Fort Ord Reuse Authority

920 2nd Avenue, Ste. A, Marina, CA 93933
Phone: (831) 883-3672 • Fax: (831) 883-3675 • www.fora.org

BOARD OF DIRECTORS MEETING

Friday, October 14, 2011

3:30 p.m.

910 2nd Ave, Marina (on the former Fort Ord)

AGENDA

1. **CALL TO ORDER AND ROLL CALL**

2. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

3. **PUBLIC COMMENT PERIOD:** Members of the audience wishing to address the Fort Ord Reuse Authority ("FORA") Board on matters within the jurisdiction of FORA, but not on this agenda, may do so during the Public Comment Period. Public comments are limited to a maximum of three minutes. Public comments on specific agenda items will be heard at the time the matter is under Board consideration.

4. **CONSENT AGENDA** — ACTION
   a. September 16, 2011 FORA/MCWD joint meeting minutes
   b. September 16, 2011 FORA Board meeting minutes
   c. Claim by Builders Exchange and Carpenters Union

5. **OLD BUSINESS**
   a. Preston Park – disposition update — INFORMATION
   b. California Central Coast Veterans Cemetery - update — INFORMATION

6. **NEW BUSINESS** - none

7. **EXECUTIVE OFFICER'S REPORT**
   a. Outstanding Receivables — INFORMATION/ACTION
   b. Administrative Committee – report — INFORMATION
   c. Legislative Committee – report — INFORMATION
   d. Habitat Conservation Plan – status report — INFORMATION
   e. Fort Ord Reuse Authority extension – update — INFORMATION
   f. Travel - report — INFORMATION

8. **ITEMS FROM MEMBERS** — INFORMATION

9. **CLOSED SESSION**
   a. City of Marina tax increment indebtedness – potential litigation
   b. Preston Park Mediation

10. **REPORT OUT OF CLOSED SESSION**

11. **ADJOURNMENT**

*Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Deputy Clerk at: 831-883-3672 * 920 2nd Avenue, Ste. A, Marina, CA 93933 by 5:00 p.m. one business day prior to the meeting. Agendas can also be found on the FORA website: www.fora.org.*

Return to Agenda

DRAFT

CONTINUED FROM ADJOURNED JOINT MEETING OF THE FORT ORD REUSE AUTHORITY AND MARINA COAST WATER DISTRICT BOARDS OF DIRECTORS FROM JUNE 10, 2011
3:00-3:30 PM, Friday, September 16, 2011
Carpenters Union Hall * 910 2nd Avenue * Marina, CA 93933

MINUTES

1. Call to Order and Roll Call of Both Boards

Chair Potter called the September 16, 2011, Boards of Directors meeting to order at 3:40 p.m.

Fort Ord Reuse Authority Board of Directors:

Voting members present (Quorum present at call to order)

Chair/Supervisor Potter (County of Monterey)
1st Vice Chair/Mayor Edelen (City of Del Rey Oaks)
Mayor Pendergrass (City of Sand City)
Mayor Pro-Tem Kampe (City of Pacific Grove)
Supervisor Parker (County of Monterey)
2nd Vice Chair/Mayor Pro-Tem O'Connell (City of Marina)
Mayor McCloud (City of Carmel-by-the-Sea)
Mayor Bachofner (City of Seaside)
Councilmember Brown (City of Marina)
Councilmember Selfridge (City of Monterey)
Councilmember Oglesby (City of Seaside)
Jim Cook (County of Monterey)

Arriving after the roll: Mayor Donohue (City of Salinas)

Absent: Supervisor Calcagno (County of Monterey)

Ex-Officio members present:

Kevin Saunders (California State University Monterey Bay ("CSUMB"))
Dr. Doug Garrison (Monterey Peninsula College ("MPC"))
Dan Albert, Jr. (Monterey Peninsula Unified School District)
Mike Gallant (Monterey Salinas Transit)
Debbie Hale (Transportation Agency for Monterey County ("TAMC")
Bill Collins (Base Realignment and Closure ("BRAC"))

Arriving after the roll: Nicole Charles (27th State Assembly District), COL Joel Clark (United States Army), Director Ken Nishi (Marina Coast Water District ("MCWD"))

Absent: Representation from the 17th Congressional District and the 15th State Senate District. Dr. Margon (University of California Santa Cruz ("UCSC"))

Marina Coast Water District Board Members Present:

Bill Lee – President
Dan Burns – Vice President
Howard Gustafson - Director
Ken Nishi – Director
Jan Shriner - Director

2. Pledge of Allegiance - Chair Potter led the Pledge of Allegiance.

3. Continued New Business

a. Ord Community and Marina Water/Wastewater Systems Proposed Budget and Rates for FY 2011-2012:

(1) FORA Board Approval of Resolution Nos. 11-03 and 11-04 Adopting a Compensation Plan and Setting Rates, Fees and Charges for Base-Wide Water, Recycled Water and Sewer Services on the Former Fort Ord

FORA Assistant Executive Officer Steve Endsley explained that the Boards had directed FORA staff to undertake an audit of the proposed rate increase. He said that after a selection process, Jamie Gomes of consulting firm EPS (Economic & Planning Systems) was selected, particularly because of their strong, long-term background in the area of public finance, and their expertise in analysis of water districts, water rates, etc. Mr. Endsley said that over the last two months, EPS has conducted an extensive study, including interviews with MCWD staff and consultants, FORA staff and consultants, and others, and prepared a report and noted that also in the packet were a FORA staff report; a list of the questions that were gathered from the Joint Boards and the public, along with MCWD's answers. Mr. Gomes made a presentation, stating that he had also presented at the last Administrative Committee meeting, which summarized his findings. He reiterated the history of this rate increase request since the FORA Water/Wastewater Oversight Committee meeting in March, through the call from the Board in July for an independent audit of the proposed increase. He reviewed his audit process, and expressed appreciation to MCWD staff for their in-depth cooperation. Mr. Gomes found that the 4.9% proposed increase is warranted. FORA staff distributed copies of Mr. Gomes' presentation. Additional questions were addressed in his memo dated September 16, 2011, which was also distributed.

In summary, Mr. Gomes stated the 7.8% original rate increase request was part of a programmed five-year rate increase, but at direction of the FORA Board in March, MCWD reevaluated the Ord Community costs and found $360,000 in cost savings so that the rate increase request was reduced to 4.9%. He reported that the district is meeting its required debt service ratios, and has adequate general reserve fund balances. Mr. Gomes said that the capital improvement fund reserve fund balances do not meet the district's policies, but are improving. He said that in looking at costs, excluding debt service interest, current budgeted revenues will be 103% of current budgeted operating costs and excluding interest, costs went up 3.8%. He stated the costs for water equal the costs that were projected in the 2008 study and with interest included, overall Ord water costs went up15.6% year over year. He said that in this fiscal year, the district will rely on some reserve funding to meet the debt service costs. Mr. Gomes also reported that on the wastewater side, the revenues are about 50% greater than costs, in large part due to the district's aggressive cost reductions and the district will be able to use any revenue in excess of operating costs to fund capital improvement projects to serve existing customers. He said that costs on the wastewater side went down year over year by 17.5%: engineering, personnel and expenses costs were cut by 27% and outside engineering decreased by about 90%. Mr. Gomes reported that overall costs are about 38% lower than the 2008 expectations, including the interest costs allocable to the wastewater. He said that capital improvement reserve funds are $300,000, where the district policy is $1M and all of the capital improvement projects but one in this year's budget are specifically to serve existing ratepayers.

Mr. Gomes reviewed the questions and answers handout, including a question that came up at the July Board meeting regarding how administrative costs are allocated. He said the Ord Community water costs in 2008-2009 were 54% of the district's total costs therefore 54% of total administrative costs in subsequent years are being allocated to Ord water. He stated that department functions are allocated 54% to Ord water and 11% to Ord sewer, but the part of costs that include staff salary and benefits costs are allocated at a lower rate, due to the fact that some of staff time is being spent on the regional project, which will be funded separately, reducing the percentage allocated to Ord water from

54% to 39%, and the percentage allocated to Ord sewer from 11% down to 8%, which helps mitigate rate increases.

He also addressed a question regarding how interest costs for the district's three outstanding loans are being allocated back to the cost centers. The first and largest loan was the 2006 revenue bond, which was used to refinance existing revenue debt, to fund capital improvement projects for each cost center, and also included some funding for the Water Augmentation Project. The primary repayment source pledged is the rates, but since some of the proceeds from the bond were used to fund capital projects for development, the actual repayment source should be capacity charges. The district tracks that very close to determine how much of the debt service should be funded by rates and how much by capacity charges. In 2006, the Joint Board funded about $42M in projects, but at present, the debt service for new projects exceeds the capacity charges that are coming in, so that user rates are temporarily helping to fund some of the debt service that went to fund new service. When capacity charges come back in, the district can reimburse those rates that are being used for temporary cash flow purposes.

In June of 2010, the district exercised an option to purchase a little over 200 acres of Armstrong Ranch. If the district closed on the before December 31st, it would enable the district to recoup the cost of the purchase in the future. The loan term was ten years, which matched the original promissory note that was taken out for the acquisition. The amount of the loan covered the land acquisition and the financing cost for the purchase. The asset, once paid, is an asset of the district, and can be used for water and/or wastewater projects throughout the district, so the cost of the loan is being allocated among all four cost centers on the proportional basis as above. If the Armstrong Ranch parcel is used in the future for the regional water project, all or a portion of the property would have to be acquired for the regional project. Any proceeds from the sale would be applied to buy down the debt service, or to mitigate future rate increases, so that the proceeds would come back to each cost center.

Mr. Gomes stressed that, out of $4.8M of Ord Water projects this year, all but about $1M is for projects that will serve existing ratepayers. He explained that, under the Ord Water Capital Improvement Program, the $26M Desalination Plant line item cost which had been questioned, covers just for the interconnection between the desalination plant and Ord Water, which specifically benefits Ord Water. The regional water project funding sources will come from grant revenues and loans and other debt instruments, with repayment coming from water sales from the plant, not from existing or future ratepayers. He also dealt with a question about what other options FORA may have for providing water to the Ord Community rather than contracting with MCWD, and explained that MCWD owns all of the Ord Water assets, so that any other provider would have to either acquire those assets or provide services in parallel.

Chair Potter thanked Mr. Gomes for his report. Supervisor Parker asked how the $26M regional water project pipeline would benefit existing Ord Community ratepayers. Mr. Gomes explained that the pipeline would primarily offer capacity for future users, and referred the question to MCWD Deputy General Manager/District Engineer Carl Nizawa, who answered that the project will provide water interconnection between different districts, and that this capital improvement needs to happen to serve current and future needs.

Supervisor Parker remarked that it seems clear that much of the rate increase has to do with the interest cost due to the new note, and suggested that it would be more equitable to spread the payments out over time, so that current users would not be saddled with an inordinate cost. She would like to see the number in terms of 30-40 years instead of 10 years. Mr. Gomes suggested that a longer period of time would significantly increase the amount of interest paid over time. The note is for land acquisition alone. A note of capital improvements would make sense over a longer period of time, but he could not answer whether the idea would be feasible in this case. Supervisor Parker asked what was meant by the comment regarding possibly selling the Armstrong Ranch property to the regional project, and Mr. Gomes explained that if for example 50 out of the 200 acres were needed, the district would sell those 50 acres to the regional project, and the proceeds from the sale would be used to

retire the debt. Supervisor Parker remarked that she was confused, because she had earlier understood that the district would be the owner of the land and of the plant. Sometimes the Armstrong Ranch parcel is referred to as an asset for future water and wastewater projects and charged equally to everybody, sometimes as collateral for loans for capital improvements, now it is just the land acquisition cost and no system improvements, and she was under the impression that the land was just for the regional water project. She feels that it should not be included in the rates for the existing users, since its intended use changes. Mr. Nizawa stated that the district does not intend to sell.

In answer to a question from 2nd Vice Chair O'Connell regarding whether the reserve fund existed in 2009, Mr. Gomes said that the fund has existed for longer than that, and that the district has been putting a fixed annual amount of $200,000 for water and $100,000 for wastewater. It's a part of the budget presented to the Joint Board. In answer to a question, Mr. Gomes stated that his understanding is that the district will be reimbursed for all costs related to the regional project.

2nd Vice Chair O'Connell asked whether the existing users will have to pay the entire the entire cost for facility replacement if the replacement is necessary for a new user, or whether there is any mechanism for the cost to be paid by the new user. Mr. Gomes used an example of replacing an aging 12" water line that needs to be replaced, but replacing it with a 16" water line would take care of the existing situation but also provide redundancy in the system and better fire flows, and stated that yes, the future user would bear a portion of that cost. 2nd Vice Chair O'Connell stated that he has trouble voting for a proposal when the citizens of Marina who are affected by it do not have the right to vote for the members of the Board making the decision, and cannot justify the vote for an increase when the residents do not have a full say.

Mayor McCloud asked when the reimbursement of costs for the regional project will be made. Mr. Gomes said that reimbursement of all of the initial costs for the project would be made when the district secures the financing for the rest of the project. She asked about the $26M project cost and Mr. Gomes confirmed that that project is not a part of the administration cost pie chart. Mayor McCloud then asked how many acre-feet of water would be coming to the district from the regional water project compared to the cost of the projects. Mr. Gomes answered that he didn't know, that the rate increase that was the scope of his analysis related to operating costs and facility costs, and that the capacity increase would be funded from capacity charges, not from existing ratepayers. Mr. Houlemard explained that the water program is predicated on three different policies that the Board adopted in the 1990's, which assumes that, of the 6600 acre-feet of water rights that were contracted for by the US Army in the early 1990's, FORA will have access to about 75%. He said that the US Army kept about 1729 acre-feet, and that is now down to between 1400 and 1500 acre-feet and current water use on the former Fort Ord is below 25% of the total 6600 acre-feet capacity. Mr. Houlemard said that over time, FORA anticipated using both reclaimed and desalinated water as part of the Base Reuse Plan to serve the estimated 9000 acre-feet need at the limits of replacing the Army's presence on Fort Ord. Mr. Houlemard also noted that much of the work to access the 6600 acre-feet is due to improvements that are being evaluated and the capacity charges to pay for improvements for the future are not included at this time. He said the Army currently uses a significant portion of this water in existing areas, and they pay a part of these capacity charges as well.

Mr. Endsley added that the 6600 represents potable water, 2400 represents the water augmentation program, which was always planned. The 2400 was originally planned to be completely reclaimed, then changed to a hybrid reclaimed/desalination project, which has been through an EIR and the CEQA process. The water augmentation project to provide 2400 additional acre-feet of water will go forward whether there is a regional project or not, since it is part of the Base Reuse Plan and called for in the EIR.

Mr. Oglesby asked how much water from the regional project interconnection pipeline will serve existing users. Mr. Nizawa answered that, in order for the regional project to go forward, 15% of the water produced by the project must be used within the water district, so that the water is returned to the Salinas Valley aquifer. He said the Ord Community will need water in the future for development, and the augmentation is called in the Base Reuse Plan and the EIR. Mr. Oglesby asked how the existing users could be required to pay for a $26M project when only a very small part of that water would serve them, and if the regional plan is contingent on that, the regional project should pay the cost. How will the rates be adjusted for reimbursement, to pay off loans? Mr. Houlemard explained that the $26M would be paid by future users, and Mr. Gomes confirmed that the Capital Improvement Program projects would be funded by capacity charges. The rate increase does not factor in that $26M.

Ms. Selfridge asked whether Mr. Gomes' analysis assumed that the regional project was going through. Mr. Gomes affirmed that his analysis was based on the current budget, which includes capital improvements for the regional project. Ms. Selfridge then asked about consideration for existing ratepayers having a say in what's happening.

2nd Vice Chair O'Connell asked about Ord water including a New Water Fund of $5.5M, on Table 3 of the EPS report. Mr. Gomes explained that the funding sources for the New Water Fund would be revenue sources for capital, from capacity charges or others. If the district does not receive those funds, they might not go forward with some of those capital projects. The fund does not exist, but represents capacity charges. 2nd Vice Chair O'Connell suggested changing the nomenclature on that fund for clarity.

Jan Shriner asked about the FORA/MCWD rate increase review on page 19 of the original report, table #6, under water sales there is almost $2M proposed. She asked if these sources could be more carefully defined for more clarity with the Seaside exchanging property to MCWD and the flat rates proposed. Mr. Gomes deferred her question to the district. Mr. Nizawa stated that the District obtained additional land from Seaside adjacent to the D/E reservoir site and, in lieu of paying cash to the City of Seaside, the City is receiving credits from the District on its golf course water bills until the land purchase price is paid off. In response to another question regarding the Armstrong Ranch property, Lloyd Lowrey, Counsel for MCWD, addressed the Board stating that in 1996 MCWD entered into agreement with the Armstrong Family, owners of the Lonestar property, the City of Marina, and the MCWRA. That agreement enabled the Marina area lands a determined amount of water without challenge. He said as part of the agreement, MCWD was planning for the future when there would be a need to augment that amount of extraction from the aquifers. He said that as part of that planning, MCWD was given an option to acquire about 224 acres of land on the Armstrong Ranch for the use of production, storage, treatment and distribution of water. Mr. Lowrey said the regional project is a later add-on to the earlier Regional Urban Water Augmentation Project, which is not for the Peninsula but for the former Fort Ord.

