



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 REGULAR MEETING Friday, April 12, 2013 at 3:30 p.m. 910 2nd Avenue, Marina, CA 93933 (Carpenter's Union Hall)

REVISED AGENDA

1. CALL TO ORDER AND ROLL CALL

2. CLOSED SESSION

- a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – Four Cases
 - i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Numbers: M114961, M116438, M119217
 - ii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M118566
- b. Conference with Legal Counsel – Anticipated Litigation, Gov Code 54956.9(b) – Two Cases
- c. Public Employee Appointment: Authority Counsel – Gov Code 54957

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

(Open session will begin at the later of: a) 4:15 p.m. or b) immediately following closed session)

4. PLEDGE OF ALLEGIANCE

5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

- a. May 2-3, 2013 Fort Ord Prevailing Wage Training Conference

6. CONSENT AGENDA

- a. Consider Letter of Support for AB 946 (Assemblymember Mark Stone) (pg. 1-5) ACTION
- b. Consider Letter of Support for SB 106 (Senator Bill Monning) (pg. 6-9) ACTION
- c. Approval of the March 15, 2012 Board Meeting Minutes (pg. 10-13) ACTION
- d. Approval of the March 22, 2012 Board Meeting Minutes (pg. 14-16) ACTION

7. OLD BUSINESS

- a. FORA Pollution Legal Liability Insurance Presentation/Report (pg. 17) INFORMATION
- b. Environmental Services Cooperative Agreement (ESCA) Update (pg. 18-19) INFORMATION
- c. FORA Legal Representation ([distributed under separate cover – see additional materials on FORA website](#))
 - i. Authorize the Executive Officer to Execute a Contract with the Law Offices of Alan Walter, not to exceed \$24,950, for Review of Base Reuse Plan (BRP) Actions ACTION
 - ii. Authorize the Executive Officer to Execute a Contract with Jon Giffen of Kennedy, Archer, and Giffen to Serve as Authority Counsel ACTION
- d. Base Reuse Plan Post-Reassessment Follow-Up: “Category I” (pg. 21-40) INFORMATION/ACTION
- e. Fort Ord Reuse Authority Master Resolution (pg. 41-63)
 - i. Review Fort Ord Reuse Authority (FORA)/Ventana Chapter of the Sierra Club (Sierra Club) Settlement Agreement Requirements/Notification Process INFORMATION
 - ii. Consider Sierra Club's 23 Proposed Chapter 8 Typographical Corrections ACTION
 - iii. Consider Sierra Club's Request to Remove Sections 8.02.020(t) And 8.02.030(a)(8) ACTION
 - iv. Consider Section 2.09.020 (FORA Conflict-of-Interest Code) Modifications ACTION
- f. Capital Improvement Program Review – Phase II Study (pg. 64-72)
 - i. Receive FORA Fees Calculation Report INFORMATION

- ii. Review/Consider Draft Resolution to Implement Fee Adjustment INFORMATION/ACTION

8. NEW BUSINESS

- a. Veterans Cemetery Agreement and Budget (pg. 73-103)
- i. Consider Approval of Seaside-FORA Cemetery Agreement ACTION
 - ii. Consider Approval of \$4,000 FY 2012-13 Budget Increase for Veterans Cemetery Consultants ACTION
 - iii. Consider Authorizing a \$30,000 Check to California Department of General Services for Land Acquisition Services ACTION

9. 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.

10. EXECUTIVE OFFICER’S REPORT

- a. Outstanding Receivables (pg. 104) INFORMATION
- b. Administrative Committee (pg. 105-109) INFORMATION
- c. Finance Committee (pg. 110-111) INFORMATION
- d. Post-Reassessment Advisory Committee (pg. 112) INFORMATION
- e. Veterans Issues Advisory Committee (pg. 113-116) INFORMATION
- f. Water and Wastewater Oversight Committee (pg.117-119) INFORMATION
- g. Habitat Conservation Plan Update (pg. 120-124) INFORMATION
- h. Travel Report (pg. 125) INFORMATION
- i. Public Correspondence to the Board (pg. 126) INFORMATION
- j. Notice of Requirement Regarding Items Received from the Public for Reproduction and Distribution at Board/Committee Meetings (distributed under separate cover – see additional materials on FORA website) INFORMATION

11. ITEMS FROM MEMBERS

12. ADJOURNMENT

NEXT REGULAR BOARD MEETING: MAY 10, 2013

Persons seeking disability related accommodations should contact FORA 24 hours prior to the meeting.
This meeting is recorded by Access Monterey Peninsula (AMP) to be televised Sundays at 9:00 a.m./Sundays at 1:00 p.m. on Marina/Peninsula Chanel 25. The video and full Agenda packet are available online at www.fora.org.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Consider Letter of Support for AB 946 (Assemblymember Mark Stone)

Meeting Date: April 12, 2013

Agenda Number: 6a

ACTION

RECOMMENDATION:

Consider sending a letter supporting AB 946 Transit Buses: Counties of Monterey and Santa Cruz on behalf of Monterey Salinas Transit (MST) and Santa Cruz Metropolitan Transportation District (Santa Cruz METRO). The letter is **Attachment A**. The text of the bill is **Attachment B**.

BACKGROUND/DISCUSSION:

AB 946 (Assemblymember Stone) would enable MST and Santa Cruz METRO to explore the feasibility of implementing a "Bus on Shoulder" facility in our communities with the California Department of Transportation (Caltrans) and California Highway Patrol. Specifically, MST is considering studying this infrastructure improvement for possible implementation on southbound Highway 1 on the portion of the freeway that gets congested in the morning between Marina and Seaside. Despite the fact that San Diego was able to implement such a system a few years ago on one of its freeways as a demonstration project, Bus on Shoulder is still technically against state law. Before Caltrans will allow MST to study it, they insist that state law is changed to allow consideration of the program for state highways in our county. Santa Cruz METRO is also interested in studying this type of transit improvement, so they've teamed up with MST on a regional approach in concurrence with Assemblymember Stone's district, which comprises portions of both Monterey and Santa Cruz Counties.

