conveyance Agreement Successor Implementing Agreement. EPA, DTSC and the Army was notified February 24, 2020 of FORA's sunset date and the nomination of Seaside as the ESCA Successor. The Army is in the process of developing a new ESCA Agreement with Seaside and the EPA will be developing a revised AOC with Seaside. Seaside is in the process of memorializing each ESCA jurisdiction's acknowledgement of Seaside's rights and responsibilities as the ESCA Successor within their jurisdiction. Seaside has arraigned to hire the FORA ESCA staff to continue the ESCA Long-Term Obligations Management Program.

FORA ESCA staff are in the process of securing ESCA staff office space with Seaside and migrating the FORA ESCA-related files to a cloud-based server for use until the ESCA termination June 30, 2028. FORA staff anticipates relocating May/June 2020. FORA ESCA staff is also in the progress of harmonizing the ESCA property gate locks and signage in coordination with Seaside Police, Bureau of Land Management and the Army before transfer. FORA ESCA staff have held Jurisdiction ESCA LUC training meetings as the first of quarterly Jurisdiction Management and Police, Permitting, Planning and Property Management meetings.

Please note that Regulatory approval of remedial completion does not determine land use. FORA will transfer land title to the appropriate jurisdiction for reuse programming. Underlying jurisdictions are authorized to impose or limit zoning, decide property density or make related land use decisions in compliance with the FORA Base Reuse Plan.

ESCA Amendments Update:

ESCA Amendment 2017: ESCA Remedial Action Completion has initiated Army Long-Term "Obligations ("LTO") on ESCA property (see table above, Line Item 0004, Post-Closure MEC Find Assessments and Line Item 0005, Long-Term/LUC Management). Under the ESCA, FORA contracted for \$4,234,443, to take on the Army LTO until 2028. FORA (and its Successor) will need continued qualified ESCA LTO support services through 2028. The contracting firms of Arcadis, Weston Solutions, Inc. and Westcliffe Engineers, Inc. have provided ESCA-specific engineering, MEC remediation and public/Regulatory outreach services for over a decade and are uniquely knowledgeable/qualified to provide FORA with ESCA property LTO support services. In May 2019, the FORA Board adopted Resolution 19-05 authorizing the FORA Executive Officer to retain the current ESCA team of Arcadis, Westcliffe Engineers, Inc. and Weston Solutions, Inc. to assist FORA by providing LTO support services at a cost not to exceed \$1,328,741. In June, FORA received and accepted proposals from Arcadis, Weston Solutions, Inc., Westcliffe Engineers, Inc., resulting in three (3) ESCA LTO Support Service contracts until 2028.

ESCA Amendments 2019: In 2018, Army BRAC Headquarters (HQ) in Washington D.C. changed their document review and approval process resulting in extended Army review of ESCA documents, driving ESCA work/costs beyond the March 30, 2019 AIG cost-cap insurance termination date. On August 2018, the FORA Board authorized the FORA Executive Officer and FORA Special Counsel, with FORA Executive Committee direction, to enter into Army negotiations for additional funds covering ESCA costs beyond the AIG cost-cap insurance policy expiration date. FORA staff met with Army BRAC HQ staff in Washington, D.C. in December 2018. On February 20, 2019, Army BRAC HQ and U.S. Army Corps of Engineers contract support team visited/inspected the ESCA properties to finalize the Scope of Work and Estimate, which the Army accepted. On March 31, 2019, FORA received ESCA Agreement Modification 00010 with \$343,455 of Army funds covering ESCA costs beyond the AIG cost-cap insurance policy expiration date. In May 2019, the FORA Board authorized the Executive Officer to enter into an agreement with Arcadis to continue providing ESCA services using the Army Contingent Funds. In June 2019 that contract was executed.

In August 2019, FORA, as directed by the Army requested a two-month extension of the ESCA funding for an additional \$40,362 in Army Contingent Funds to cover Arcadis and FORA accounting costs to September 30, 2019. The Army accepted the request and issued ESCA Agreement Modification 00011 to fund the request.

In September 2019, FORA requested and the Army Grant's Officer approved Modification 00012 to amend the ESCA to extend ESCA Contract Line Item Numbers 0001a and 0003a performance period to December 31, 2019 and added \$107,700 for 0001A and \$11,782 for 0003A.

ESCA Amendments 2020: In January 2020, FORA ESCA staff negotiated ESCA Modification 00013 and received ESCA Grant Officer permission to utilize ESCA Line Item Numbers 0001A and 0001B until June 30, 2020.

In September 2019, FORA, as directed by the Army, will request a three-month ESCA extension and Arcadis and FORA accounting costs to December 31, 2019. FORA staff met with BRAC HQ staff in Washington, D.C. in November 2019 to review this request. The Army approved the request and is in the process of releasing the funds.

FISCAL IMPACT:

Reviewed by FORA Controller _____

The actual cost to FORA of these Army obligations will be fully reimbursed.

COORDINATION:

Administrative Committee; Executive Committee; Authority Counsel; Special Counsel, Arcadis; Westcliffe Engineering, Inc., Weston Solutions, Inc., Army, EPA; and DTSC.

Prepared by _____ Approved by _____
Stan Cook Joshua Metz

Placeholder for Attachment to Item 7e

**Receive a Transition to Sunset to Status
Report**

This item will be included in the final Board packet.

Placeholder for Attachment to Item 8a

Approve FY 19/20 Mid-Year Budget

This item will be included in the final Board packet.

Placeholder for Item 8b

Approve Habitat Set-aside Distribution

This item will be included in the final Board packet.

Placeholder for Attachment to Item 8c

Approve 2020 Transition Plan

This item will be included in the final Board packet.

Placeholder for Attachment to Item 8d

Review Bond Distribution Methodology

This item will be included in the final Board packet.