Jan Shriner asked about when development happens, how would reimbursement be made to present Ord Community ratepayers? Could it be considered a temporary rate hike? She mentioned that the memo page 5, a $21.7M voluntary payment from FORA, and said that Preston Park is under threat of being sold by FORA to pay for a $19M debt and the residents are concerned about the water increase and the fact that their land will be sold and they would have a new landlord. Is there any reassurance to Preston Park residents? Mr. Gomes stated the voluntary contribution was not paid in 2008 it would be paid in the future through CFD taxes.

Mayor McCloud commented about the regional project moving forward and is there a timeline issue to vote now? Mr. Houlemard said that he didn't believe that the rates were not connected to whether or not the regional project moved ahead. Mr. Endsley reminded the Board that this request is done every year in order to set the rates for operating costs for the coming fiscal year. He said that if the rates are not adopted then there is no budget to operate from and we were already in month two (2) of the fiscal

year. Mr. Endsley said that there is urgency to approving the budget to fund the program to move forward. He said that the consultant was recommending moving forward and that the $27M is a line item for FORA but has not been expended. He reminded the Board that there are several options available to the Board as they deliberate. Mayor McCloud said that it would help if the information was separated out from what needs to happen now and what needs to happen in the future.

LeVonne Stone asked if the community would be compensated because the increases are creating a hardship and the community is not benefitting. She is concerned that the base closed in 1994 and people living here are further disenfranchised because there are no jobs, which makes it harder to pay for utility bills.

Chair Potter stated that two (2) actions were requested the Ord Community and Marina Water/Wastewater Systems Proposed Budgets and Rates for FY 2011-2012.
FORA Board Approval of Resolution Nos. 11-03 and 11-04 Adopting a Compensation Plan and Setting Rates, Fees and Charges for Base-Wide Water, Recycled Water and Sewer Services on the Former Fort Ord. Motion made by Mayor Edelen seconded by Mayor McCloud with an amendment to read for fiscal year 2011-12. Supervisor Parker said that she appreciated the audit process but there are serious questions to reimbursing the present day users who are paying for future users. Other members of the board shared their concerns regarding the process.

The motion passed, with the following no votes:

Mayor Pro-Tem O'Connell	- No
Councilmember Brown	- No
Supervisor Parker	- No
Councilmember Selfridge	- No

FORA legal counsel Jerry Bowden reminded the Board that it is the same motion and was voted on at the last meeting, and so if this is the second vote, it passes by majority. Chair Potter confirmed the resolutions are approved.

Chair Potter then turned the meeting over to MCWD President Bill Lee who called for the motion from the MCWD Board regarding the Adoption of Resolution Nos. 2011-36 and 2011-37 (Ord Community Budget and Compensation Plan). **The motion passed with the following no votes:**

Director Shriner - No

Supervisor Parker commented about augmenting the staff level that brings the rates forward each year, possibly adding some policymakers to the conversation before it comes before the Board. Chair Potter referred the matter to the Executive Committee. Mr. Houlemard said that it would be timely to consider that in January as an amendment to the Master Resolution, in time for additional members to be added to the Water/Wastewater Oversight Committee. It would be appropriate for the Executive Committee to consider this later in the year. Chair Potter thanked the boards for their participation in the process.

4. Announcements and Correspondence - none

5. Adjournment

The meeting of the joint boards adjourned at 5:00 p.m.

Minutes prepared by Daylene Alliman Deputy Clerk FORA Board.

Approved by _____
Michael A. Houlemard, Jr., Executive Officer/Clerk

Marina Coast Water District – FY 2011-12 Rate Increase Proposal Analysis

presented to

FORA & MCWD Boards of Directors

presented by

Jamie Gomes
Economic & Planning Systems, Inc.

September 16, 2011

Berkeley
Denver
Los Angeles
Sacramento

Economic & Planning Systems, Inc.
2295 Gateway Oaks Drive, Suite 250, Sacramento, CA 95833
916.649.8010 • 916.649.2070 fax

Background and Scope of Review

- March 2011 – Water and Wastewater Oversight Committee (requested 7.8% increase).
- March 2011 – MCWD Board directed staff to re-examine proposed increases.
- June 2011 – Joint FORA/MCWD Board (requested 4.9% increase).
- July 2011 – FORA Board requested Rate and Charge Review/Audit:
  - Review of Ord Community Water and Wastewater rates and charges.
  - Presentation of Findings to the FORA Water and Wastewater Oversight Committee and Board.

Summary of Data Reviewed

- FY 2011-12 Ord Community Compensation Plan.
- FY 2011-12 MCWD Revised Draft Budget.
- MCWD Five-Year Water and Wastewater Financial Plan and Rate Study (Bartle Wells-2008).
- FY 2009-10 Comprehensive Annual Financial Report (CAFR).
- Historical MCWD Budgets.
- Meeting Agendas and Minutes from FORA Board, MCWD Board, and joint board meetings.
- Interviews with MCWD staff.

Overall MCWD Summary of Findings

- Revised 4.9% rate increase request is warranted.
- Ord Community Operating and other cost increases similar to Marina.
- MCWD Adjustments of $360,000 to reduce rate increase from 7.8% to 4.9%.
- Individual cost centers are funding proportional amount of administrative costs.
- Required debt service coverage ratios are being met.
- District is maintaining adequate general reserve fund balances.
- While improving, capital reserve fund balances are not adequately capitalized.
- Major capital facility financing will be contingent on new revenue sources (e.g., capacity charges from new development and other sources).

Ord Community Water Summary of FY 2011-12 Findings

- Revised 4.9% rate increase request is warranted.
- Budgeted operating revenues are anticipated to cover operating expenditures.
- Excluding interest costs, annual operating costs increased 3.8% from FY 2010-11 to FY 2011-12.
- Excluding interest costs, annual operating costs equal original 2008 rate study estimates.
- Overall operating costs increased 13.6% including interest costs from FY 2010-11 to FY 2011-12.
- Source of interest cost increase is refinancing of promissory note for Armstrong Ranch (10-year term).

Ord Community Water Summary of FY 2011-12 Findings (continued)

- Reserve funding is required to help fund debt service (principal) and planned capital projects.
- Overall operating and general reserves are funded at adequate levels.
- Water capital reserve account is below desired levels.
- Future capital funding is primarily contingent on funding from new development.

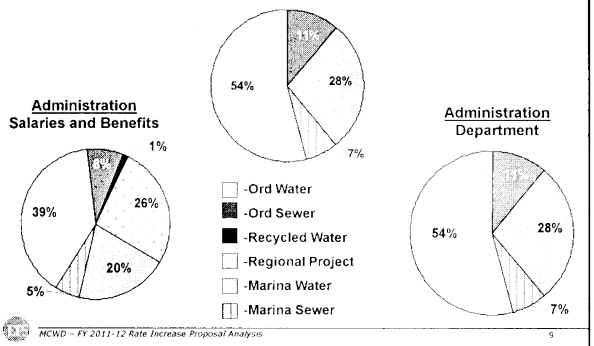
Ord Community Wastewater Summary of FY 2011-12 Findings

- Revised 4.9% rate increase is warranted.
- Revenue from sewer sales exceeded operating costs by approximately 50% in FY 2009-10, FY 2010-11, and FY 2011-12.
- Excluding interest costs, annual operating costs decreased 17.5%:
  - Interest costs increased by 81%.
  - Engineering personnel and expenses decreased by 27%.
  - Outside engineering consultant costs decreased by 90%.
- Excluding interest costs, annual operating costs are 38% less than original 2008 rate study estimates.
- Source of interest cost increase is refinancing of promissory note for Armstrong Ranch (10-year term).

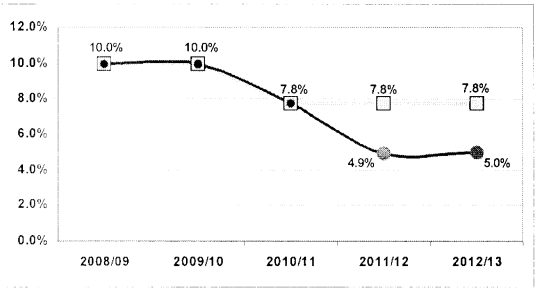
Ord Community Wastewater Summary of FY 2011-12 Findings (continued)

- Wastewater capital reserve account is below desired levels.
- FY 2011 CIP does not include capacity expansion projects.
- Rate revenue in excess of costs can help fund capital projects.

Allocation of Administration Cost Components FY 2011/12 Budget Allocation

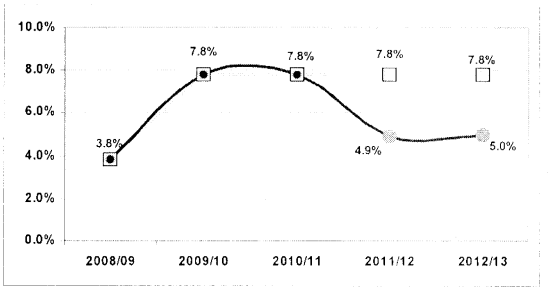


MCWD Water Annual Increases



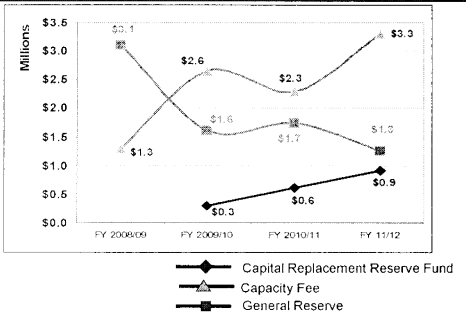
[1] From: MCWD Water and Wastewater Financial Plan and Rate Study (May 2008, Bartle Wells).

MCWD Wastewater Annual Increases



[1] From: MCWD Water and Wastewater Financial Plan and Rate Study (May 2008, Bartle Wells).

Ord Community Annual LAIF Fund Balances



LAIF: Local Agency Investment Fund

Additional Questions Raised

1. What projects/costs are funded by outstanding debt obligations?
2. Provide additional detail on Armstrong Ranch acquisition.
3. Please detail the FY 2011-12 CIP and future Desalination project Ord Water cost.
4. How are Ord CIP water CIP projects funded?
5. What are Regional Water Project major funding sources?
6. What options exist to provide water/wastewater service to the Ord Community.

Ord Water CIP Funding (Illustrated)

Source of Funding for Ord Water Capital Projects

Category	Description	Funding Sources: Existing Users	Funding Sources: Future Users
General CIP	Facility Replacements	X	
	Facility Upgrades [1]	X	X
New Water CIP [2]	New Capacity (Expansions)		X

"cip"

Source: MCWD, Bartle Wells and EPS.

[1] 2008 Rate Study split costs 59 percent existing and 41 percent new user
[2] Portion of cost shared with Marina service area (10 percent).

Conclusion

- Questions and comments

MEMORANDUM

To: Fort Ord Reuse Authority Board
Marina Coast Water District Board

From: Jamie Gomes

Subject: Additional Questions – Marina Coast Water District Rate Increase Proposal Analysis; EPS #21495

Date: September 16, 2011

The Economics of Land Use

At the request of the Fort Ord Reuse Authority, Economic & Planning Systems, Inc. (EPS) recently prepared an audit of the proposed Marina Coast Water District (MCWD) rate increase for the Ord Community. In response to the report prepared, several additional questions were raised. For the benefit of all members of the two respective boards, the questions and responses are presented in this memorandum.

Questions and Responses

1. Each of the MCWD cost centers pays a share of interest costs on outstanding MCWD debt issuances. What projects or costs did those debt issuances fund?

MCWD tracks the projects/costs funded by the various loans in order to appropriately apply revenues required to make debt service payments. For example, for that portion of an outstanding loan that was used to fund new water capacity (e.g., a new water line to serve new development), MCWD would seek to use capacity charges or the capital surcharge on new rate-payers to cover that portion of the annual debt service. By doing so, MCWD seeks to avoid having existing rate payers funding projects that will serve new development. As described in more detail below, there are temporary cash flow circumstances where existing rate payers could fund a portion of costs that should be funded by new development.

Interest costs that are included as a component of the Administration expenditure category include the following outstanding debts:

Economic & Planning Systems, Inc.
2295 Gateway Oaks Drive, Suite 250
Sacramento, CA 95833-4210
916 649 8010 tel
916 649 2070 fax

Berkeley
Denver
Los Angeles
Sacramento

www.epsys.com

- 2006 Revenue Bonds
- 2010 Armstrong Ranch Acquisition
- CalPers Loan

Each of these loans/debt issuances is described in more detail below.

2006 Revenue Bonds

In 2006, MCWD issued new revenue bonds to refinance some existing debt and to finance additional capital facilities, some of which provided new capacity for future development.

Below is a breakdown of the estimated use of funds by major cost center:

Debt Refunding	- $9.0 million
Marina Water	- $3.2 million
Ord Water	- $16.5 million
Ord Sewer	- $7.6 million
RUWAP	- $5.0 million

While user rates were the loan repayment security, MCWD anticipated that the debt service would be funded through a combination of user rates and capacity charges collected from new development. Revenue from capacity charges and other sources from new development were intended to fund that portion of the debt service related to the new capacity funded from bond proceeds.

At the present time, Ord Water capital facility financing revenue from new development sources (capacity charges and the capital surcharge) is not sufficient to fund the interest cost portion from the 2006 revenue bond that was dedicated to facilities for new development. Consequently, current rate payers are temporarily paying for that portion of the debt service that is not covered by capital facility revenue sources. MCWD is tracking these amounts as the temporary coverage of payments will be reimbursed from future capacity charges and capital surcharges.

2010 Armstrong Ranch Acquisition

Please see the response to Question 2 for details on the Armstrong Ranch financing.

CalPers Loan

The CalPers Loan is related to the buy-in cost when MCWD switched over to CalPers for its employees. The remaining loan amount is very low as the debt is set to be retired in December 2013. The interest costs are allocated to the four primary cost centers based on each center's proportionate share of operating costs at the time the loan was incurred. That allocation is fixed for the duration of the loan.

2. Please describe in more detail the Armstrong Ranch land acquisition.

The beginning of this response is directly excerpted from MCWD's written response to earlier questions about this topic. In June 2010, MCWD exercised a long-held option to purchase 224 acres of Armstrong Ranch with a Promissory Note as part of the 1996 Annexation Agreement and Groundwater Mitigation Framework for Marina Area Lands. If the Promissory Note was paid by December 21, 2010, MCWD would be able to recoup the costs of the land purchase through annexation and/or capacity fees collected from new development at Armstrong Ranch. MCWD financed the Promissory Note with refunding revenue bonds with the same 10-year payment schedule as the original Promissory Note.

The amount of the financing included the land acquisition costs plus the costs of issuing the debt. Because the land is an asset of MCWD and has the flexibility to permit future use for water or wastewater functions, MCWD has allocated the interest cost of the loan to each of the four MCWD cost centers. The interest cost has been apportioned to each of the cost centers on the same basis that all other administrative costs are allocated – proportion of operating costs from the most recently available audited financials. Consistent with MCWD practices, the apportionment is determined at the time the debt is incurred and those proportions remain static for as long as the debt is outstanding.

Ultimately, if MCWD is able to recoup all or a portion of the land acquisition cost, the recovered funds could be used to help offset rate increases to future rate payers. As an example, if a portion of the land were to be used for the Regional Water Project (RWP), that portion used for the RWP would have to be purchased from MCWD. The proceeds from such a sale could be used to pay down the outstanding debt service.

3. Describe how Ord Water CIP projects are funded. Do existing rate payers fund a portion? Do future users fund a portion?

As shown in **Figure 1**, CIP projects can be classified as general CIP projects and new water CIP projects. General CIP projects include facility replacements and facility upgrade projects. Generally speaking, facility replacements are repairs and replacement of existing, worn-out facilities that serve existing users and are thus funded by existing users. Facility upgrades may be a replacement of an existing asset serving existing users, but the replacement could be an upgrade or an enhancement that provides additional operational efficiencies and would thus benefit both existing and future users. The CIP from the 2008 Five-Year Water and Wastewater Financial Plan and Rate Study prepared by Bartle Wells, allocated the cost of these types of projects 59 percent to existing users and 41 percent to future users.

Finally, new water CIP projects are those projects that provide additional capacity intended to serve future users. A new water pipeline that extends into new development areas is an example of this type of facility. New water CIP projects are intended to be 100 percent funded by new/future users. In this manner, existing rate-payers would not fund CIP projects that are intended to serve new development. Please see the response to Question #5 below summarizing FORA's contribution to new Ord Water capital facilities through the CFD Special Tax from new development.