Assemblymember Stone has a depth of experience with regards to public transit as he served on the board of directors of Santa Cruz METRO for many years.

FISCAL IMPACT:

Reviewed by FORA Controller _____

Staff time for this item is included in the approved FY 12-13 budget.

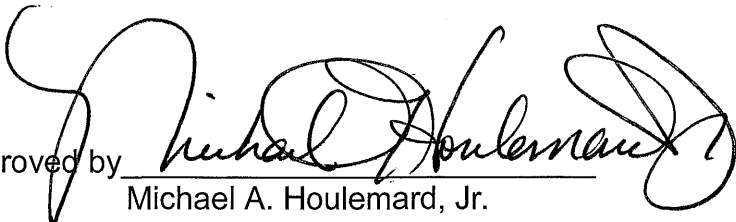
COORDINATION:

Assembly Member Stone's office, Executive Committee

Prepared by


Crissy Maras

Approved by


Michael A. Houlemard, Jr.



Fort Ord Reuse Authority

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Attachment A to Item 6a
April 12, 2013 FORA Board meeting

April 12, 2013

The Honorable Katcho Achadjian
Chair, Assembly Local Government Committee
1020 N Street, Room 157
Sacramento, CA 95814

Re: **AB 946 (Stone) Transit buses: Counties of Monterey and Santa Cruz – SUPPORT**

Dear Chairman Achadjian,

On behalf of the Fort Ord Reuse Authority (FORA) Board of Directors, I urge your **SUPPORT** of **AB 946 (Stone)**, which will authorize Monterey-Salinas Transit (MST) and the Santa Cruz Metropolitan Transit District, in conjunction with the state Department of Transportation (Caltrans), to conduct a transit-bus only program using the shoulders of certain state highways as transit-bus only traffic corridors.

Bus use of shoulders is a low-cost strategy to improve bus running times and reliability for transit systems. We support MST's and the Santa Cruz Metropolitan Transit District's efforts in seeking the use of this type of strategy, as they agree it will likely provide their transit systems with an option to provide enhanced service to patrons.

The safety of transit patrons and fellow road users is of utmost concern to transit systems. MST and the Santa Cruz Metropolitan Transit District would work closely with Caltrans and the California Highway Patrol (CHP) in designating the appropriate bus-only traffic corridors, and, would work together to develop guidelines that ensure driver and vehicle safety and the integrity of the highway infrastructure. Furthermore, the bill would require monitoring of the state of repair of highway shoulders that would be used in the program.

Numerous cities in the United States, as well as in Canada, have utilized the bus-on shoulders system with positive results. Some cities have used this strategy for a number of years. In 2006, the Transit Cooperative Research Program (TCRP) conducted a comprehensive study which examined jurisdictions that allow bus use of shoulders. The report states "[Bus bypass shoulder (BBS)] operations have proven popular with bus passengers who benefit from the improved schedule reliability and quicker travel times. Such operations also have improved bus operating efficiencies and have not drawn significant complaints from general traffic motorists. Positive passenger perception of travel time savings helps to attract patronage. Passengers enjoy the feeling of moving faster than the general traffic. For bus operators, BBS operations allow them to offer more reliable service, which is particularly important for buses that make more than one peak direction commute period trip; the second peak direction bus trip is more likely to be on time." (Martin, P.C. (2006). *Bus Use of Shoulders*. Transit Cooperative Research Program (TCRP) Synthesis 64, published by Transportation Research Board, Washington).

In fact, one California transit system, the San Diego Metropolitan Transit System, implemented a bus on shoulders demo program in 2005 and has reported that they considered the demo a successful program while it was in effect.

We believe that authorizing bus use of shoulders for Monterey and Santa Cruz counties is a step in the right direction for the state. By partnering with public transit to improve service and therefore encourage more riders, the state benefits economically and environmentally. Public transit not only improves air quality, but relieves congestion and improves mobility on our crowded highways. AB 946 will further enhance these benefits.

For these reasons, we urge your **SUPPORT** of **AB 946 (Stone)**. Thank you for your consideration.

Respectfully,

Jerry Edelen
Chair, FORA Board of Directors

C: The Honorable Mark Stone
Members of the Assembly Local Government Committee
Consultants, Assembly Local Government Committee

BILL NUMBER: AB 946 INTRODUCED BILL TEXT

INTRODUCED BY: Assemblymember Mark Stone

FEBRUARY 22, 2013

An act to add Section 148.1 to the Streets and Highways Code, and to amend Section 21650 of the Vehicle Code, relating to transportation.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 148.1 is added to the Streets and Highways Code, to read:

148.1. (a) Notwithstanding any other provision of law, the Monterey-Salinas Transit District and the Santa Cruz Metropolitan Transit District may conduct a transit bus-only program using the shoulders of certain highways in the state highway system within the areas served by the transit services of the districts, in conjunction with the department. The program shall designate segments of each highway where it is appropriate to designate shoulders as transit bus-only traffic corridors, with the segments to be determined jointly by the department and the participating transit districts based upon peak congestion hours and the most heavily congested areas. Under the program, the participating transit districts shall work with the department and the Department of the California Highway Patrol to develop guidelines that ensure driver and vehicle safety and the integrity of the infrastructure.

(b) The department and the participating transit districts shall monitor the state of repair of highway shoulders used in the demonstration program, including repairs attributable to the operation of transit buses on the shoulders.