As described above, there could be one caveat to this situation in the example where MCWD were to issue debt to finance new water CIP projects. For example, if MCWD issued debt to fund new water CIP projects, it would have to use the existing rate base as security for the loan

repayment. MCWD would intend to use capacity charges to fund the debt service instead of user rates because new/future users should be paying for the facilities that serve them. In the event that capacity charge revenue from new development were insufficient to fund the debt service payments (principal and interest), then the existing rate base would be required to fund any shortfalls. In this example, the district would be in a situation where the existing rate payers were temporarily paying for facilities that benefited future development.

Ultimately, if new development proceeds, capacity charges from that new development could be used to repay the rate fund for the temporary cash flow payments of debt service.

4. *Please detail the FY 2011-12 capital improvement program (CIP) projects. Also, what is the $26.1 million Regional Desalination project cost included in the Ord Water CIP?*

The FY 2011-12 Ord Water CIP includes the following projects:

- IOP Building I (FORA)
- Well 34 (deep aquifer at Well 32 site) (Construct)
- 2010 – Urban Water Mgmt. Update
- Integrated Regional Water Management Plan – Update
- Basewide Environmental Insurance (50% Ord Water, 50% Ord Sewer)
- Eastern Distribution System (Proposition 50 funded Watkins Gate Well and Distribution Pipe)
- Replace D & E Reservoir (Demolition phase) [CIP no. 4.04, 3.07]
- RD Integration Planning

The majority of these projects benefit existing rate-payers as shown in the attached **Table 1.**

Regional Desalination Integration

The $26.1 million Regional Desalination Integration cost item is the cost of the water interconnect transmission line that would ultimately connect the Regional Desalination plant to the MCWD to provide water supply to MCWD. This cost is included in the Ord Water cost center as the Ord Community would benefit from the additional water supply (through the connection) provided by the Regional Desalination project.

5. *What are the major funding sources for the Regional Desalination Project and are existing rate payers paying towards the Regional Desalination Project?*

Below is a general summary of Regional Desalination Project funding based upon a conversation with MCWD staff. Additional detail will need to be provided by MCWD staff.

Given the scope of the Regional Desalination Project, a combination of funding sources will be used to construct the project. The majority of the cost will be funded via loans or other debt instruments. Proceeds from product water sales will be pledged as the primary repayment source on the debt service.

MCWD will demand a percentage of the water from the RWP and will pay for that water similar to other customers. The financing strategy does not anticipate pledging existing Marina or Ord user rates to fund the project construction.

Existing costs presently being incurred by MCWD related to the Regional Desalination Project come from the following three sources:

- Reimbursement agreement with Cal American Water Company
- Line of Credit
- General Reserves.

Any amounts expended from these sources are ultimately to be reimbursed through the ultimate financing of the project.

FORA Funding

As part of the CEQA mitigation measures from the Base Reuse Plan Environmental Impact Report (EIR), FORA is required to provide water augmentation through the use of reclaimed water for irrigation of the golf courses, landscaping areas, and other common areas. The cost of this has always been a part of the FORA CIP. Currently, the FORA CIP has an amount of $23.5 million dedicated to meet this FORA CEQA mitigation requirement.

While this was originally to be an Ord-specific improvement, it is now planned to be incorporated as a part of a larger regional water solution. Regardless of the ultimate scope of the regional water solution, FORA's contribution to it is limited to the $23.5 million allocated to meet the CEQA mitigation requirements.

Separately, when MCWD was considering its updated capacity charges in 2008, FORA elected to identify a voluntary contribution of $21.7 million to be used to offset future water capacity charges for new Ord Community users. This voluntary contribution amount is intended to help offset the cost of the recycled water augmentation project attributable to the Ord Community. Before funds are ultimately committed, FORA would want to ensure that the capital contribution was less than or equal to the Ord Community's proportionate share of the overall project. If the contribution exceeds the proportionate share, then one could argue that the Ord Community was subsidizing other communities that received benefit from the project. Each of the aforementioned funding amounts will be subject to receipt of revenues from new development through payment of the CFD Special Tax collected by FORA.

6. *What options exist for providing sewer and water services to the Ord Community, aside from contracting with MCWD?*

Since the FORA-MCWD Water/Wastewater Facilities Agreement was signed in 1998, MCWD has received ownership of former Fort Ord Water and Wastewater infrastructure facilities through a combination of property transfers and easements. If FORA were to void the existing Facilities Agreement with MCWD and select a new water purveyor, issues could arise when a new water purveyor attempted to obtain access to MCWD's existing facilities. This issue could result in the new purveyor having to overbuild the system to provide basic water/wastewater services at a significant cost to rate payers.

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Fort Ord Reuse Authority
100 12th Street, Building 2880, Marina, CA 93933
Phone: (831) 883-3672 • Fax: (831) 883-3675 • www.fora.org

DRAFT

BOARD OF DIRECTORS MEETING
Friday, September 16, 2011
3:30 p.m. Carpenters Union Hall
910 2nd Ave, Marina (on the former Fort Ord)

MINUTES

1. CALL TO ORDER AND ROLL CALL

Chair/Supervisor Potter called the September 16, 2011 Board of Directors meeting to order at 5:05 p.m.

Voting members present (*Quorum present at call to order*)

Mayor Pendergrass (City of Sand City)
Mayor ProTem Kampe (City of Pacific Grove)
Councilmember Brown (City of Marina)
Supervisor Parker (County of Monterey)
Mayor McCloud (City of Carmel-by-the-Sea)
Councilmember Selfridge (City of Monterey)
Councilmember Oglesby (City of Seaside)
2nd Vice Chair/Mayor Pro-Tem O'Connell (City of Marina)
Mayor Donohue (City of Salinas)
Mayor Bachofner (City of Seaside)

Ex-Officio members present:
Vicki Nakamura (Monterey Peninsula College ("MPC")), Bill Collins (Base Realignment and Closure ("BRAC")), COL Clark (United States Army), Dan Albert, Jr., (Monterey Peninsula Unified School District), Mike Gallant (Monterey Salinas Transit), Ken Nishi (Marina Coast Water District ("MCWD")), Nicole Charles (27th State Assembly District), Kevin Saunders (California State University Monterey Bay ("CSUMB")), Debbie Hale (Transportation Agency for Monterey County ("TAMC")).

Absent: Representation from the 17th Congressional District, 15th State Senate District and University of California Santa Cruz.

2. **ACKNOWLEDGEMENTS/ANNOUNCEMENTS/CORRESPONDENCE** – Chair Potter requested a moment of silence for Gordon Nakagawa in his memory. Executive Officer Houlemard announced that there would be an Open House for the new location of FORA offices, Friday October 14, 2011 at 3:00 p.m. prior to the next Board meeting. Mr. Houlemard also apologized for the email and USPS mail interruptions in service during the time of the recent move. Mr. Houlemard acknowledged Steve Endsley's acceptance of the position as FORA's Assistant Executive Officer as of September 1, 2011. Mr. Houlemard also acknowledged the changes to the minutes in the title of Mr. Nishi.

3. **PUBLIC COMMENT PERIOD** – LeVonne Stone reminded the Board that the graduates of the Fort Ord Job Training initiative program held last year are still looking for work. She said that she would like to hear more about job creation in our local communities.

4. CONSENT AGENDA

a. June 10, 2011 FORA/MCWD Joint Board meeting minutes
b. July 8, 2011 FORA/MCWD Joint Board meeting minutes
c. August 12th, 2011 FORA Board meeting minutes

Mayor Bachofner abstained from the vote since he did not attend the July 8, 2011 meeting and asked that the minutes be corrected as such. **Upon a motion made by Supervisor Parker to accept the items on the consent agenda with noted corrections and seconded by Mayor ProTem Kampe, the motion carried.**

5. OLD BUSINESS

a. Preston Park – Assistant Executive Officer Steve Endsley gave a brief report regarding the Preston Park rental structure. At the July board meeting the rental rates were discussed and the board approved that the rates remain. Secondly the Board requested a tour of the Preston Park. Four members of the Board toured Preston Park and FORA staff also attended. Alliance and the City of Marina coordinated the effort. There was a mix of the property facilities, maintenance and condition of the property, and residents were met. Next steps requested by the Board are: 1.) Alliance distribute the accumulated excess revenue from last two fiscal years and that what is left in the reserve account is split 50/50 FORA/City of Marina. 2) Once the walkthrough took place and the reserve account accounting was completed that we would be able to entertain any capital improvement requests having been better informed as to the condition of the property. The audit is in progress. Mr. Houlemard confirmed that the next mediation date has been scheduled for either October 6 or 7. Jan Shriner commented that she has a concern regarding the City of Marina's ability to produce revenue for housing development stating that the City's largest portion of revenue comes from Preston Park. She said she understands that FORA is making a voluntary $ 21.7M contribution to the water systems of our region. She asked the Board to consider forgoing making that contribution and instead pay off the $19M debt on Preston Park in order to allow the City of Marina to continue receiving the revenue. Supervisor Potter said that staff could provide their comments at a later date since this was an informational item.

b. California Central Coast Veterans Cemetery – Mr. Houlemard reported that we are still moving ahead with the MOU between County of Monterey, City of Seaside, FORA, Central Coast Cemetery and yet to be considered by the County Board of Supervisors. The FORA Board has already approved the MOU. Nicole Charles reported that Governor Brown signed AB 629 on September 7th and it will be enacted into law January 2012. Ms. Charles also thanked the Board members for their support and letters. Chair Potter thanked Assemblymember Monning and his staff for their efforts stating that it will lower costs, local efficiency effort, construction of the project, and produce jobs for the region. Supervisor Parker stated there are concerns from the Veterans Advisory Committee steering group that it would be helpful to lay out next steps as FORA moves forward documenting the responsibilities. She requested that FORA staff develop an implementation plan that includes costs and timelines to ensure accuracy. Chair Potter stated that FORA staff is prepared to do that. Ms. Charles stated that the CDVA (California Department of Veterans Affairs) needs to work with the Department of Finance and the Department of General Services. LeVonne Stone commented that she was surprised that the cemetery project has taken so long to develop. Mayor Bachofner stated that the City of Seaside has voted unanimously approved the most recent version of the MOU.

6. NEW BUSINESS - none

7. EXECUTIVE OFFICER'S REPORT

Executive Officer Houlemard stated that the items were for informational purposes and highlighted the following: Item 7a Outstanding Receivables – the Del Rey Oaks payment is current, City of Marina owes TI 08/09 and 07/08 referred to Legal Counsel, and City of Seaside is also current. Item 7b Administrative Committee – Mr. Houlemard stated that the Administrative Committee is continuing to work hard on behalf of the jurisdictions. Item 7c. Habitat Conservation Plan (HCP) – Mr. Endsley reported that the consultants are intending to submit the final document (Administrative #3) October 31 to the regulatory agencies. He said the document is being circulated to the jurisdictions and they have been given until September 30 to provide final comment on the HCP EIR/EIS (Environmental Impact Report/Environmental Impact Statement) and implementing documents to FORA staff. Item 7d. Fort Ord Reuse Authority extension – Mr. Houlemard gave a PowerPoint presentation (*copy attached*) regarding the background of the Fort Ord Reuse Authority stating that its mission was to oversee the financing and planning of the Former Fort Ord when the base closed. He stated that there was a loss of revenue to the region, jobs and housing from when the base was fully active. At the time there were 36,000 soldiers, civilians, and families associated with Fort Ord. He said that State legislation was proffered to create a Board of Directors with the authority essential to completing the reuse of the 28,000 acres – 45 square miles of the former Fort Ord and to work with the local jurisdictions, agencies, military and others with a sunset date of June 30, 2014. The Authority Act sets forth that either the authority would be dissolved when 80% of the work be accomplished. He said at this time we are not beyond 40% in terms of projects constructed OR June 30, 2014 whichever is the earlier. He said the local LAFCO then becomes responsible for the transfer of FORA's obligations and assets. He reported that many of these obligations run past the June 30, 2014 deadline. Lastly Mr. Houlemard stated that Extension to 2020 allows FORA to meet fixed-term obligations and then

presented a timeline of the process for either the transition to LAFCO or the extension of FORA. Mr. Houlemard said that at the Board's pleasure, Assemblymember Monning has indicated he would carry legislation to extending FORA. Formal actions would need to be taken in December 2011 and ready for the Governor's signature by September 2012. Absent actions taken toward legislation the Board would need to give the Executive Officer the authority to begin the dissolution process with LAFCO beginning October 2012. Chair Potter stated he thought it important that this issue be addressed now and entertained questions from the Board. Bill Collins asked if FORA was not extended who would take care of the munitions and explosives removal on the Fort Ord. Mr. Houlemard said that the Army and the regulators would need to approve FORA's successor. Mayor McCloud asked when congress would have to approve for future funding, staffing, etc. Mr. Houlemard said that if the extension is under the current terms the same powers and the same financing authority would exist and continue to be in place, it is currently a state law. Jan Shriner asked about the building removal in the City of Marina and not give entitlements until the buildings are removed. Mr. Houlemard stated that was a jurisdictional decision and FORA's responsibility is to determine consistency with the Base Reuse Plan. LeVonne Stone commented about the building removal near CSUMB caused dust and the projects needs to be overseen and that safe standards be established for the public. Debbie Hale said that she was interested to see that the FORA CFD special tax ends when FORA ends and she would have to research the TAMC regional fees to verify if Fort Ord would be covered by TAMC's fees in a situation where FORA is not extended. Item 7e. Executive Officer's Travel Report - Mr. Houlemard reported that he will be attending the EPA's Leadership Federal Facility Cleanup dialogue in Washington, DC.

8. **ITEMS FROM MEMBERS** – Vicki Nakamura announced the Grand Opening of the new MPC facility on the former Fort Ord at 1:00 p.m. on September 26th.

9. **CLOSED SESSION** – Builder's Exchange vs. FORA – threatened litigation

10. **REPORT OUT OF CLOSED SESSION** – Counsel reported that there was no liability therefore authority nor direction was required.

1. **ADJOURNMENT** - Chair Potter adjourned the meeting at 5:56 p.m.

Minutes prepared by Daylene Alliman, Deputy Clerk

Approved by _____
Michael A. Houlemard, Jr., Executive Officer/Clerk

Fort Ord Reuse Authority

Proposed Legislative Extension - Background and Schedule

FORA Board Meeting
September 16, 2011

Background

- FORA created in 1994
- Broad Powers to Oversee, Finance, and Implement Base Reuse
- 24 member Board of Directors
- Sunset June 30, 2014
- Title 7.85 Section 67650 (Authority Act)

FORA's legislated dissolution

- Authority Act set FORA dissolution by earlier of:
  - Board determination of 80% former Fort Ord base reuse accomplished, or
  - June 30, 2014.
- County Local Agency Formation Commission: Orderly dissolution and transfer of FORA obligations/assets.

Ongoing obligations that survive June 30, 2014 sunset

- FORA-Marina Coast Water District (MCWD) Fort Ord water purveyor service agreement
- Water allocations for Base Reuse Implementation
- FORA/US Army Economic Development Conveyance deed restrictions/compliance/water rights
- Environmental Liability Insurance
- EPA/DTSC Administrative Order on Consent
- EPA Hazardous Waste Generator designation

Fixed term obligations beyond June 30, 2014

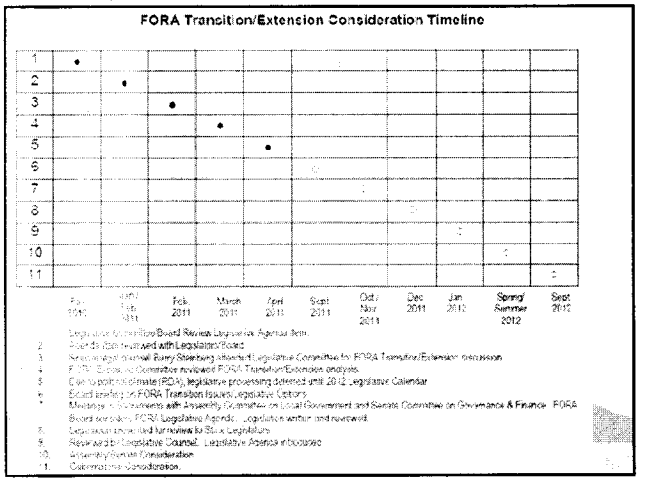
- FORA Community Facilities District (CFD) tied to FORA sunset
- Base Reuse Plan (BRP) compliance
- ESCA explosives remediation completion (2015), Army 5-year review in 2017-18
- Regional Urban Water Augmentation Program (RUWAP) implementation funding
- HCP implementation funding

Fixed term obligations beyond June 30, 2014 (continued)

- FORA CIP CEQA mitigation measures/ projects and other obligations (2022)
- EDA grant compliance (2018)
- Contract obligations with UCSC, MPC, etc.
- DTSC LUC monitoring and reporting

FORA Extension

- Extension to 2020 allows FORA to meet fixed-term obligations:
  - FORA CFD continues
  - CIP CEQA mitigations
  - Building Removal
  - ESCA MEC remediation and reviews



Questions

FORA

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FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Claim by Builders Exchange and Carpenters Union	
Meeting Date:	October 14, 2011	**ACTION**
Agenda Number:	4c	

RECOMMENDATION:

Deny the attached claim presented by the Builders' Exchange and Carpenters' Union.

BACKGROUND:

FORA worked with several entities to build offices at Imjin Office Park. FORA entered into an exploratory agreement with these entities to explore the formation of a partnership for the joint construction of their offices. That partnership was never formed, and FORA never signed a construction contract. Some of those potential partners considered Ausonio Construction as their building contractor. Ausonio is threatening suit against them for lost profits on the office construction job. Two of the entities who are being asked to pay Ausonio are asking FORA to contribute to a possible settlement of that claim. FORA has no obligation to pay any sum to either Ausonio or the other parties to the exploratory agreement

DISCUSSION:

Prior to filing suit against a public entity, the potential plaintiff must first submit a claim to the potential defendant within one year of the time the cause of action arises. This claim satisfies that legal requirement.

FISCAL IMPACT:

Unknown. We do not know whether:

1. suit will be filed, or;
2. the plaintiff (Ausonio) will recover damages

Reviewed by FORA Controller

COORDINATION:

Executive and Administrative Committees, Authority Counsel.

Prepared by _____
Jerry Bowden

Approved by _____
Michael A. Houlemard, Jr.

JAMES J. WESSER, Bar No. 142416
ROBERTA D. PERKINS, Bar No. 153074
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Fax 510.337.1023

Attorneys for International Brotherhood
of Carpenters and Joiners Union Local 605

ROY C. GUNTER III, Bar No. 66055
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Monterey, CA 93940-2818
Telephone 831.648.8822
Fax 831.648.8844

Attorney for Builders Exchange
of the Central Coast

CLAIM PURSUANT TO GOVERNMENT CODE SECTION 910

Pursuant to Government Code section 910, International Brotherhood of Carpenters and Joiners Union Local 605 and Builders Exchange of the Central Coast present the following claim against the Fort Ord Reuse Authority ("FORA"):

1. Name and Post Office address of Claimants:

Carpenters Union Local 605
Post Office Box 549
Marina, CA 93933

Builders Exchange of the Central Coast
100 12th Street, Building 2861
Marina, CA 93933

2. Notices Regarding this Claim should be sent to:

James J. Wesser
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-1091

and

Roy C. Gunter III
Law Offices of Roy C. Gunter III
580 Calle Principal, Suite 2
Monterey, CA 93940-2818

3. Circumstances giving rise to Claim:

The subject of this dispute arises out of a contract made and performed in Monterey County. FORA is a partner in Imjin Parkway Office Partners ("Imjin Partners"). On December 21, 2005, Imjin Partners entered an agreement with Ausonio, Inc. ("Ausonio") for the construction of certain improvements ("Construction Agreement") at the northwest corner of Second Avenue and Imjin Parkway in Marina, California. As a result of the claims described in item 4, below, FORA, as a partner of Imjin Partners, has liability for such claims, and/or liability for indemnification of Claimants herein, and costs and attorney fees.

On or about October 8, 2010, Ausonio invoiced Imjin Partners for the amount allegedly due, $124,861.00. On or about June 13, 2011, Ausonio formally demanded mediation and/or arbitration of the claim pursuant to the Construction Agreement.

4. Description of Indebtedness:

Ausonio now claims that it is owed $124,861.00, plus attorney fees and costs, pursuant to the Construction Agreement for an alleged failure by Imjin Partners to construct additional buildings.

5. Names of Public Employees Involved in Transaction:

Based on the information currently known and available to Claimants, the following employees of FORA were involved in this action: Michael A. Houlemard, Jr., Stan Cook, Steve Endsley, and Jonathan Garcia. There may be other FORA employees involved in the transaction whose identities are not currently known to Claimants.

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WEINBERG, ROGER & ROSENFELD
A Professional Corporation
1001 Marina Village Parkway
Suite 200
Alameda, CA 94501-1091
510.337.1001

6. Amount Claimed:

The amount claimed is yet to be determined, but as far as is known at this time, the claim is in excess of $10,000.00. Pursuant to Government Code section 910(f), no dollar amount is included in this claim. If litigation is necessary, the claim would not be treated as a limited civil case.

Dated: 10/1/2011

JAMES J. WESSER
Attorney for Carpenters Union Local 605

Dated: 10/4/11

ROY C. GUNTER III
Attorney for Builders Exchange of the Central Coast

127473/636786

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FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Preston Park – disposition update	
Meeting Date:	October 14, 2011	**INFORMATION**
Agenda Number:	5a	

RECOMMENDATION(S):

Receive an update on the disposition of Preston Park.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority ("FORA") and the City of Marina ("Marina") initiated Preston Park sale negotiations two years ago. An appraisal jointly commissioned by FORA and Marina and conducted by CB Richard Ellis, Inc. was carried out in August 2010 and established a value for Preston Park. Earlier this year, FORA and Marina agreed to conduct mediation meetings in an attempt to conclude negotiations. Marina and FORA representatives attended a mediation meeting with retired judge Richard Silver on August 2, 2011. Significant progress was made. A second mediation session is scheduled for October 6, 2011. Staff and/or negotiators can provide a brief update at this meeting.

FISCAL IMPACT:

Reviewed by FORA Controller

Costs associated with the Preston Park disposition including legal and mediation costs are included in the approved FY 11-12 operating budget.

COORDINATION:

Marina, Executive Committee, Authority Counsel, special legal counsel, Judicial Arbitration and Mediation Services, Inc. ("JAMS"), and Preston Park ad hoc Negotiating Committee.

Prepared by _____ Reviewed by _____
Jonathan Garcia Steve Endsley

Approved by _____
Michael A. Houlemard, Jr.

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FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	California Central Coast Veterans Cemetery – update	
Meeting Date:	October 14, 2011	**INFORMATION**
Agenda Number:	5b	

RECOMMENDATION(S):

i. Receive a status report summarizing modifications to the Veterans Cemetery Memorandum of Understanding ("MOU") (**Attachment A**).

ii. Receive an update on AB 629 (Monning).

BACKGROUND/DISCUSSION:

The City of Seaside, County of Monterey, and Fort Ord Reuse Authority ("FORA") previously entered into an MOU in support of the future California Central Coast Veterans Cemetery ("CCCVC") on April 28, 2009. Through this previous MOU, the parties committed the sale proceeds of an Endowment Fund parcel to fund the state-held Veterans Cemetery Endowment. The attached MOU updates and reaffirms commitments made in the previous MOU to coordinate completion of the Veterans Cemetery.

The City of Seaside, County of Monterey, FORA, Central Coast Veterans Cemetery Foundation ("CCVCF"), and others have recently discussed possible ways to fund the Veterans Cemetery Endowment. The MOU would allow flexibility for these entities to work together on a near-term funding strategy for the Veterans Cemetery Endowment fund. The FORA Board authorized the Executive Officer to execute the MOU at its August 12, 2011 meeting. As other Parties had not yet approved the MOU, the Board requested an opportunity to see the final version. The final version of the MOU is attached, showing tracked changes since August 12, 2011.

The State Assembly and Senate passed AB 629 earlier this summer. Governor Brown signed AB 629 into law on September 7, 2011, allowing the California Department of Veterans Affairs ("CDVA") to contract directly with FORA to conduct veterans cemetery design, potentially reducing the Endowment Fund requirement by $500,000.

FISCAL IMPACT:
Reviewed by FORA Controller _____

Staff time related to this item is included in FORA's annual budget.

COORDINATION:

City of Seaside, County of Monterey, CCVCF, Executive Committee, and Administrative Committee.

Prepared by _____ Reviewed by _____
Jonathan Garcia Steve Endsley

Approved by _____
Michael A. Houlemard, Jr.

~~Attachment A to Item 6a~~
~~FORA Board Meeting, 8/12/11~~

Attachment to Item 5b
FORA Board Meeting 10-14-11

MEMORANDUM OF UNDERSTANDING BY AND AMONG COUNTY OF MONTEREY, CITY OF SEASIDE, CENTRAL COAST VETERANS CEMETERY FOUNDATION, AND FORT ORD REUSE AUTHORITY REGARDING CALIFORNIA CENTRAL COAST VETERANS CEMETERY PLANNING

This MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") regarding the development of the California Central Coast Veterans Cemetery (hereinafter "Cemetery") is entered into by and among COUNTY OF MONTEREY, a political subdivision of the state of California (hereinafter "County"), CITY OF SEASIDE, a municipal corporation, (hereinafter "Seaside"), the ~~REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE, a public body, corporate and politic (hereinafter "Seaside Agency"), the~~ CENTRAL COAST VETERANS CEMETERY FOUNDATION, a non-profit corporation (hereinafter "Foundation"), and the FORT ORD REUSE AUTHORITY, a public corporation of the State of California (hereinafter "FORA") (each individually referred to hereinafter as a "Party," and collectively referred to hereinafter as "Parties." This MOU is dated for reference on _____, 2011.

RECITALS

1. On April 28, 2009 the County, Seaside, and FORA entered into a Memorandum of Understanding to cooperate in processing the Cemetery Plan (hereinafter "Plan") and to establish an Endowment Fund (hereinafter "Endowment") for the Cemetery's continued operation as required by the California Department of Veterans Affairs (hereinafter "CDVA").
2. Since the enactment of that planning agreement, the Plan has evolved and the Foundation has desired to become a Party ~~and~~. Accordingly, the County, Seaside ~~desires to add Seaside Agency to the ongoing planning~~and FORA hereby agree that with the approval of ~~the Cemetery~~this Memorandum of Understanding, the April 28, 2009 Memorandum of Understanding is terminated.
3. The Parties have all agreed and/or adopted planning documents that confirm ~~that~~ the Cemetery ~~will~~is designated to be located on the former Fort Ord. The Cemetery site is identified in Exhibit 1. The Cemetery Parcel is both within the jurisdiction of Seaside and the County.
4. The Proposed Project. The Plan envisions development of a 178 gross acre site (hereinafter "Project") into six planned land use areas. These areas include: 1) the approximately 78.7-acre Cemetery, 2) three separate parcels for ancillary use, 3) habitat mitigation areas, and 4) two development parcels referred to as the Northern Endowment Opportunity Parcel and the Southern Development Area along with related rights-of-way and 5) other public improvement areas. The Project's areas are defined on the attached Exhibit 2 and are described as follows:

    a. Cemetery Burial Grounds including Ancillary Uses:
        i. Approximately 31.1 acres ~~within~~with Seaside
        ii. Approximately 47.6 acres within County
    b. Ancillary Uses Adjacent to Burial Grounds:
        i. Approximately 1.8 acres in the northwestern border of the Cemetery
        ii. Approximately 1.1 and .9 acres on the south border of the Cemetery
    c. Northern Endowment Fund Opportunity Parcel:
        i. Approximately 28.7 acres within Seaside
        ii. Approximately 1.7 acres within County
    d. Southern Development Area with Habitat Restoration Opportunity Area:
        i. Approximately 30.4 acres within Seaside

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ii. Approximately 15.5 acres within County.

5. State Cemetery Grant. Construction of the Cemetery is anticipated to be funded through a grant from the State Cemetery Grant Program offered by the U.S. Department of Veterans Affairs under its National Cemetery Administration. The grant can finance administration and design costs, cemetery features, and related equipment. The State Cemetery Grant Program requires that assurance of on-going operational funding for the ~~Cemetery~~cemetery be in place prior to grant submission.
6. The Parties agree to work toward State of California legislation that would create a mechanism for the CDVA to reimburse local private and public contributions to the Endowment ~~Fund~~ when the operations and maintenance purpose of the ~~Endowment~~endowment is fulfilled.
7. In addition to establishing an ~~Endowment~~endowment fund for the operation of the Cemetery, this MOU establishes a mechanism to facilitate the design, environmental review, construction and operation of the Cemetery.
8. The Parties concur that ~~a framework be established for~~ near-term ~~Cemetery Endowment~~cemetery endowment funding ~~strategies~~strategy be established.
~~8.~~9. Upon consensus, additional parties may be added to this Agreement to facilitate the Project as described in this Agreement.

This MOU should be interpreted to carry out these goals.

AGREEMENT

1. Use of Proceeds from sale of Development Parcels. The Parties collectively commit up to $1.9 million required to a) submit an application for the design and construction grant and b) to fund an ~~Endowment~~endowment for the long term operation and maintenance of the Cemetery, through the sale of either the Northern Endowment Fund Opportunity Parcel by the Parties or portions of the Southern Development Area with Habitat Restoration Opportunity Area within Seaside.

   a. The County and Seaside agree to work collaboratively to designate the Northern Endowment Fund Opportunity Parcel for future development.

   b. Seaside ~~agrees~~endeavors to comply with the development milestones outlined in Section 11 of this MOU. Those milestones pertain to the Northern Endowment Fund Opportunity Parcel.

   c. Subject to appropriate environmental review, Seaside may transfer, sell, or otherwise encumber portions of the Southern Development Area with Habitat Restoration Opportunity Area within Seaside's jurisdiction. ~~That option is conditioned on reaching an agreement to meet the required date and asset value necessary to fund the Endowment.~~ upon the Endowment funding requirements and the off-set of habitat impacts of the Project and other adjacent Fort Ord projects, being met, as mutually agreed upon. Seaside may control the use of this portion of the Southern Development Area.

   d. Additional parties may be added to this Agreement to facilitate the Project by mutual agreement of the parties.

2. Principles for near-term funding strategy. The Parties agree to the following principles in pursuing a near-term funding strategy for the Cemetery Endowment ~~fund~~:
   ~~a.~~ That all Parties be included.
   ~~b.~~a. ~~That~~, and that the Northern Endowment Fund Opportunity Parcel will continue to be a primary

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mechanism to provide Cemetery Endowment funding.

b. That the Cemetery Parcel be surveyed for transfer.

c. That the funding strategy be ~~accomplished~~adopted by ~~June 30, 2012~~October 1, 2011.

d. That the funding strategy may include other entities upon consensus agreement.

e. That the asset value of the Northern Endowment Fund Opportunity Parcel be the source of repayment if other collateral is used to secure Cemetery Endowment funding.

f. To the extent possible, the Parties will work toward State of California legislation that would create a reimbursement mechanism, so that local contributions to the Cemetery Endowment ~~fund~~, in excess of required operations and maintenance funding would be reimbursed to the contributors.

g. The Parties agree to cooperate in the processing, planning, and other promotional activities to accommodate and advance ~~CCCVC~~Cemetery development as designated in the Fort Ord Base Reuse Plan ("BRP") and other planning documents.

~~3. Annexation. Portions of the Cemetery Parcel, Ancillary parcels, Northern Endowment Parcel and Southern Development Parcel and Habitat area currently located in County territory shall be annexed to and be transferred to Seaside. The Parties shall cooperate fully to accomplish annexation and transfer of ownership to accommodate and advance the development of the CCCVC as noted in the principles listed above and as designated in the BRP and other planning documents.~~

3. Annexation. It is the intent of the Parties to cooperate fully to accomplish annexation of those portions of the Project site currently located within County territory and outside Seaside as defined on the attached Exhibit 2 in order to facilitate the development of the Cemetery. It is also the intent of the Parties to cooperate fully to accomplish the conveyance of the portions of the Project site currently owned by the County to Seaside as defined on the attached Exhibit 2 in order to facilitate the development of the Cemetery. Seaside and County agree that the Southern Development Area with Habitat Restoration Opportunity Area shall be used for habitat mitigation to offset impacts of the Project and other adjacent Fort Ord projects, as mutually agreed upon.

4. Land Conveyance. At the direction of Seaside and with the cooperation of the Parties, FORA agrees to convey title to the land described in Exhibit 1 in multiple conveyance events as regulatory agencies have confirmed site closure for the removal of remnant hazards. The land will likely be conveyed with applicable conveyance documentation, land use controls and deed restrictions. These include, but are not restricted to, the Finding of Suitability for Early Transfer 5 ("FOSET 5;"), Monterey County Ordnance Ordinance (Chapter 16.10 of the County Code), Seaside Ordnance Ordinance (Chapter 15.34 of the Seaside Municipal Code), and the Remedial Design/Remedial Action, Land Use Controls Implementation, and Operation and Maintenance Plan - Parker Flats Munitions Response Area Phase I. To reduce costs associated with land conveyance of the Cemetery to CDVA, County and Seaside may elect to direct FORA to transfer the approximately 78.7-acre Veterans cemetery parcel (31.1 acres within Seaside and 47.6 acres within the County) directly to CDVA, or to the Foundation for Cemetery construction, upon completion of appropriate environmental review. The Foundation agrees to secure or pay for a property survey needed to complete the transfer. Such conveyance is not intended to include the Cemetery's ancillary use parcels.