(c) The participating transit districts shall be responsible for all costs attributable to this program.

(d) The program may commence operation as soon as practicable after January 1, 2014.

(e) As used in this section, "highway" includes "freeway."

SECTION 2. Section 21650 of the Vehicle Code is amended to read:

21650. Upon all highways, a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing that movement.

(b) When placing a vehicle in a lawful position for, and when the vehicle is lawfully making, a left turn.

(c) When the right half of a roadway is closed to traffic under construction or repair.

(d) Upon a roadway restricted to one-way traffic.

(e) When the roadway is not of sufficient width.

(f) When the vehicle is necessarily traveling so slowly as to impede the normal movement of traffic, that portion of the highway adjacent to the right edge of the roadway may be utilized temporarily when in a condition permitting safe operation.

(g) This section does not prohibit the operation of bicycles on any shoulder of a highway, on any sidewalk, on any bicycle path within a highway, or along any crosswalk or bicycle path crossing, where the operation is not otherwise prohibited by this code or local ordinance.

(h) This section does not prohibit the operation of a transit bus on the shoulder of a state highway in conjunction with the implementation of a program authorized pursuant to Section 148.1 of the Streets and Highways Code on state highways within the area served by the transit services of the Monterey-Salinas Transit District or the Santa Cruz Metropolitan Transit District.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Consider Letter of Support for SB 106 (Senator Bill Monning)	
Meeting Date:	April 12, 2013	ACTION
Agenda Number:	6b	

RECOMMENDATION:

Consider sending a letter supporting SB 106 (Senator Monning), amending AB 1842 as it regards the California Central Coast Veterans Cemetery (CCCVC) Endowment Fund. The letter is **Attachment A**. The text of the bill is **Attachment B**.

BACKGROUND/DISCUSSION:

AB 1842 (then Assemblymember Monning) created the Endowment Fund for the California Central Coast State Veterans Cemetery in the State Treasury, allowing cash advances and generating funding for the initial phases of the cemetery. SB 106 allows the California Department of Veterans Affairs to enter into financial agreements to receive cash advances in the Endowment Fund without the responsibility of repayment by the State. It is expected that future reimbursements from cash advances will come from the Endowment Fund non-state sources once the operations of the cemetery are confirmed to be supported by burial and other fees collected.

FISCAL IMPACT:

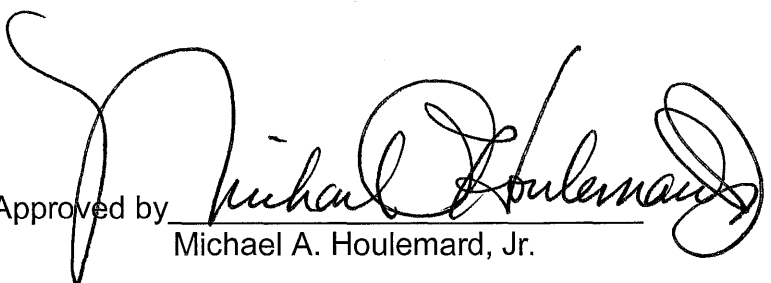
Reviewed by FORA Controller _____

Staff time for this item is included in the approved FY 12-13 budget.

COORDINATION:

Senator Monning's office, Executive Committee

Prepared by 
Crissy Maras

Approved by 
Michael A. Houlemard, Jr.



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April 12, 2013

Attachment A to item 6b
April 12, 2013 FORA Board meeting

Senator Bill Monning
California Senate District 17
State Capitol, Room 4066
Sacramento, CA 95814

RE: Senate Bill 106 – Support of the California Central Coast Veterans Cemetery at Fort Ord Endowment Fund

Dear Senator Monning,

On behalf of the Fort Ord Reuse Authority (FORA) Board of Directors, I am writing to express our support of SB 106, which amends AB 1842 introduced by you last year. AB 1842 created the Endowment Fund for the California Central Coast State Veterans Cemetery in the State Treasury, allowing cash advances and generating funding for the initial phases of the cemetery. SB 106 allows the California Department of Veterans Affairs to enter into financial agreements to receive cash advances in the Endowment Fund without the responsibility of repayment by the State. It is expected that future reimbursements from cash advances will come from the endowment fund non-state sources once the operations of the cemetery are confirmed to be supported by burial and other fees collected.

Over one million Americans passed through Fort Ord, training to become US Army soldiers. Many of those soldiers settled in this region and have actively pursued a veterans cemetery at the former Fort Ord for nearly two decades. The FORA Board has supported the concept of a cemetery by unanimously approving the establishment of a Veterans Cemetery Parcel on the Fort Ord Land Use Map.

We thank you for authoring SB 106 and look forward to our continued work with you in this regard. Your support of the California Central Coast Veterans Cemetery, including last year's AB 1842 and currently pending SB 106, have been invaluable in our ongoing efforts.

Sincerely,

Jerry Edelen
Chair, FORA Executive Committee

C: Senator Anthony Cannella
Assembly Member Luis Alejo
Assembly Member Mark Stone
Senate Committee on Veteran Affairs
Monterey County Board of Supervisors

BILL NUMBER: SB 106 INTRODUCED BILL TEXT

INTRODUCED BY Senator Monning

JANUARY 10, 2013

An act to amend Section 1451 of the Military and Veterans Code, relating to veterans.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1451 of the Military and Veterans Code is amended to read:

1451. (a) The California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund is hereby created in the State Treasury. Moneys in the Endowment Fund shall be allocated, upon appropriation by the Legislature, to the department for the annual administrative and oversight costs of the veterans cemetery, pursuant to Sections 1453 and 1454, and to generate funding through interest for the veterans cemetery.