5. Design and Construction of Cemetery. The CDVA will be the lead agency for the proposed Cemetery and may designate FORA to act on its behalf. The Parties support the transfer of responsibility for the design and construction of the Cemetery to FORA.

6. Water Allocation. The Parties agree that FORA will take the lead to request that the U.S. Army and Department of the Defense ~~provide~~convey, transfer, or otherwise re-allocate water rights and

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allocation in an amount determined sufficient [currently estimated to be up to 105 acre-feet per year ~~(~~("AFY~~)~~") of potable water~~–for~~] by the Marina Coast Water District to develop the Cemetery, ancillary uses adjacent to the Cemetery, and the Northern and Southern Development Areas. The use of the Northern Endowment Parcel as the funding mechanism for the Endowment ~~Fund~~ is conditioned upon Seaside receiving a minimum of 100 AFY of potable water to support future development. Water demand has been estimated to be 2.2 AFY for the Cemetery burial grounds. If necessary, the County agrees to allocate up to this amount of water (2.2 AFY) for the Cemetery burial grounds. Further, the Parties will work with the Marina Coast Water District and the Army to secure sufficient interim water necessary to establish Cemetery landscaping.

7. Environmental Disclosures. The Agency for Toxic Substances and Disease Registry ~~(~~("ATSDR~~)~~") was established under the mandate of the Comprehensive Environmental Response, Compensation and Liability Act ~~(~~("CERCLA~~)~~") of 1980. CERCLA, also known as the "Superfund" law, authorized the U.S. Environmental Protection Agency ~~(~~("EPA~~)~~") to conduct clean-up activities at hazardous waste sites. EPA was directed to compile a list of sites considered hazardous to public health. This list is termed the National Priorities List ~~(~~("NPL~~)~~~~.~~"). The 1986 Superfund Amendments and Reauthorization Act ~~(~~("SARA~~)~~") directed ATSDR to perform a public health assessment for each NPL site. In 1990, federal facilities were included as sites to be proposed for or listed on the NPL. EPA placed Fort Ord on the ~~National Priorities List ("~~NPL~~")~~ on February 21, 1990. The US Army, in consultation with EPA, is implementing groundwater and munitions and explosives of concern ~~(~~("MEC~~)~~") remediation on former Fort Ord. FORA has entered into an Environmental Services Cooperative Agreement ~~(~~("ESCA~~)~~") to complete a portion of the US Army's MEC remediation work on certain portions of former Fort Ord, which includes the ~~California Central Coast Veterans~~ Cemetery parcel, to be transferred from the US Army to FORA under the ~~Finding of Suitability for Early Transfer 5 (~~FOSET 5~~)~~. As FORA completes former Fort Ord ESCA MEC remediation work and transfers property, groundwater and soil Land Use Covenants ~~(~~("LUC~~)~~") restricting certain property uses will be recorded.

8. Munitions Response Sites~~,~~. Based on the 1997 ~~Base Reuse Plan~~BRP designations, FORA is required under an Administrative Order on Consent ~~and receive~~with State and Federal regulators to achieve regulatory site closure before transferring any of the properties described herein to Seaside, the County, or others as may be directed. FORA anticipates the portion of the Veterans Cemetery site that was remediated by the US Army and has an approved Record of Decision will be ~~ready to transfer to the jurisdictions no later than July 2015,~~transferred during calendar year 2012 - once appropriate surveys are completed and after the regulatory agencies have confirmed that site closure is complete~~ in this area.~~. In addition, the ~~Comprehensive Environmental Response, Compensation and Liability Act (~~Army must grant the CERCLA~~)~~ covenant~~ will need to be granted by the Army.~~.

9. Ongoing Remediation. The FORA ESCA ~~Team has ongoing~~will continue remediation adjacent to the Cemetery, which may require ~~the removal~~munitions removals or on-site detonation~~ of munitions found~~. This may impact Cemetery construction and/or operations. If intrusive activity is to occur in an area where MEC is expected, and for all MEC demolition operations, an exclusion zone will be established to ensure public safety. During any intrusive activity (e.g., excavations) in areas where MEC is likely to be present, only authorized personnel essential to the operation are permitted to be inside the exclusion zone. When an exclusion zone includes public roads, businesses, residences, or ongoing construction projects, the affected entities or individuals will be notified and asked to temporarily relocate outside the exclusion zone.

10. Environmental Review. Parties shall cooperate with Seaside as lead agency relating to the disposition

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of property to generate funds for the Endowment, including environmental review pursuant to a separate agreement.

11. Milestones. The Parties endeavor to comply with the following schedule and acknowledge the CDVA's overall project schedule as currently described in **Exhibit 3**.

Task	Lead Agency	Completion Date
Approve Exclusive Negotiating Agreement ("ENA") for Northern Endowment Fund Opportunity Parcel	Seaside	September 18, 2010
Conduct Environmental Review of Endowment Parcel use(s)	Seaside	November 1, 2011 to March 1, 2013
Complete Habitat Conservation Plan (HCP)	FORA	August 1, 2012
Complete Disposition and Development Agreement or other agreements for Northern Endowment Fund Opportunity Parcel	Seaside	April 1, 2013
Complete Annexation to Seaside	Seaside	April 1, 2013
Receive Regulator & U.S. Army approval to transfer property from FORA to Seaside	FORA	December 2014
Convey land FORA to Seaside or designee	FORA	March 1, 2015
Convey land/assets	Seaside	Late 2015

12. County ~~and County Agency~~ Approvals. The County Director of Redevelopment and Housing, or his or her designee, is authorized to act on behalf of the County ~~and the County Redevelopment Agency~~ as to matters of administration and interpretation of this MOU, except for matters expressly required in this MOU to be acted upon by the County's Board of Supervisors ~~or the County's Agency's Board of Directors.~~ The Director of Redevelopment and Housing of the County of Monterey, or designee, at his or her sole discretion, may refer any matter under this MOU to the County Board of Supervisors ~~or the County Agency Board of Directors~~ for action in a timely manner under this MOU.

13. Seaside~~/Seaside Agency~~ Approvals. Seaside City Manager ~~and the Executive Director of the Seaside Agency~~, or his or her designee, is authorized to act on behalf of Seaside ~~and Seaside Agency~~ as to matters of administration and interpretation of Seaside's ~~and Seaside Agency's~~ roles and responsibilities under this MOU, except for matters expressly required in this MOU to be acted upon by Seaside ~~Council or Seaside's Agency's Board of Directors~~.

14. Additional Governmental Parties. The Parties acknowledge that additional governmental parties may be required to be added to this Agreement upon mutual agreement of the Parties in order for the Parties to fulfill their roles and responsibilities as outlined in this Agreement.

~~14.~~15. Termination. The purpose of this MOU is to facilitate the June 2012, funding of an endowment for the operation of the California Central Coast Veterans Cemetery. The endowment needs to be funded by this date in order to formally request funds for the construction of the cemetery under the State Cemetery Grant Program. If this purpose is frustrated by the failure to

fund the endowment by the time stated, then this MOU may be terminated on thirty (30) days' notice by action of one or more of the legislative bodies of the County, Seaside or FORA.

~~15.~~16. Amendment by Written Recorded Instrument. This MOU may be amended or modified in whole or in part, only by a written instrument executed by all of the parties.

~~16.~~17. Governing Law. This MOU shall be governed by and interpreted by and in accordance with the laws of the State of California.

~~17.~~18. Entire MOU. This MOU, along with any exhibits and attachments hereto, constitutes the entire MOU between the parties hereto concerning the subject matter hereof.

~~18.~~19. Interpretation. It is agreed and understood by the parties hereto that this MOU has been arrived at through negotiation and that no party is to be deemed the party which prepared this MOU within the meaning of Civil Code Section 1654.

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IN WITNESS WHEREOF, the Parties have executed this MOU on the day and year set out opposite their respective signatures.

By: ~~Date:~~ Date:

CITY OF SEASIDE, As to Form
a municipal corporation

By: Date:

~~REDEVELOPMENT AGENCY OF SEASIDE OF SEASIDE,~~ ~~As to Form~~
~~a public body, corporate and politic~~

~~By:~~ ~~Date:~~

COUNTY OF MONTEREY, As to Form
a political subdivision of the State of California

By: Date:

FORT ORD REUSE AUTHORITY As to Form
a public corporation of the State of California

By: Date:

CENTRAL COAST VETERANS CEMETERY As to Form
FOUNDATION
a non-profit corporation

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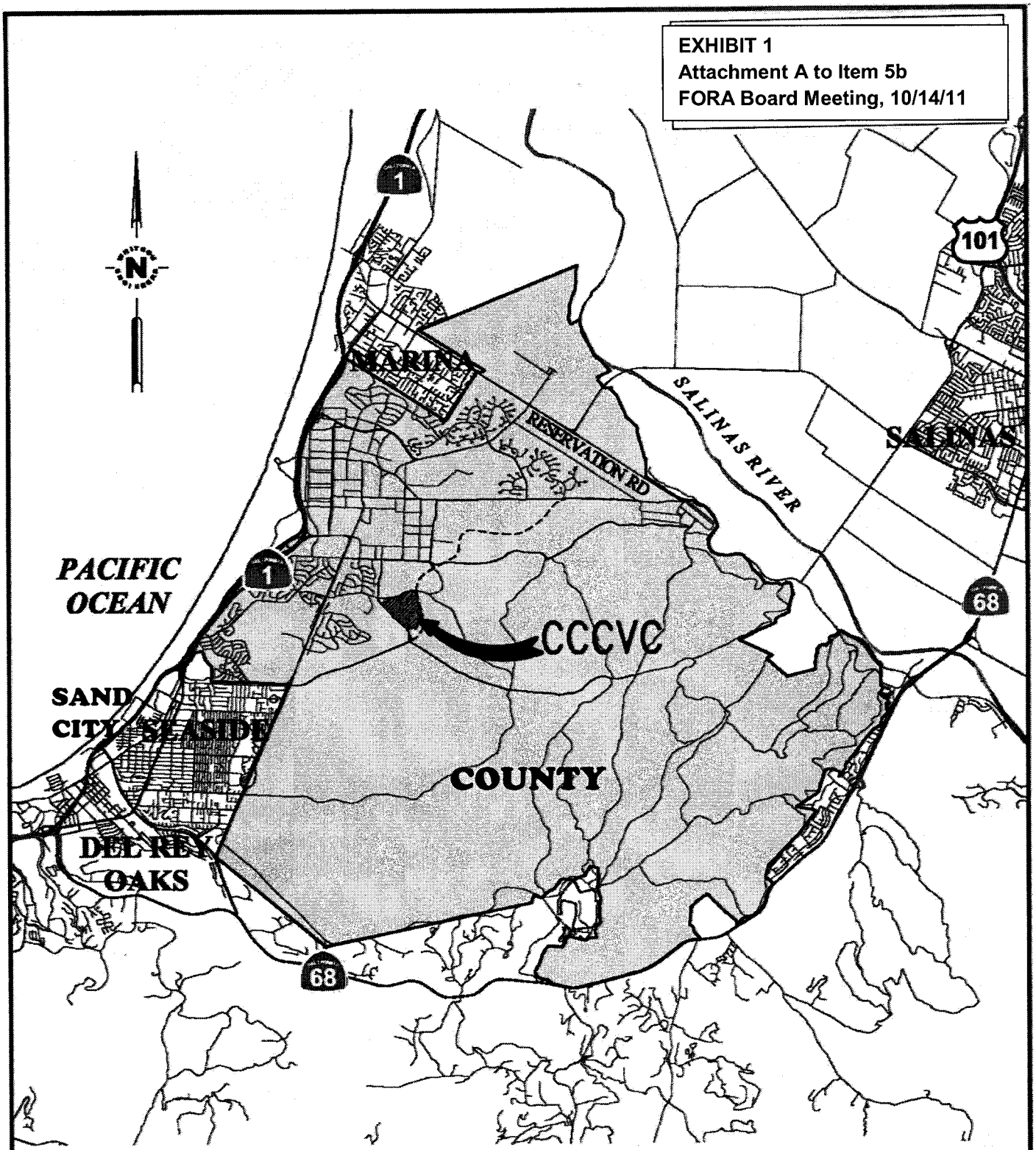
EXHIBIT 1
Attachment A to Item 5b
FORA Board Meeting, 10/14/11



CALIFORNIA CENTRAL COAST VETERANS CEMETERY
VICINITY MAP

MONTEREY COUNTY — CALIFORNIA

BACKGROUND INFORMATION REPORT

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PROJECT No.:	2232.01

FIGURE 1 OF 2

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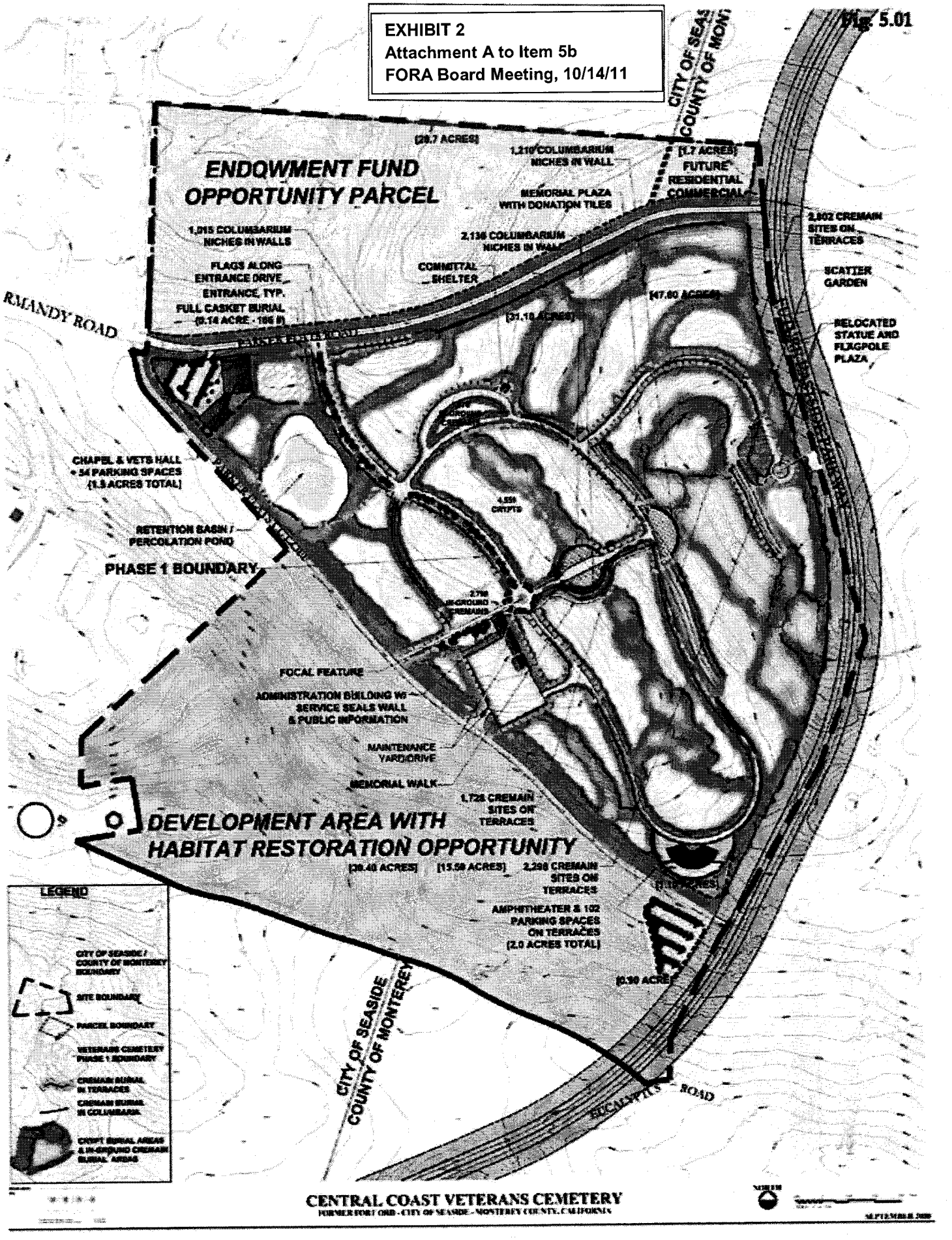
EXHIBIT 2
Attachment A to Item 5b
FORA Board Meeting, 10/14/11