(b) (1) Moneys in the fund shall first be invested with the goal of achieving capital appreciation to create a balance sufficient to generate ongoing earnings to cover the estimated annual oversight and maintenance costs associated with the veterans cemetery pursuant to Section 1453.

(2) Upon the determination of the Controller that the Endowment Fund balance has attained the goal established in paragraph (1), moneys in the fund shall be invested to generate earnings to fund annual oversight and maintenance costs associated with the veterans cemetery.

(c) (1) The Endowment Fund may consist of donations from public and private entities, partnerships between public and private entities, fees, cash advances, and transfers from the state General Fund as may be specified by law.

(2) The department may enter into any financial agreement to receive cash advances in the Endowment Fund, provided that ~~no obligations of repayment are made to the state~~ *the agreement does not require the state to repay or make payments on cash advances* and the agreement is reviewed and ~~performed in consultation with~~ *approved by* the Department of Finance.

(d) To the extent possible, donations made in-kind to the Endowment Fund shall be monetized so as to offset the ongoing administrative and oversight costs under Sections 1452 and 1453.

(e) Earnings generated by the Endowment Fund shall be retained by the fund.

(f) Moneys deposited in the Endowment Fund are exempt from the requirements of Sections 11270 through 11277 of the Government Code.

(g) Moneys in the Endowment Fund shall be invested by the Treasurer, after consultation with the department, in a manner that best meets the goals of the fund.

(h) If, through changes in state or federal law, additional revenues are identified for the administration and oversight of the cemetery, including increases in federal burial allowances, so that the amount of annual revenue exceeds the annual administrative and oversight costs, the excess revenues shall be deposited in the Endowment Fund.



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Item 6c

FORA Board Meeting, 04/12/13

Minutes

Friday, March 15, 2013

Meeting of the Fort Ord Reuse Authority Board of Directors
910 2nd Ave, Marina (Carpenter's Union Hall)

1. CALL TO ORDER AND ROLL CALL

Chair Edelen called the meeting to order at 3:30 p.m.

Voting Members Present: (*alternates)

Chair/Mayor Edelen (City of Del Rey Oaks)
Mayor Burnett (City of Carmel-by-the-Sea)
Mayor Gunter (City of Salinas)
Mayor Kampe (City of Pacific Grove)
Councilmember Morton (City of Marina)
Mayor ProTem O'Connell (City of Marina)
Mayor Pro-Tem Oglesby (City of Seaside)

Supervisor Parker (County of Monterey)
Mayor Pendergrass (City of Sand City)
Supervisor Potter (County of Monterey)
Mayor Rubio (City of Seaside)
Supervisor Salinas (County of Monterey)
Councilmember Selfridge (City of Monterey)

Voting Members Absent: none.

The following ex-officio Board members were present: Sonja Arndt (20th Congressional District), Assemblymember Stone (29th State Assembly District), Graham Bice (University of California), Eduardo Ochoa (California State University), Vicki Nakamura (Monterey Peninsula College), Dan Albert, Jr. (Monterey Peninsula Unified School District), Debbie Hale (Transportation Agency of Monterey County), Colonel Clark (U.S. Army), Bill Collins (Fort Ord BRAC Office), Director Thomas Moore (Marina Coast Water District).

2. CLOSED SESSION

The Board received comments from members of the public regarding closed session items and adjourned into closed session at 3:35 p.m.

a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – 4 Cases

i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Numbers: M114961, M116438, M119217

ii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M118566

b. Conference with Legal Counsel – Anticipated Litigation, Gov Code 54956.9(b) – 2 Cases

c. Public Employee Performance Evaluation – Authority Counsel, Gov Code 54957

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

The Board reconvened into open session at 4:10 p.m. Authority Counsel Jerry Bowden stated the Board had received reports from legal counsel on all closed sessions items. Under agenda item 1c, the Board approved a transfer of Authority Counsel title and responsibilities to Jon Giffen, Kennedy, Archer, and Giffen, to be accomplished within five months.

4. PLEDGE OF ALLEGIANCE

Mayor Pendergrass led the Pledge of Allegiance.

5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Chair Edelen announced that several Board members were unable to stay beyond 5:00 p.m. In order to ensure sufficient time to address all action items, the agenda would be considered out of order. He stated that item 7b would be considered at the end of item 7 and that the order of item 8a and 8b would be reversed.

a. May 2-3, 2013 Fort Ord Prevailing Wage Training Conference

Executive Officer Houlemard discussed the May 2 & 3, 2013 Fort Ord Prevailing Wage Training Conference.

6. CONSENT AGENDA

a. Approval of the February 15, 2012 Board Meeting Minutes

b. Approval of the February 22, 2012 Board Meeting Minutes

MOTION: Mayor Rubio moved, seconded by Mayor Pro-Tem O'Connell, to approve the consent calendar as presented

MOTION PASSED: Ayes: Edelen, Gunter, Kampe, Morton, O'Connell, Oglesby, Parker, Pendergrass, Potter, Rubio, Salinas, Selfridge. Abstain: Mayor Burnett abstained from voting on the February 15, 2013 Board minutes.

7. OLD BUSINESS

a. Conduct Executive Committee Member-at-Large Election

Chair Edelen stated that the February 15, 2013 nominations of Supervisor Parker and Mayor Pendergrass for the position of Executive Committee Member-at-Large had resulted in a tie vote and a continuance to the next regular Board meeting. The Deputy Clerk was requested to perform a roll call vote.

ORIGINAL NOMINATION (Executive Committee Member-at-Large): Councilmember Oglesby moved, seconded by Mayor Rubio, to nominate Mayor Pendergrass to the position of Executive Committee Member-at-Large.