CENTRAL COAST VETERANS CEMETERY
FORMER FORT ORD - CITY OF SEASIDE - MONTEREY COUNTY, CALIFORNIA

EXHIBIT 3
Attachment A to Item 5b
FORA Board Meeting, 10/14/11

ID	Task Name	Start	Finish	Duration
1	**State Budget Process**	**12/29/2010**	**7/5/2013**	**658 Days**
2	Funding Letter of Assurance Preliminary Plans (PP)	12/29/2010	12/29/2010	0 Days
3	Funding Letter of Assurance Working Drawings (WD)	9/5/2011	9/5/2011	0 Days
4	Full Funding Letter of Assurance	9/3/2012	9/3/2012	0 Days
5	FY 11-12 Budget Process as Spring Finance Letter (SFL)	12/29/2010	7/1/2011	133 Days
6	FY 12-13 Budget Process	9/5/2011	7/6/2012	220 Days
7	FY 13-14 Budget Process	9/3/2012	7/5/2013	220 Days
8	Appropriation for PP	7/1/2011	7/1/2011	0 Days
9	Appropriation for WD	7/6/2012	7/6/2012	0 Days
10	Appropriation for Construction	7/5/2013	7/5/2013	0 Days
12	**Fund Raising**	**12/29/2010**	**8/30/2013**	**698 Days**
13	Fund Raising to Support PP	12/29/2010	12/30/2011	175 Days
14	Fund Raising to Support WD	4/4/2011	4/3/2012	262 Days
15	Fund Raising to Support Full Need	4/4/2012	4/4/2013	262 Days
16	Deposit Funds for PP	12/30/2011	12/30/2011	0 Days
17	Department of Finance (DOF) Certification	1/2/2012	2/27/2012	40 Days
18	Deposit Funds for WD	4/3/2012	4/3/2012	0 Days
19	DOF Certification	4/4/2012	5/29/2012	40 Days
20	Deposit Full Endowment Requirement	4/4/2013	4/4/2013	0 Days
21	State Controller's Office (SCO) Certification of Funding	7/1/2013	8/30/2013	45 Days
23	**Cemetery Construction Project**	**10/15/2010**	**2/29/2016**	**1960 Days**
24	Project Budget Package	10/15/2010	5/16/2011	152 Days
25	Preliminary Plans	12/30/2011	1/25/2013	280 Days
26	Working Drawings	1/28/2013	2/24/2014	280 Days
27	Bidding Process	3/3/2014	7/7/2014	90 Days
28	Cemetery Construction	8/18/2014	2/29/2016	400 Days
30	**Federal Grant Process**	**12/30/2011**	**12/18/2015**	**1083 Days**
31	Design Coordination with National Cemetery Administration (NCA)	12/30/2011	4/22/2013	478 Days
32	Final Grant Application Submission	3/13/2014	4/14/2014	30 Days
33	Grant Award (If Funds Available)	4/14/2014	4/14/2014	0 Days
34	Grant Payout	8/18/2014	4/19/2016	450 Days

Return to Agenda

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Outstanding Receivables	
Meeting Date:	October 14, 2011	**INFORMATION/ACTION**
Agenda Number:	7a	

RECOMMENDATIONS:

1. Receive a Fort Ord Reuse Authority (FORA) outstanding receivables update as of September 30, 2011.
2. Refer outstanding receivables policy issues to the Finance Committee (October 28, 2011 meeting) for review/recommendation to the Board on its November 18, 2011 meeting.

BACKGROUND/DISCUSSION:

FORA has several significant outstanding receivables. The Late Fee policy adopted by the FORA Board requires receivables older than 90 days be reported to the Board. The Policy also requires a late fee of 1% per month on any payment not received by the due date, unless other terms are approved by the Board.

	Item Description	Amount Owed	Amount Paid	Amount Outstanding
1 **City of Del Rey Oaks**	PLL Loan Payment 09-10	182,874	0	182,874
	PLL Loan Payment 10-11	256,023	0	256,023
	PLL Loan Payment 11-12	256,023	0	256,023
	DRO Total			*694,920*
2 **City of Marina**	Tax Increment 08-09	108,862	52,400	56,462
**Marina disputes payment obligation*	Tax Increment 07-08	109,310 *		109,310
	Marina Total			*165,772*
3 **City of Seaside**	Tax Increment 03-10	358,830	180,000	178,830
4 **Monterey County**	Lease revenue 10-11 (Ord Market)	28,995	-	26,996
	Total Outstanding Receivables			**$ 1,066,518**

1. **City of Del Rey Oaks (DRO)**

   - PLL insurance annual payments: In 2009, DRO cancelled agreement with its project developer who previously made the PLL loan payments. The FORA Board approved a payment plan for DRO and the interim use of FORA funds to pay the premium until DRO finds a new developer (who will be required by the City to bring the PLL Insurance coverage current). DRO agreed to make interest payments on the balance owed until this obligation is repaid, and they are current.

   Payment status: First Vice Chair Mayor Edelen informed both the Board and Executive Committee that DRO will borrow or secure funds from a new developer to pay off this obligation.

2. **City of Marina (Marina)**

   - Tax increment (TI): In the fall of 2010, as directed by the FORA Board during the Capital Improvement Program review, FORA conducted an audit of TI revenue that FORA collects from

Seaside, Marina and County of Monterey. The results indicated that FORA is owed property TI payments from Seaside and Marina. Both cities acknowledged the debt.

At the July 2011 meeting, FORA Board approved an MOA with Marina for a phased (2 payments) repayment of the FY 08-09 tax increment obligation.

In June 2011, FORA received additional information from the County of Monterey demonstrating also FY 07-08 underpayment; based on the County information, that amount is about $109K. Marina staff acknowledged this fact, but they were not able to confirm amount or payment timing until review by Redevelopment Counsel; Marina staff indicated that FORA was to receive communication in late July or early August. On August 31, 2011, FORA received notification from Marina that the City Council will discuss this item in a closed session at their first meeting in September and will report to FORA after that meeting. On September 15 Marina's City Manager disputed responsibility to repay this debt citing statute of limitation provisions.

Payment status: Marina paid the first installment payment of the FY 08-09 underpayment on time; the next payment is due November 1, 2011. FY 07-08 payment disputed.

3. **City of Seaside (Seaside)**

- Tax increment: Please see paragraph 2 above regarding Seaside tax increment underpayment. At the February 2011 meeting, FORA Board approved an MOA with Seaside for a phased (4 payments) repayment of this obligation.

Payment status: Seaside paid the first and second installment on time. The next (third) installment payment is due January 31, 2012.

4. **County of Monterey (County)**

- Lease revenue: FORA was notified last week by County staff that the Ord Market Lessee may owe County/FORA in lease revenue. Under the Lease terms, the Lessee pays the larger of basic rent or 3% of gross monthly sales; the Lessee has been paying the basic rent, submitted financial documents set forth underpaid rent for 2010 of about $50K.

Payment status: County is preparing a letter (for FORA review) to the Lessee requesting payment according to the Lease Agreement and meeting set up for County/FORA/Lessee to resolve.

FISCAL IMPACT:

Negative. FORA must expend resources or borrow funds until these receivables are collected. The majority of FORA revenues come from member/jurisdiction/agencies and developers. FORA's ability to conduct business and finance its capital obligations depends on a timely collection of these revenues.

COORDINATION:

Executive Committee

Prepared by Ivana Bednarik **Approved by** Michael A. Houlemard, Jr.

Return to Agenda

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Administrative Committee Report	
Meeting Date: **Agenda Number:**	October 14, 2011 7b	**INFORMATION**

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The FORA Administrative Committee met on September 7 and September 21, 2011. Approved minutes are attached.

FISCAL IMPACT:
Reviewed by FORA Controller

Staff time for this item is included in the approved FY 11-12 budget.

COORDINATION:

Administrative Committee

Prepared by _____
Daylene Alliman

Approved by _____
Michael A. Houlemard, Jr.

Fort Ord Reuse Authority
920 2nd Avenue, Suite A, Marina, CA 93933
Phone: (831) 883-3672 • Fax: (831) 883-3675 • www.fora.org

APPROVED

ADMINISTRATIVE COMMITTEE MEETING

Wednesday – September 7, 2011
8:45 A.M. *(time certain)* **– Carpenters Union Hall**
910 2nd Ave., Marina (on the former Fort Ord)

MINUTES

1. CALL TO ORDER AT 8:45 A.M. - Noting a quorum was present, Fort Ord Reuse Authority ("FORA") Assistant Executive Officer Steve Endlsey called the meeting to order at 8:55 AM as Acting Chair. The following people, as indicated by signatures on the roll sheet, were present:

Nick Nichols, County of Monterey
Steve Endsley, FORA
Bob Schaffer, MCP
Jim Arnold, FORA
Patrick Breen, MCWD
Doug Yount, City of Marina
Pat Ward, Bestor Engineers
Jonathan Garcia, FORA
Ray Corpuz, City of Seaside
Anya Spear, CSUMB
Todd Bennett, City of Monterey
Kathleen Lee, County of Monterey
Keith McCoy, UCP
Vicki Nakamura, MPC
Tim O'Halloran, City of Seaside
Crissy Maras, FORA
Daylene Alliman, FORA
Laura Cohan, FORA
Andy Sterbenz, Schaaf & Wheeler
Ian Gillis, UCP
Debby Platt, City of Marina
Graham Bice, MBEST
Brian Boudreaux, Monterey Downs

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

3. PUBLIC COMMENT PERIOD – Melissa Broadston from the US Army BRAC (Base Closure and Realignment) office announced a survey of the committee to "check-in" on the process of the community outreach program for the Superfund Outreach Program. Survey results help the Army to fulfill community outreach requirements and when complete, the BRAC office will analyze the results in order to enhance the program. She distributed the survey for participants to complete after the Administrative Committee meeting.

4. APPROVAL OF MEETING MINUTES - AUGUST 24, 2011 – Upon a motion made by Anya Spears, and seconded by Nick Nichols, the meeting minutes were approved.

5. OLD BUSINESS

Jonathan Garcia announced that the **California Central Coast Veterans Cemetery AB629** – was passed by the Assembly and State Senate on August 26th and Governor's decision deadline was today (September 7th). There is no indication whether or not the Governor will sign the bill. Mr. Garcia also gave a brief update on the **Habitat Conservation Plan** (HCP) stating that the 3rd administrative draft had been received from the consultant and it has been sent out for review by permittees. FORA will host an FTP site (File Transfer Protocol site) for access to the document or hard copies and CDs are available as well. Mr. Garcia welcomed comments by September 30th. Mr. Nichols requested a copy of the joint powers agreement. Mr. Garcia said that the joint powers agreement was not required to be part of the HCP document. Therefore, it was not included in the 3rd internal administrative draft. Mr. Garcia agreed to send Mr. Nichols the draft agreement. Jamie Gomes, EPS (Environmental Planning Services), gave an overview of their work on the HCP Endowment Funding Strategy, Fig. 1. (A copy of the PowerPoint presentation is attached to these minutes.) Graham Bice requested an electronic version of the document. Administrative Committee members asked several questions regarding the proposed alternative borderlands funding mechanism. Land use jurisdictions commented that setting up five

individual Community Facilities Districts (CFD's) to raise $3.5 million for borderlands costs may be difficult from political and practical vantage points (a relatively small benefit for the amount of effort required). Members requested that Mr. Gomes provide information on the amount of fee reduction to the FORA CFD that could be realized through the proposed approach. Mr. Gomes also reported on the **Capital Improvement Program - Phase II study** and gave a brief presentation on the Tax Increment Financing. (A copy of the PowerPoint presentation is attached to these minutes.) Mr. Gomes noted: 1) The California Redevelopment Association is continuing to send out periodic reviews and Advisory Bulletins; 2) FORA should continue to dialogue with former Fort Ord Redevelopment Agencies (RDA's); and 3) FORA and RDA's should monitor legislation. Doug Yount asked what are the implications of the State's dissolution and reinstatement of RDAs for FORA's TI? Mr. Yount asked what are the uses of FORA's Tax Increment. Mr. Garcia replied stating that in general FORA uses TI for operations.

6. **NEW BUSINESS** - none
7. **FORA BOARD MEETING AGENDA REVIEW - SEPTEMBER 16, 2011** – Mr. Garcia gave a brief overview of the two year audit conducted on Preston Park and also announced a tour of Preston Park was requested at the last Board meeting. The tour is scheduled for Friday, September 9th. Doug Yount asked about board agenda item 7d. Mr. Garcia replied that there is a proposed schedule as an information item for the Executive Committee meeting today. The item would then be placed on the FORA Legislative Agenda and the Board would take action in November.
8. **ITEMS FROM MEMBERS** - none
9. **ADJOURNMENT** –The meeting was adjourned at 10:21 a.m.

Meeting minutes prepared by Daylene Alliman, Deputy Clerk

NEXT SCHEDULED MEETING: September 21, 2011

Marina Coast Water District – FY 2011-12 Rate and Charge Analysis

presented to

FORA Administrative Committee

presented by

Jamie Gomes
Economic & Planning Systems, Inc.

September 7, 2011

Economic & Planning Systems, Inc.
2295 Gateway Oaks Drive, Suite 250, Sacramento, CA 95833
916.649.8010 • 916.649.2070 fax

Berkeley
Denver
Los Angeles
Sacramento

Background and Scope of Review

- March 2011 – Water and Wastewater Oversight Committee (Requested 7.8% Increase).
- March 2011 – MCWD Board directed staff to reexamine proposed increases.
- June 2011 – Joint FORA/MCWD Board (Requested 4.9% Increase).
- July 2011 – FORA Board requested Rate and Charge Review/Audit.
  - Review of Ord Community Water and Wastewater rates and charges.
  - Presentation of Findings to the FORA Administrative Committee and Board.

Summary of Data Reviewed

- FY 2011-12 Ord Community Compensation Plan.
- FY 2011-12 MCWD Revised Draft Budget.
- MCWD Five-Year Water & Wastewater Financial Plan and Rate Study (Bartle Wells – 2008).
- FY 2009-10 Comprehensive Annual Financial Report (CAFR).
- Historical MCWD Budgets.
- Meeting Agendas and Minutes from FORA Board, MCWD Board and joint board meetings.

Overall MCWD Summary of Findings

- Revised 4.9% rate increase request is warranted.
- Ord Community operating and other cost increases similar to Marina.
- MCWD adjustments of $360,000 to reduce rate increase from 7.8% to 4.9%.
- Individual cost centers are funding proportional amount of costs.
- Required debt service coverage ratios are being met.
- District is maintaining adequate reserve fund balances.
- Major capital facility financing will be contingent upon new revenue sources (e.g., capacity charges from new development).
- Interest earnings are lower than anticipated.

Ord Community Water Summary of FY 2011-12 Findings

- Revised 4.9% rate increase request is warranted.
- Budgeted operating revenues are anticipated to cover operating expenditures.
- Excluding interest costs, annual operating costs increased 3.8% from FY 2010-11 to FY 2011-12.
- Excluding interest costs, annual operating costs equal original 2008 rate study estimates.
- Overall operating costs increased 13.6% including interest costs from FY 2010-11 to FY 2011-12.
- Source of interest cost increase is refinancing of promissory note for Armstrong Ranch (10 year term).

Ord Community Water Summary of FY 2011-12 Findings (continued)

- Reserve funding is required to help fund debt service (principal) and planned capital projects.
- Overall operating and general reserves are funded at adequate levels.
- Future capital funding is primarily contingent upon funding from new development.

Ord Community Wastewater Summary of FY 2011-12 Findings

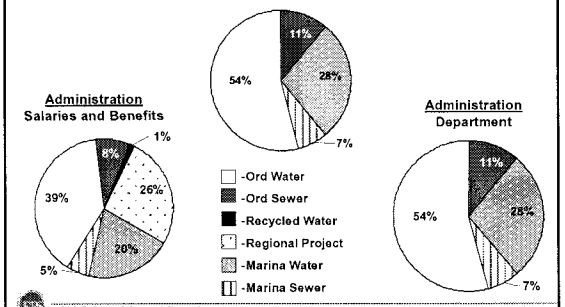
- Revised 4.9% rate increase appears warranted.
- Revenue from sewer sales exceeded operating costs by approximately 150% in FY 2009-10, FY 2010-11, and FY 2011-12.
- Excluding interest costs, annual operating costs are 38% less than original 2008 rate study estimates.
- Excluding interest costs, annual operating costs decreased 17.5%.
  - Interest costs increased by 81%.
  - Engineering personnel and expenses decreased by 27%.
  - Outside engineering consultant costs decreased by 90%.
- Source of interest cost increase is refinancing of promissory note for Armstrong Ranch (10 year term).

Ord Community Wastewater Summary of FY 2011-12 Findings (continued)

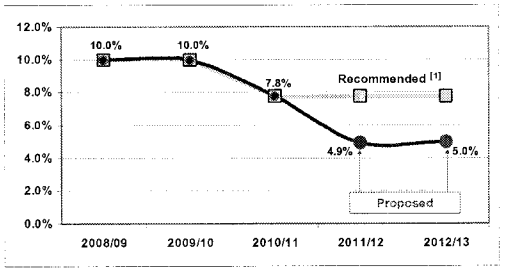
- Wastewater operating and general reserves are inadequately funded.
- FY 2011 CIP does not include capacity expansion projects.
- Rate revenue in excess of costs can help fund capital projects.