ELECTION: Pendergrass: Edelen, Gunter, Kampe, Oglesby, Pendergrass, Potter, Rubio, Salinas, Parker: O'Connell, Selfridge, Burnett, Morton, Parker. **Mayor Pendergrass was elected by a majority to the position of Executive Committee Member-at-large.**

c. Authorize the Executive Officer to Execute ICF International Contract Amendment #5

Mr. Houlemard presented the item. The Board received questions and comments from members of the public, which were addressed by staff.

MOTION: Mayor Rubio moved, seconded by Mayor Gunter, to authorize the Executive Officer to execute ICF International Contract Amendment #5, not to exceed \$39,998 in additional budget authority.

MOTION PASSED: unanimous.

d. Consider FORA Expense Policies

Controller Ivana Bednarik provided an overview of the policy development process and highlighted specific proposed policy changes. Mayor Kampe stated that the policies were a good representation of the Expense Reimbursement Subcommittee's recommendations.

MOTION: Councilmember Morton moved, seconded by Supervisor Parker, to adopt the policies with the following direction to staff: 1) amend Section A of the Travel Policy from 50 to 100 miles, 2) amend the "Processing Travel Reimbursement" section of the Travel Policy from "claims should be submitted with 14 days" to "claims must be submitted within 14 days," and 3) return the amended Travel Policy for review by the Board at the next Board meeting.

SUBSTITUTE MOTION: Supervisor Potter moved, seconded by Councilmember Morton, to refer the policies back to the Executive Committee for further refinement.

SUBSTITUTE MOTION PASSED: unanimous.

e. Base Reuse Plan Post-Reassessment Follow-Up

- i. Reassessment Report "Category I" Text and Figure Corrections**
- ii. March 22, 2013 Board Workshop Agenda**

Associate Planner Darren McBain presented the item. The Board received comments from members of the public and staff responded to questions from the Board.

MOTION: Mayor Burnett moved, seconded by Mayor Kampe, to direct staff to provide maps reflecting the current and proposed modifications under Category I for further Board consideration.

MOTION PASSED (2nd VOTE REQUIRED): Aye: Edelen, Burnett, Kampe, Morton, O'Connell, Oglesby, Parker, Rubio, Salinas, Selfridge, Noes: Gunter, Pendergrass.

b. CIP Review – Phase II Study

- i. Receive FORA Fees Formula Calculation Report**
- ii. Receive Draft Resolution to Implement Fee Adjustment**

Chair Edelen announced that he needed to leave and passed the gavel to 1st Vice-Chair O'Connell.

MOTION: Mayor Pro-Tem Oglesby moved, seconded by Councilmember Morton, to continue the meeting to 6:00 p.m. and to immediately consider agenda items 8a and 8b.

MOTION PASSED: unanimous.

8. NEW BUSINESS

b. Fort Ord Reuse Authority Master Resolution Amendments

Mr. Bowden presented the item.

Jane Haines, Sierra Club, addressed the Board regarding the modifications to the Master Resolution and the Board received comments from other members of the public.

MOTION: Councilmember Selfridge moved, seconded by Supervisor Parker, to undo all changes made in March 2010 to Chapter 8 of the Master Resolution.

MOTION PASSED: Aye: Burnett, Gunter, Morton, O'Connell, Oglesby, Parker, Rubio, Selfridge. Abstain: Kampe.

MOTION: Councilmember Morton moved, seconded by Mayor Pro-Tem Oglesby, to extend the meeting to 6:15 p.m.

MOTION PASSED: Aye: Burnett, Morton, O'Connell, Oglesby, Parker, Selfridge. Noes: Gunter, Kampe, Pendergrass.

MOTION: Supervisor Parker moved, seconded by Councilmember Selfridge, to delete the highlighted language [Section 8.02.020(t) and Section 8.02.030(a)(8)] from Chapter 8 of the Master Resolution.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER: Direct staff to provide the Sierra Club notice of intent to restore the highlighted language [Section 8.02.020(t) and Section 8.02.030(a)(8)].

MOTION WITHDRAWN: Supervisor Parker withdrew her motion.

MOTION: Supervisor Parker moved, seconded by Councilmember Selfridge, that the item be continued to the April Board meeting with a clear delineation from staff as to the proper process for moving forward with respect to the Sierra Club Settlement Agreement.

MOTION PASSED: unanimous.

MOTION: Mayor Pro-Tem O'Connell moved, seconded by Mayor Burnett, to extend the meeting until the Board finished agenda item 8a and item 9 or until 6:45 p.m., whichever comes first.

MOTION PASSED: Ayes: Burnett, Morton, Oglesby, O'Connell, Parker, Pendergrass, Rubio.
Noes: Gunter, Selfridge.

a. Consistency Determination: Seaside Local Coastal Program

Mr. McBain presented the item. Lisa Brinton, City of Seaside, provided an overview of the Seaside Local Coastal Program. The Board received comments from members of the public and Assistant Executive Officer Steve Endsley addressed questions from the public and Board.

MOTION: Mayor Rubio moved, seconded by Mayor Burnett, to approve Resolution 13-XX, concurring in the City of Seaside's legislative land use decision that the Seaside Local Coastal Program is consistent with the Fort Ord Base Reuse Plan, deleting "as with previous legislative consistency determinations" from section 4.

MOTION PASSED: unanimous

9. PUBLIC COMMENT PERIOD

The Board received comments from members of the public.

MOTION: Mayor Burnett moved, seconded by Councilmember Selfridge, to extend the meeting to 7:00 p.m. or to the completion of public comment.

MOTION PASSED: unanimous.

9. EXECUTIVE OFFICER'S REPORT

- a. Outstanding Receivables
- b. Administrative Committee
- c. Water and Wastewater Oversight Committee
- d. Habitat Conservation Plan Update
- e. Travel Report
- f. Public Correspondence to the Board

The Board did not discuss these items.

10. ITEMS FROM MEMBERS

None.

11. ADJOURNMENT

Vice-Chair O'Connell adjourned the meeting at 6:53 pm in memory of Santa Cruz Police Officers Butch Baker and Elizabeth Butler.

Minutes prepared by Lena Spilman, Deputy Clerk

Approved by: _____
Michael A. Houlemard, Jr.



Fort Ord Reuse Authority

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Item 6d

FORA Board Meeting, 04/12/13

Minutes

Friday, March 22, 2013

Meeting of the Fort Ord Reuse Authority Board of Directors
910 2nd Ave, Marina (Carpenter's Union Hall)

1. CALL TO ORDER AND ROLL CALL

Chair Edelen called the meeting to order at 2:00 p.m.

Voting Members Present: (*alternates)

Chair/Mayor Edelen (City of Del Rey Oaks)
Mayor Kampe (City of Pacific Grove)
Councilmember Morton (City of Marina)
Mayor ProTem O'Connell (City of Marina)
Mayor Pro-Tem Oglesby (City of Seaside)
Supervisor Parker (County of Monterey)

Mayor Pendergrass (City of Sand City)
Supervisor Potter (County of Monterey)
Mayor Rubio (City of Seaside)
Supervisor Salinas (County of Monterey)
Councilmember Selfridge (City of Monterey)

Voting Members Absent: Mayor Burnett (City of Carmel-by-the-Sea), Mayor Gunter (City of Salinas)

The following ex-officio Board members were present: Nicole Charles (17th State Senate District), Assemblymember Stone (29th State Assembly District), Donna Blitzer (University of California), Andre Lewis (California State University), Walter Tribley (Monterey Peninsula College), Todd Muck (Transportation Agency of Monterey County), Bill Collins (Fort Ord BRAC Office), Director Thomas Moore (Marina Coast Water District).

2. PLEDGE OF ALLEGIANCE

Mayor Pro-Tem O'Connell led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

4. Executive Officer Michael Houlemard noted that Mayor Gunter was unable to attend due to a pressing City matter. Supervisor Parker thanked CSU, Monterey Bay for hosting a welcome home reception for former Secretary of State Leon Panetta. Supervisor Potter thanked the more than 19 wineries and restaurants that participated in the event for their support.

5. OLD BUSINESS

a. Consider FORA Expense Policies (cont'd from March 15, 2013 Board meeting)

Mr. Houlemard presented the item. Controller Ivana Bednarik provided information requested by the Board at the previous Board meeting.

MOTION: Supervisor Potter moved, seconded by Mayor Rubio, to approve the policies, amending the "Processing Travel Reimbursement" section of the Travel Policy from "Whenever possible, claims should be submitted within 14 days of travel to the Accounting officer for processing" to "Claims must be submitted within 30 days of travel to the Accounting officer for processing."

MOTION PASSED: unanimous.

b. Consider Authorizing the Executive Officer to Execute EPS Contract Amendment #6

Mr. Houlemard presented the item and Senior Planner Jonathan Garcia provided background information.

MOTION: Supervisor Potter moved, seconded by Mayor Kampe, to: 1) approve FY 12-13 FORA Budget increase for Financial Consultant from \$60,000 to \$87,500, and 2) authorize the Executive Officer to execute contract amendment #6 with Economic and Planning Systems

(EPS) to complete the Phase II Study formula calculation and initiate the HCP endowment certification process, not to exceed additional budget authority of \$27,500.

MOTION PASSED: unanimous.

8. NEW BUSINESS

a. Consider Authorizing a Letter of Support for Assembly Bill 730 (Assemblymember Alejo) Regarding Monterey-Salinas Transit Bond Funding

Mr. Houlemard provided a brief overview of the proposed legislation.

MOTION: Supervisor Parker moved, seconded by Mayor Rubio, to Authorize Chair Edelen to execute a letter of support on behalf of the Fort Ord Reuse Authority for Assembly Bill 730.

MOTION PASSED: unanimous.

1. WORKSHOP - BASE REUSE PLAN REASSESSMENT REPORT TOPICS AND OPTIONS

a. 2nd Vote: Reassessment Report "Category I" proposed corrections

ORIGINAL MOTION (March 15, 2013 Board meeting): Mayor Burnett moved, seconded by Mayor Kampe, to direct staff to provide maps reflecting the current and proposed modifications under Category I for further Board consideration.

2nd VOTE: unanimous.

b. WORKSHOP

Scott McCreary, CONCUR, provided an overview of the workshop process/agenda and the Board considered the workshop agenda items.

Chair Edelen called a 10 minute recess at 3:46 p.m. The Board reconvened at 4:00 p.m. and received comments from members of the public.

MOTION: Supervisor Potter motioned, seconded by Mayor Rubio, to:

1. Direct staff to provide a recommendation to the April 3, 2013 meeting of the FORA Executive Committee regarding the retention of outside land use/environmental review legal counsel to review past and future Base Reuse Plan (BRP) actions;
2. Direct the FORA Administrative Committee and staff to coordinate a work plan to address the Reassessment Report's Category III topics (yet-to-be-completed BRP policies and programs, including Regional Urban Design Guidelines) and return work plan recommendations for Board consideration/direction as a subsequent Board agenda action item in July/August 2013;
3. Concur in the Chair's appointment of a Post-Reassessment Advisory Committee to identify near-term and medium-term (through fiscal year 2013-2014) Category IV work plan priority recommendations for full Board review at a subsequent Board meeting(s);
4. Authorize contract amendment #1 with CONCUR, Inc. for Post-Reassessment Advisory Committee facilitation services, up to an additional \$9,100, allowing for flexibility with respect to the consultant's involvement with the newly established Post-Reassessment Advisory Committee.
5. Direct staff to provide a binder to each Board member that includes the Base Reuse Plan Reassessment Categories I, II, and III suggested changes in track changes form.