Allocation of Administration Cost Components

FY 2011/12 Budget Allocation

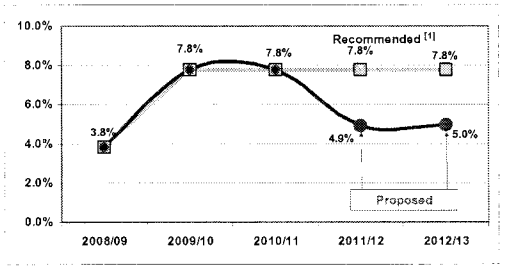


MCWD Water Annual Increases



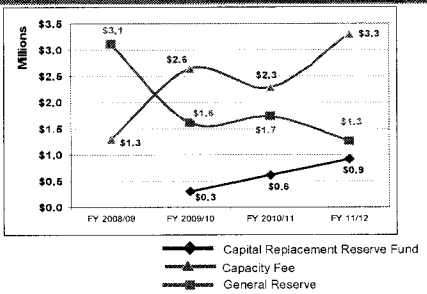
[1] From: MCWD Water and Wastewater Financial Plan and Rate Study (May 2008, Bartle Wells).

MCWD Wastewater Annual Increases



[1] From: MCWD Water and Wastewater Financial Plan and Rate Study (May 2008, Bartle Wells).

Ord Community Annual LAIF Fund Balances



LAIF: Local Agency Investment Fund

FORA Tax Increment Financing - Status Report

presented to

FORA Administrative Committee

presented by

Jamie Gomes
Economic & Planning Systems, Inc.

September 7, 2011

Economic & Planning Systems, Inc.
2295 Gateway Oaks Drive, Suite 250, Sacramento, CA 95833
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Berkeley
Denver
Los Angeles
Sacramento

Timeline of Key Dates for Significant Actions

Date	Action	Comment
6/30/11	Governor signs legislation	Agency cannot incur new obligations, enter into contracts, modify existing contracts, sell assets, restructure debts, etc.
8/1/11	DOF calculates payment amounts for opt-in	
8/11/11	CRA and CA League of Cities initiate lawsuit	
8/15/11	Last day to file an appeal of DOF calculation for opt-in, if appeal is warranted	Stayed; agencies encouraged to file anyway. Dept will receive and issue an "advisory opinion" on appeal.
8/26/11	RDAs must adopt an Enforceable Obligation Payment Schedule (EOPS)	List of all obligations that are enforceable within the meaning of subdivisions (d) of §34167. After 8/26/11, Agency can no longer make payments not listed on the EOPS.
9/15/11	DOF makes determination of appeal of remittance amount	Stayed
9/30/11	Initial recognized EOPS due to successor agency	
10/1/11	• City adopts ordinance to opt-in to voluntary redevelopment program and notifies County Auditor-Controller, State Controller, and DOF • If opt-in decision still in doubt, City MAY instead adopt non-binding resolution of intent • RDA dissolved; successor agency must be designated; all agency assets transfer to successor agency	• Stayed; unclear if City may act in spite of stay • Stayed • All other provisions of bill become operative unless otherwise specified [See §34170(a)]

2

Timeline of Key Dates for Significant Actions

Date	Action	Comment
11/1/11	Opt-in ordinance must be enacted (if applicable)	Stayed; unclear if City must act in spite of stay.
12/1/11	Second deadline to adopt opt-in ordinance, if DOF granted an extension because of appeal	
After Ordinance Adoption	City and Agency enter into remittance agreement whereby Agency pays City an amount not to exceed remittance amount	
1/1/12	Oversight board must be formed with membership reported to DOF. Only payments to listed obligations (on the Recognized OPS) may be made	Applicable only to Successor agencies See §34179 and §34177
1/15/12	1st Voluntary Alternative Redevelopment Program (VARP) remittance payments due to State	Stayed
3/1/12	County Auditor-Controller audits Agency	See §34182
3/1/12	2nd VARP remittance payments due to State	Stayed
1/1/13	Due date for redevelopment cleanup bill	See §34189

Sources: CRA; City of Hayward, "Consideration of Introduction of Ordinance to "Opt-In" to Alternative Voluntary Redevelopment Program" presentation, July 26, 2011; City of West Sacramento, "Workshop on Implications of State Budget" agenda, July 20, 2011; and City of Concord, "Report to Mayor/Redevelopment Agency Chair and Council/Agency Board", August 23, 2011.

3

Effects of the Stay

- Applies to all redevelopment agencies regardless of any previous or intended action to opt-in to the AB 27 alternative redevelopment program.
- Prohibits redevelopment agencies from the following:
  - Take any action to incur new indebtedness.
  - Amend or modify any existing agreements.
  - Adopt or amend redevelopment plans.
  - Issue or restructure bonds or dispose of assets.
  - Accept any assistance from the state or federal government.
  - Increase staff salaries or benefits.
  - Create new agencies.
  - Create a successor agency.

Presentation Title 4

Enforceable Obligation Payment Schedules

- Assembly Bill 27 – Opt into the Voluntary Program
  - Annual community Remittance Payments
  - The stay suspends the remittance payments, but keeps the enforceable obligation payment schedule requirement
- Required to adopt an enforceable obligation payment schedule by August 29, 2011
- Includes bonds, loans, state and federal payments, obligations to employees, judgments or settlements, contracts for administration, and binding agreements entered into prior to June 29, 2011

Presentation Title 5

Redevelopment Agencies on Fort Ord

- All have adopted EOPS.
- All recognize payment obligation to FORA.

Agency	Project Name	Recognized Obligation Amount (FY 2011-12)	Dec. 2011 Payment Amount
City of Seaside	Back pass-through Liability Insurance Pass-through	$180,620 $103,000 $840,000	$0 $0 $420,000
City of Marina	Implementation agreement with FORA 2008-09 Pass-through Pass-through agreement	$82,500 $57,000 $143,611	$0 $57,000 $143,611
Monterey County	FORA – Fort Ord Project Area TI FORA – Ord Market lease	$102,000 $40,800	$0 $20,400
City of Del Rey Oaks	N/A	N/A	N/A

Next Steps

- Continued monitoring of lawsuit and CRA/LOC advisory bulletins.
- Continued dialogue with affected Fort Ord Redevelopment Agencies.
- Monitoring of any proposed legislative adjustments.

Fort Ord Reuse Authority
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APPROVED

ADMINISTRATIVE COMMITTEE MEETING

Wednesday – September 21, 2011
8:15 A.M. – Carpenters Union Hall
910 2nd Ave., Marina (on the former Fort Ord)

Minutes

1. **CALL TO ORDER** - Noting a quorum was present, Chair Dawson called the meeting to order at 8:25 AM. The following people, as indicated by signatures on the roll sheet, were present:

Nick Nichols, County of Monterey	Ray Corpuz, City of Seaside	Daylene Alliman, FORA
Bob Schaffer, MCP	Anya Spear, CSUMB	Ian Gillis, UCP
Jim Arnold, FORA	Kathleen Lee, County of Monterey	Debby Platt, City of Marina
Patrick Breen, MCWD	Keith McCoy, UCP	Graham Bice, MBEST
Pat Ward, Bestor Engineers	Vicki Nakamura, MPC	Steve Endsley, FORA
Scott Hilk, MCP	Tim O'Halloran, City of Seaside	Diana Ingersoll, City of Seaside

2. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE** – Vicki Nakamura announced the Grand Opening of the new Monterey Peninsula College facilities scheduled for Friday, September 23, 2011 at 1:00 p.m. Ms. Nakamura encouraged the committee members to attend and handed out invitations to the event.

3. **PUBLIC COMMENT PERIOD** – none

4. **APPROVAL OF MEETING MINUTES** – September 7, 2011 - Upon a motion made by Ray Corpuz, and seconded by Graham Bice, the meeting minutes were approved.

5. **OLD BUSINESS** – Assistant Executive Officer Steve Endsley stated that the items were for informational purposes and reported on the following:
   a. **California Central Coast Veterans Cemetery AB629** - Senior Planner Jonathan Garcia is working on processing. Nick Nichols stated the County Board of Supervisors approved the Memorandum of Agreement on Consent at their September 20, 2011 meeting.
   b. **Habitat Conservation Plan** – Mr. Endsley reiterated that the deadline on responding is September 30, 2011, if Committee members have questions, please inquire today. Graham Bice commented that he would like to see tables in the report.
   c. **Capital Improvement Program** – Mr. Endsley reported that the Phase II Study continues to concentrate on the HCP (Habitat Conservation Plan) endowment and Tax Increment issues. He said that at the last meeting a report was received regarding the Water/Wastewater study.

6. **NEW BUSINESS** – none

7. **FOLLOW-UP TO THE SEPTEMBER 16, 2011 BOARD MEETING** – Mr. Endsley reported that the Water/Wastewater study was of interest to the board members and that Board Members were looking for a better format in which to vet the item prior to it getting to the Board. He suggested one way it might be handled is to bring rates before the Finance Committee each year, another way might be to set up an adhoc committee of Board Members. The item will be discussed at the next WWOC so Managers and their staffs can discuss prior to briefing their elected regarding improvements to the process. Mr. Endsley also reported on the FORA transition issue stating that in order to move forward FORA either needed to be extended legislatively or begin the LAFCO process by next year. Mr. Dawson requested that the topic be put on a future agenda in order to further inform Board and others. Mr. Endsley said that he would pass that suggestion on to Mr. Houlemard. Ms. Ingersoll suggested that Water/Wastewater issues presentations be made to the City Council's individually so that all council members would be informed.

8. **ITEMS FROM MEMBERS** – none

9. **ADJOURNMENT** – The meeting was adjourned at 8:55 a.m.

Meeting minutes prepared by Daylene Alliman, Deputy Clerk

NEXT SCHEDULED MEETING: October 5, 2011

Return to Agenda

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Legislative Committee Report	
Meeting Date: **Agenda Number:**	October 14, 2011 7c	**INFORMATION**

RECOMMENDATION:

Receive an oral report regarding the Legislative Committee ("LC") meeting held on October 3, 2011 and minutes of the June 27, 2011 meeting are attached.

BACKGROUND/DISCUSSION:

The LC focuses primarily on state and federal legislation that impacts former Fort Ord redevelopment. The Fort Ord Reuse Authority's ("FORA's) state and federal staff representatives give reports at each committee meeting, particularly when legislatures are in session. The recent focus of the state and federal legislation includes the budget, California Central Coast Veterans Cemetery, redevelopment, FORA extension, BRAC cleanup, and the Veterans Clinic. The LC met on October 3, 2011 and reviewed reports from the legislative offices and JEA & Associates, and discussed the state legislation required for the FORA sunset date extension.

FISCAL IMPACT:
Reviewed by FORA Controller _____

Staff time for this item is included in the approved FY 11-12 budget.

COORDINATION:

Legislative Committee and JEA and Associates.

Prepared by _____ Approved by _____
Daylene Alliman Michael A. Houlemard, Jr.

Fort Ord Reuse Authority
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APPROVED

LEGISLATIVE COMMITTEE MEETING

Monday, June 27th 2011 - 1:00 p.m.
FORA Executive Officer's Office
100 12th Street, Building 2880, Marina, CA

Minutes

1. **CALL TO ORDER AND ROLL CALL** – 1ST Vice Chair/Mayor Edelen called the meeting to order at 1:00 p.m. Those in attendance were: Mayor Pendergrass, Mayor Pro-Tem O'Connell, Executive Officer Michal Houlemard, Deputy Clerk Daylene Allman, Director of Finance and Planning Steve Endsley, Hans Poschman -Senator Blakeslee's office, and Nicole Charles - Assemblymember Monning's office. By Phone: John Arriaga JEA & Associates and Rochelle Dornatt representing the 17th Congressional District. Mayor Bachofner arrived after the roll. Chair/Supervisor Potter was absent.

2. **PUBLIC COMMENT** – none

3. **APPROVAL OF THE MAY 2, 2011 MEETING MINUTES** – Mr. Houlemard noted a correction on page 3, paragraph 2, "would like **to** see local**s** control use".

   Motion to approve as corrected made by Mayor Pendergrass, seconded by Mayor Pro-Tem O'Connell and carried.

4. **REPORTS FROM THE LEGISLATIVE OFFICES**

   a. 17th U.S. Congressional District – Rochelle Dornatt – reported that Congressman Farr continues, in Washington, DC, to work with the federal budget issue as mentioned at the last Legislative Committee meeting in May. She said the Military Construction bill added $50M to the base realignment and closure (BRAC) cleanup account. She also reported that there is a move to amend the BRAC law in regard to specific bases, bases that are not complete and to extend the BRAC timeline for one year for those bases. She said that Congressman Farr should know more by next week when the House comes back into session. Ms. Dornatt also reported that the Department of Defense (DOD)/Veterans Administration clinic is still moving along and committee staff came out and visited with the local task force and learned about their perspective. She noted that Mr. Farr wants do what is right for the local community and see that it is built close to the Fort Ord property.

   Mr. Houlemard noted the importance of Congressman Farr being able to get $50m additional funds in the BRAC account for munitions removal and that some of those dollars would make their way to the former Fort Ord Army remediation work.

Ms. Dornatt mentioned a bill moving forward that would be similar to a "BRAC-like" process for all vacant federally owned property to get non-performing assets off the ledger. She stated Mr. Farr has reservations because you can't just declare something surplus and then put it back into use immediately – and input from FORA would be helpful as this bill moves along in the process.

Executive Officer Houlemard said that disposing of property is difficult, especially without the remediation dollars in place. He said that FORA has examples of how the process needs to be looked at and that it should be done cautiously.

b. 15th State Senate District – Hans Poschman reported that Mr. Blakeslee expected a vote on the budget by the end of this week. He said that most bills died in committee. He also said that the Parks bill is moving forward.

c. 27th State Assembly – Nicole Charles distributed a status fact sheet concerning assembly bills and highlighted AB 629 Veterans Cemetery bill stating that the Hearing was scheduled on the Consent Calendar for Tuesday (June 28, 2011).

5. OLD BUSINESS

a. Report from JEA & Associates

i. AB 629 (Monning) California Central Coast Veterans Cemetery
Mr. Arriaga reported that as previously discussed, the bill is on consent from the Senate Veterans Affairs Committee. He said he met with staff and felt it would be approved and move on to the Senate Appropriations committee.

ii. AB 1250 (Alejo) Redevelopment –Mr. Arriaga reported on SB 286 (Wright) and AB 1250 (Alejo), both responsible alternatives with substantial reforms. The state budget vetoed the bill which would eliminate new development. Mr. Arriaga said he wanted to let committee members know that legislators would again be working toward some means of redevelopment.

iii. FORA Extension - Legislation Schedule
Mr. Houlemard reported that the schedule was developed so that there was something in place before 2013. He stated that the schedule should include "Committee" for October/November 2011 Hearing in Sacramento with Assembly Local Government. Mr. Arriaga said that he had worked with FORA staff regarding a tentative agenda and said that local meetings developing the support needed going through the process is important. Mr. Houlemard suggested that board members be presented options at the August Board meeting. He reminded the committee members that this is legislative issue and not a board decision. Mr. Houlemard said that both Assemblymember Monning and Senator Blakeslee would want to hear from the FORA board and what the legislative options are structurally. Ms. Charles said that Assemblymember Monning would want public input. Mayor Edelen stated he likes the idea that there is a plan. Mayor Bachofner said that it is important to start sooner rather than later because there may be board and members of the public who may push on this issue. He continued stating that there are only certain windows of opportunity so that we don't miss that window.

6. **NEW BUSINESS** - none

7. **ANNOUNCEMENTS/CORRESPONDENCE** - none

8. **ADJOURNMENT** – There being no further business, Mayor Edelen adjourned the meeting at 1:30 P.M.

Minutes taken and prepared by Daylene Alliman, Deputy Clerk

Return to Agenda

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Habitat Conservation Plan – status report	
Meeting Date: **Agenda Number:**	October 14, 2011 7d	**INFORMATION**

RECOMMENDATION(S):

Receive a status report regarding the Habitat Conservation Plan ("HCP") and State of California 2081 Incidental Take Permit ("2081 permit") preparation process.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority ("FORA"), with the support of its member jurisdictions and consultant team, is on a path to receive approval of a completed basewide HCP and 2081 permit in 2013, concluding with the US Fish and Wildlife Service ("USFWS") and California Department of Fish and Game ("CDFG") issuing federal and state permits.

ICF International (formerly Jones & Stokes), FORA's HCP consultant, completed an administrative draft HCP on December 4, 2009. FORA member jurisdictions completed a comment and review period, which ended February 26, 2010. In April 2011, USFWS finished comments on all draft HCP sections, while CDFG provided limited feedback. As a result of these comments, ICF International completed a 3rd Administrative Draft HCP for review (dated September 1, 2011). The 12 Permittees (County, Cities of Marina, Seaside, Del Rey Oaks, and Monterey, Monterey Peninsula Regional Park District, Marina Coast Water District, State Parks, Monterey Peninsula College, California State University Monterey Bay, University California Monterey Bay Education, Science, and Technology Center, and FORA) and Cooperating Entity (Bureau of Land Management) were given until Friday, September 30, 2011 to submit their comments on the draft HCP to remain on schedule to submit a final draft to USFWS/CDFG by October 31, 2011. This review includes the draft HCP Implementing Agreement and Ordinance/Policy, which are appendices to the draft HCP and are being prepared separately by FORA. These documents were thoroughly reviewed by Permittees several years ago and now require final approval by the jurisdictions. Some Permittees submitted comments on time. However, a few Permittees did not submit their comments by September 30, 2011. This may result in schedule delays.