MOTION PASSED: unanimous

9. PUBLIC COMMENT PERIOD

The Board received comments from members of the public.

10. ITEMS FROM MEMBERS

Director Moore introduced new acting General Manager/Deputy General Manager Brian Lee.

11. ADJOURNMENT

Chair Edelen adjourned the meeting at 4:46 p.m.

Minutes prepared by Lena Spilman, Deputy Clerk

Approved by: _____

Michael A. Houlemard, Jr.

DRAFT

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject: FORA Pollution Legal Liability Insurance Presentation/Report

Meeting Date: April 12, 2013

Agenda Number: 7a

INFORMATION

RECOMMENDATION:

Receive a presentation/report regarding the Former Fort Ord Pollution Legal Liability Insurance Policy.

BACKGROUND/DISCUSSION:

In 2005, the Board authorized the purchase of a ten year policy to provide FORA, its member land use jurisdictions, and their developer with Pollution Legal Liability Insurance Coverage. That policy will expire at the end of Calendar year 2014, and staff would like to begin the process of considering Board options for extending the policy, securing a new policy, self insuring, or allowing the existing policy to lapse. The Former Fort Ord Pollution Legal Liability Insurance has only been called upon in limited ways over the years and has subsequently acquired other insurance that provides coverage to certain risk areas that may offer FORA appropriate protection going forward.

FORA Special Counsel Barry Steinberg and Insurance Broker Kathy Gettys will be present at the April 12, 2013 meeting to provide a brief presentation that will outline the policy, options, and a process for Board consideration.

FISCAL IMPACT:

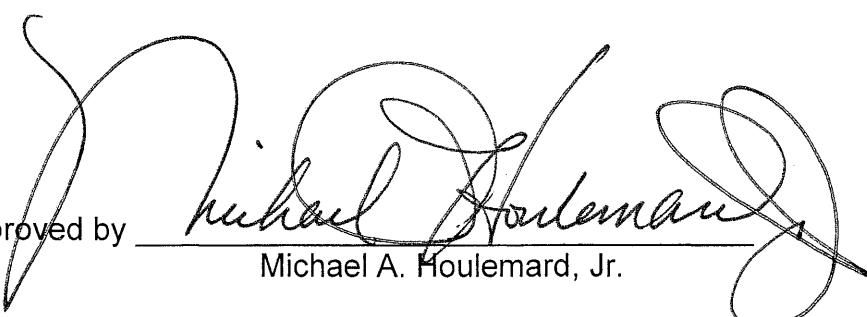
Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget.

COORDINATION:

FORA land use jurisdictions and other agencies receiving property and/or accessing insurance coverage: City of Marina, City of Seaside, City of Monterey, City of Del Rey Oaks, County of Monterey, Monterey Peninsula College, Marina Coast Water District, Transportation Agency of Monterey County, and Monterey-Salinas Transit.

Prepared/Approved by



Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject: Environmental Services Cooperative Agreement - Update

Meeting Date: April 12, 2013

Agenda Number: 7b

INFORMATION

RECOMMENDATION(S):

Receive a report from FORA staff on the status of the FORA Environmental Services Cooperative Agreement.

BACKGROUND:

In Spring 2005, the U.S. Army ("Army") and FORA entered into negotiations to execute an Army-funded Environmental Services Cooperative Agreement ("ESCA") leading to the transfer of 3,340 acres of former Fort Ord prior to regulatory environmental sign-off. In early 2007, the Army awarded FORA approximately \$98 million to perform munitions cleanup on the ESCA parcels. FORA also entered into an Administrative Order on Consent ("AOC") with U.S. Environmental Protection Agency ("EPA") and California Department of Toxic Substance Control ("DTSC"), defining conditions under which FORA undertakes responsibility for the Army remediation of the ESCA parcels.

In order to complete the AOC defined work, FORA entered into a Remediation Services Agreement ("RSA") with LFR Inc. (now "ARCADIS") to provide Munitions and Explosives of Concern ("MEC") remediation services and executed a Cost-Cap insurance policy for this remediation work through American International Insurance Group ("AIG"). FORA received the property after EPA approval and concurrence by the Governor of California. In August 2008, the Governor concurred in the transfer of the ESCA parcels under a Finding of Suitability for Early Transfer. The ESCA property was subsequently transferred to FORA ownership on May 8, 2009.

The ESCA Remediation Program (RP) has been underway for approximately six years. Current ESCA RP field work is focused in the Parker Flats, Interim Action Ranges and Future East Garrison areas of the former Fort Ord.

DISCUSSION:

The ESCA allows FORA, acting as the Army's contractor, to address safety issues resulting from previous munitions training operations conducted at the former Fort Ord. This provides for the ESCA to successfully address three major concerns: 1) requirement for yearly appropriation of federal funding; 2) state, federal regulatory questions about protectiveness of previous actions; and, 3) FORA's desire to reduce, to the extent possible, continuing risk to individuals accessing the site.

FORA's cost of performance was paid with a grant from the Army. Under the ESCA grant agreement with the U.S. Army, FORA received a \$97.7 million grant to clear munitions and to secure regulatory approval from approximately 3,340 acres on the former Fort Ord. FORA subsequently entered into a guaranteed fixed-price contract with LFR (now ARCADIS) to complete the work. As part of the contract between FORA and LFR, an insurance policy was secured from AIG for which FORA paid \$82.1 million upfront from grant funds. This policy provides the funds that AIG uses to pay ARCADIS for the work performed.