At the September 7, 2011 FORA Administrative Committee meeting, Jamie Gomes, Principal, from EPS presented information related to Economic and Planning Systems' ("EPS") review of HCP costs and endowment investment strategy. EPS will provide an HCP endowment investment strategy that will be incorporated into the draft HCP scheduled to be submitted to USFWS and CDFG on October 31, 2011.

FISCAL IMPACT:
Reviewed by FORA Controller _____

ICF International and Denise Duffy and Associates' (FORA's NEPA/CEQA consultant) contracts have been funded through FORA's annual budgets to accomplish HCP preparation.

COORDINATION:

Executive Committee, Administrative Committee, Legislative Committee, HCP working group, FORA Jurisdictions, USFWS and CDFG personnel, ICF International, Denise Duffy and Associates, and various development teams.

Prepared by _____
Jonathan Garcia

Reviewed by _____
Steve Endsley

Approved by _____
Michael A. Houlemard, Jr.

Return to Agenda

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Fort Ord Reuse Authority extension – update	
Meeting Date: **Agenda Number:**	October 14, 2011 7e	**INFORMATION**

RECOMMENDATION(S):

Receive an update on the Fort Ord Reuse Authority's ("FORA") legislated sunset of June 30, 2014 and legislative effort to extend FORA for a fixed period.

BACKGROUND/DISCUSSION:

FORA's enabling legislation set FORA's dissolution at one of the following events: 1) the Board determines that 80 percent of former Fort Ord territory designated for development or reuse in the Base Reuse Plan has been developed or reused in a manner consistent with the plan or 2) June 30, 2014, whichever occurs first.

In creating FORA, the State legislature created the federally required Local Reuse Authority ("LRA") and charged it with addressing the unique and special reuse problems in the Fort Ord area of Monterey County. Given that 80 percent of the territory will not be reused or developed before June 30, 2014, without additional legislation, the dissolution date gives FORA approximately 33 months to complete its mission. This would be difficult given that FORA has numerous ongoing and fixed term obligations/responsibilities either derived from the Authority Act/State law or that have been authorized by the Board to complete remediation or financing demands.

Ongoing obligations that survive the June 30, 2014 sunset/transition:

- FORA-Marina Coast Water District (MCWD) Fort Ord water purveyor service agreement and the associated water allocations made by FORA but carried out by MCWD.
- FORA/US Army Economic Development Conveyance deed restrictions/compliance, including endangered species' habitat management responsibilities.
- Environmental Liability Insurance: current coverage terminates in 2014, but the risk for which coverage was obtained continues and coverage should be replaced or extended.
- Administrative Order on Consent (AOC) with EPA, DTSC and RWQB: termination of this agreement is tied to a performance standard (completion of MEC related remedial activities), not a fixed date.
- FORA is designated by US EPA as Hazardous Waste Generator for purposes of WWII contaminated building debris. Changing this designation could cost the City of Marina several hundred thousands of dollars.

Fixed term responsibilities that extend beyond the State Law June 30, 2014 sunset/transition:

- The FORA Community Facilities District (CFD) may sunset when FORA sunsets, requiring the jurisdictions or successor agency to enact a replacement mechanism to fund California Environmental Quality Act (CEQA) obligations.
- Base Reuse Plan (BRP) compliance (subject to results of BRP reassessment prior to 6/30/14).

- FORA/US Army Environmental Services Cooperative Agreement (ESCA) in munitions/ explosives remediation completion (2015) and Army 5-year review in 2017-18.
- Regional Urban Water Augmentation Program (RUWAP) implementation funding (2015-2017).
- Habitat Conservation Plan (HCP) implementation funding.
- FORA Capital Improvement Program California Environmental Quality Act (CEQA) mitigation measures/projects and other obligations (2022).
- Economic Development Administration (EDA) grant compliance (2018).
- Miscellaneous contract obligations (e.g. UCSC, MPC, etc.)
- Post FORA employee retirement/health provisions (2040-2060).
- CA Department of Toxic Substances Control monitoring/reporting (Post-2014, County assumes).

FORA's enabling legislation designated the Monterey County Local Agency Formation Commission to provide for an orderly dissolution of FORA. However, since former Fort Ord reuse is still ongoing and a number of fixed-term obligations could be completed in the next 8-9 years, it appears that extending FORA for a fixed number of years would allow FORA to complete additional base reuse and result in a more orderly dissolution. Attached is a schedule detailing how obtaining a FORA extension through the State legislative process could occur (**Attachment A**).

On September 27, 2011, FORA held a meeting with the Ventana Chapter of the Sierra Club and other community stakeholders to discuss: 1) the proposed legislative effort to extend FORA and 2) an overview of the Fort Ord Base Reuse Plan reassessment process which stems from the 1998 FORA-Sierra Club Settlement Agreement. FORA received feedback and questions related to both issues and will continue to dialogue with the Sierra Club and other groups.

FISCAL IMPACT:
Reviewed by FORA Controller

Staff time related to this item is included in FORA's annual budget.

COORDINATION:

Executive Committee, Administrative Committee, Legislative Committee, State & Federal legislative offices.

Prepared by Jonathan Garcia Reviewed by D. Steven Endsley
Jonathan Garcia Steve Endsley

Approved by
Michael A. Houlemard, Jr.

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LEGISLATIVE COMMITTEE

FORA Extension Schedule

September 16, 2011 – Board Briefing on Transition Issues/Legislative Options

October/November 2011 – Meetings in Sacramento with Assembly Committee on Local Government and Senate Committee on Governance & Finance

November 2011 – Legislation written and reviewed

December 2011 - Legislation presented for review to State Legislators

January 2012 – Reviewed by Legislative Council

January 2012 – Legislative Agenda introduced

Spring 2012 – Assembly/Senate consideration

Summer 2012 – Assembly/Senate adoption

September 2012 – Gubernatorial signing

Return to Agenda

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Executive Officer's Travel Report	
Meeting Date: **Agenda Number:**	October 14, 2011 7f	**INFORMATION**

RECOMMENDATION(S):

Receive a report from Fort Ord Reuse Authority ("FORA") Executive Officer regarding the 2011 Federal Facility Cleanup Dialogue Meeting September 21-22, in Arlington, Virginia.

BACKGROUND/DISCUSSION:

The Executive Officer regularly submits reports to the Executive Committee providing details of travel requests, including those by the FORA Board members and Executive Officer. Travel expenses may be paid or reimbursed by FORA, outside agencies/ jurisdictions/organizations, or a combination of these sources. The Executive Committee reviews and approves these requests, accordingly, and the travel information is reported to the Board as an informational item.

Mr. Houlemard attended the Federal Facility Cleanup Dialogue Meeting held in Arlington, Virginia September 21 and 22nd. The Dialogue focused on the topics of Five-Year Reviews, long-term stewardship and environmental justice, particularly in regard to the cleanup of Department of Energy (DoD) and Department of Defense Superfund sites (DOE). EPA, DoD and DOE expect to collaborate on improvements to several aspects of the cleanup program and invited stakeholder input.

Specific sessions included topics discussing the following:

- Environmental Justice and Executive Order 12898.
- Program Priorities for Federal Facility Five-year reviews.
- DoD Response – Complete Goal Memorandum.
- Final National Strategy to Manage Post Construction Completion Activities at Superfund Site.
- Air Force Memorandum on Policy for Refocusing Air Force Environmental Restoration Program.

FISCAL IMPACT:

Reviewed by FORA Controller _____

EPA reimbursed non-federal meeting participants for travel costs. Travel incidentals are covered according to FORA's travel policy.

COORDINATION:

Executive Committee.

Prepared by _____ Approved by _____
Daylene Alliman Michael A. Houlemard, Jr.

EPA
United States
Environmental Protection
Agency

Plan EJ 2014

Plan EJ 2014 is EPA's roadmap for integrating environmental justice into its programs and policies.

EXECUTIVE SUMMARY

In January 2010, Administrator Lisa P. Jackson made Expanding the Conversation on Environmentalism and Working for Environmental Justice an Agency priority. This priority was incorporated into the U.S. Environmental Protection Agency's (EPA) Strategic Plan for 2011-2015. To implement this priority, EPA developed Plan EJ 2014 as the Agency's roadmap for integrating environmental justice into its programs, policies, and activities. This priority recognizes that Title VI of the Civil Rights Act and EPA's civil rights program is a critical component in advancing environmental justice.

Plan EJ 2014, which is meant to mark the 20th anniversary of the signing of Executive Order 12898 on environmental justice, is EPA's overarching strategy for advancing environmental justice. It seeks to:

- Protect the environment and health in overburdened communities.
- Empower communities to take action to improve their health and environment.
- Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

In July 2010, EPA introduced Plan EJ 2014 as a concept for public comment and initiated the development of implementation plans. This product is the culmination of nearly a year's effort by EPA programs and regions, as well as engagement with stakeholders, to develop nine implementation plans with the goals, strategies, deliverables, and milestones outlined herein. Plan EJ 2014 has three major sections: Cross-Agency Focus Areas, Tools Development Areas, and Program Initiatives. The following summaries outline the implementation plans for Plan EJ 2014's five cross-Agency Focus Areas and four Tools Development Areas.

Cross-Agency Focus Areas

Incorporating Environmental Justice into Rulemaking

Goal

To more effectively protect human health and the environment for overburdened populations by developing and implementing guidance on incorporating environmental justice into EPA's rulemaking process.

Strategies

1. Finalize the *Interim Guidance on Considering Environmental Justice During the Development of an Action*.
2. Facilitate and monitor implementation of guidance on incorporating environmental justice into rulemaking.
3. Develop technical guidance on how to conduct environmental justice assessments of rulemaking activities.

Considering Environmental Justice in Permitting

Goal

To enable overburdened communities to have full and meaningful access to the permitting process and to develop permits that address environmental justice issues to the greatest extent practicable under existing environmental laws.

Strategies

1. Develop tools that will enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process.
2. Concurrent with Strategy 1, develop tools to assist permitting authorities to meaningfully address environmental justice in permitting decisions.
3. Implement these tools at EPA and work with others to do the same.

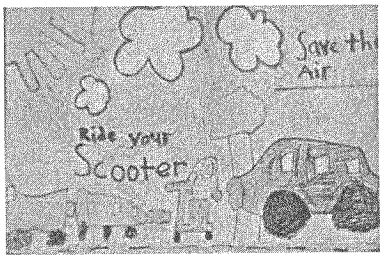
Advancing Environmental Justice through Compliance and Enforcement

Goal

To fully integrate consideration of environmental justice concerns into the planning and implementation of the Office of Enforcement and Compliance Assurance's (OECA) program strategies, case targeting strategies, and development of remedies in enforcement actions to benefit overburdened communities.

Strategies

1. Advance environmental justice goals through selection and implementation of National Enforcement Initiatives.
2. Advance environmental justice goals through targeting and development of compliance and enforcement actions.
3. Enhance use of enforcement and compliance tools to advance environmental justice goals in regional geographic initiatives to address the needs of overburdened communities.
4. Seek appropriate remedies in enforcement actions to benefit overburdened communities and address environmental justice concerns.
5. Enhance communication with affected communities and the public regarding environmental justice concerns and the distribution and benefits of enforcement actions, as appropriate.



Supporting Community-Based Action Programs

Goal

To strengthen community-based programs to engage overburdened communities and build partnerships that promote healthy, sustainable, and green communities.

Strategies

1. Advance environmental justice principles by building strong state and tribal partnerships through the National Environmental Performance

Partnership System (NEPPS) and the National Program Manager (NPM) guidance.
2. Identify scalable and replicable elements of successful Agency community-based programs and align multiple EPA programs to more fully address the needs of overburdened communities.
3. Promote an integrated One EPA presence to better engage communities in the Agency's work to protect human health and the environment.
4. Foster community-based programs modeled on the Community Action for a Renewed Environment (CARE) principles.
5. Explore how EPA funding, policies, and programs can inform or help decision makers to maximize benefits and minimize adverse impacts when considering current land uses in decision making, planning, siting, and permitting.
6. Promote equitable development opportunities for all communities.

Fostering Administration-Wide Action on Environmental Justice

Goal

To facilitate the active involvement of all federal agencies in implementing Executive Order 12898 by minimizing and mitigating disproportionate, negative impacts while fostering environmental, public health, and economic benefits for overburdened communities.

Strategies

1. Assist other federal agencies in integrating environmental justice in their programs, policies, and activities.
2. Work with other federal agencies to strengthen use of interagency legal tools, i.e., National Environmental Policy Act and Title VI of the Civil Rights Act of 1964.
3. Foster healthy and sustainable communities, with an emphasis on equitable development and place-based initiatives.
4. Strengthen community access to federal agencies.

Tools Development Areas

Science

Goal

To substantially support and conduct research that employs participatory principles and integrates social and physical sciences aimed at understanding and illuminating solutions to environmental and health inequalities among overburdened populations and communities in the United States. All Agency decisions will make use of the information, data, and analytic tools produced.

Strategies

1. Apply integrated transdisciplinary and community-based participatory research approaches with a focus on addressing multi-media, cumulative impacts and equity in environmental health and environmental conditions.
2. Incorporate perspectives from community-based organizations and community leaders into EPA research agendas and engage in collaborative partnerships with them on science and research to address environmental justice.
3. Leverage partnerships with other federal agencies on issues of research, policy, and action to address health disparities.
4. Build and strengthen the technical capacity of Agency scientists on conducting research and related science activities in partnership with impacted communities and translating research results to inform change.
5. Build and strengthen technical capacity of community-based organizations and community environmental justice and health leaders to address environmental health disparities and environmental sustainability issues.

Law

Goal

To provide legal assistance to EPA policy makers and other Agency decision makers to advance their environmental justice objectives.

Strategy

Provide legal support to each Plan EJ 2014 cross-Agency Focus Area workgroup.

Information

Goal

To develop a more integrated, comprehensive, efficient, and nationally consistent approach for collecting, maintaining, and using geospatial information relevant to potentially overburdened communities.

Strategies

1. Develop EPA's GeoPlatform.
2. Develop a nationally consistent environmental justice screening tool.
3. Incorporate appropriate elements of the environmental justice screening tool into the GeoPlatform.

Resources

Grants and Technical Assistance Goal

To develop an efficient and effective system for delivering financial and technical assistance to communities to empower them to improve their health and environment.

Strategies

1. Increase transparency and efficiency in providing community-based grant opportunities.
2. Improve delivery of technical assistance to communities.
3. Strengthen grants training for communities.
4. Improve community awareness of grant competition process.
5. Revise grant policies that are unduly restrictive.
6. Encourage legal and program offices to dialog on community-based grant opportunities.
7. Improve timeliness of Brownfields Grant Awards.

Workforce Diversity Goal

To achieve an inclusive work environment by developing an efficient system for the outreach and recruitment of potential employees.

Strategies

1. Increase the diverse pool of qualified applicants.
2. Operate under an integrated One EPA approach for recruitment and outreach.

Program Initiatives

Program Initiatives will focus on specific EPA programs. Many existing EPA programs actively pursue environmental justice goals or produce benefits for overburdened communities. Examples of such initiatives include: Community Engagement Initiative (Office of Solid Waste and Emergency Response), Urban Waters (Office of Water), National Enforcement Initiatives (Office of Enforcement and Compliance Assurance), Air Toxics Rules (Office of Air and Radiation), and the U.S. Mexico Border Program (Office of International and Tribal Affairs). Over the next year, EPA will designate at least one initiative per appropriate program for inclusion in Plan EJ 2014. In this way, many existing EPA initiatives can be tailored to better integrate environmental justice and produce greater benefits for overburdened communities.

Civil Rights

One effort already under way is implementing Administrator Jackson's priority to improve EPA's civil rights program. Complying with EPA's statutory civil rights obligations is a critical part of our efforts to advance environmental justice. Administrator Jackson has made improving EPA's civil rights program a priority. As part of this effort, EPA is pursuing long overdue, vigorous, robust, and effective implementation of Title VI of the Civil Rights Act of 1964 and other nondiscrimination statutes. EPA is committed to protecting people from discrimination based on race, color, or national origin in programs or activities that receive EPA's financial assistance.

Conclusion

Through Plan EJ 2014, EPA intends to develop a suite of tools to integrate environmental justice and civil rights into its programs, policies, and activities. It seeks to build stronger relationships with communities overburdened by environmental and health hazards and build partnerships that improve conditions in such communities. In 2014, EPA will make an assessment of its progress in achieving the goals of Plan EJ 2014. Based on this assessment, EPA will produce a report on the accomplishments, lessons learned, challenges, and next steps for continuing the Agency's efforts to make environmental justice an integral part of every decision.