AIG also provides insurance for up to \$128 million to address additional work for both known and unknown site conditions, if needed. That means there are extra funds in place to assure that the scope of work is completed to the satisfaction of the Regulators. AIG is responsible to assure that ARCADIS completes the full scope of the contract. By assuring that adequate upfront funds are available, the ESCA cleanup is not subject to the annual congressional appropriations process (including sequestration).

Based on Army and EPA requirements in the ESCA Grant and the AOC FORA does not control the ARCADIS/AIG \$82.1 million Commutation Account. The full amount was provided to AIG in 2008 to as payment for a cost-cap insurance policy where AIG reviews ARCADIS' work performed and makes payments directly to ARCADIS.

Item	Originally Allocated	Accrued as of Jan 1, 2013
FORA Self-Insurance or Policy	\$ 916,056	\$ 916,056
Reimburse Regulators & Quality Assurance	\$ 4,725,000	\$ 1,797,300
State of California Surplus Lines Tax, Risk Transfer, Mobilization	\$ 6,100,000	\$ 6,100,000
Contractor's Pollution Liability Insurance	\$ 477,344	\$ 477,344
Work Performed ARCADIS/AIG Commutation Account	\$ 82,117,553	\$ 58,496,937
FORA Administrative Fees	\$ 3,392,656	\$ 2,249,691
Total	\$ 97,728,609	\$ 70,037,329
	ESCA Remainder	\$ 27,691,280

FORA's obligation under the ESCA, acting as the Army's contractor, is to perform the investigation and cleanup of MEC on the ESCA property. FORA makes recommendations about the work to be performed, but it does not approve that work. Remediation decisions are the responsibility of the Army and the Regulators.

The fact that property has regulatory approvals, does not dictate what the end use will be. FORA is not empowered to impose or limit zoning, decide future use, property density or related land use decisions which are the responsibility of the local jurisdiction(s) where the property lies. Issues associated with future land use should be directed to the governmental authority with land use responsibility, not to FORA. The level to which the property is cleaned does not require that the jurisdictions establish their land use at a corresponding level. If cleaned to Sensitive Use, the jurisdictions can then utilize the remediated property for a variety of uses, in accordance with their City codes and ordinances.


FISCAL IMPACT:

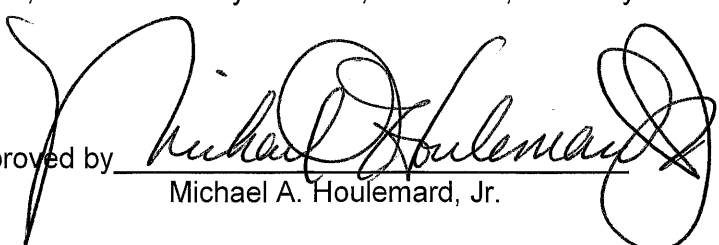
Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget.

COORDINATION:

Administrative Committee; Executive Committee; FORA Authority Counsel; ARCADIS; US Army EPA; and DTSC

Prepared by 
Stan Cook

Approved by 
Michael A. Houlemard, Jr.

Placeholder for Item 7c

FORA Legal Representation

- i. Consider Contract Extension with the Law Offices of Alan Waltner for Review of Base Reuse Plan Actions
 - ii. Consider Authority Counsel Contract
-

At the March 22, 2013 Board meeting, the Board directed staff to provide the FORA Executive Committee with a recommendation for retention of outside independent legal counsel for analysis/review of past and future Base Reuse Plan actions. Similarly, the Board has instructed staff to prepare a contract for retention of Jon Giffen of Kennedy, Archer, and Giffen as FORA Authority Counsel. Both draft contracts will be reviewed by the FORA Executive Committee at a special meeting on Monday, April 8, 2013, after which these items will be forwarded to the Board email distribution list and included in this agenda packet on the FORA website.

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject: Base Reuse Plan Post-Reassessment Follow-Up: "Category I"

Meeting Date: April 12, 2013

Agenda Number: 7d

INFORMATION/ACTION

RECOMMENDATION

- i. Receive a status report regarding text and figure corrections previously identified as "Category I" of the 2012 Base Reuse Plan Reassessment Report's topics/options.
- ii. Provide direction to the Post-Reassessment Policy Advisory Committee as needed

BACKGROUND

At the February 15 post-reassessment policy workshop (the first in a planned three-session workshop series), the Board unanimously voted to endorse staff's recommendation to return the previously identified Category I corrections as a March 2013 agenda item for further review. The full text of the corrections, including brief clarifying explanations where warranted, appeared in strikethrough/underline form on final Reassessment Report pages 3-2 through 3-19, which were reproduced as an attachment to the March 15 Board report.

Category I identified approximately 45 text corrections--some having multiple components--and various corrections to 40 different figures in the Base Reuse Plan (BRP). These corrections were intended to be of a "housekeeping," non-substantive nature, consisting of corrections of editorial errors, out-of-date references, and clarifications to instances of ambiguous wording in the BRP. Staff had indicated that, if acted upon, the identified Category I corrections would be folded into a future BRP republication (full scope, schedule, and budget to be determined, pending outcome of the policy workshops).

However, during the course of the March 15 discussion, several Board members expressed concern that some of the report's suggested Category I corrections may result in substantive changes requiring a more detailed review and deliberation now rather than at the time of a future BRP republication. Several members also commented that only the report's suggested corrections, and not the original figures/maps had been provided for the Board's review. A majority of the Board voted to direct staff to bring additional details of the Category I corrections, including the identified map/figure corrections shown graphically ("before/after") in the context of the original BRP maps and other figures.

At the March 22 workshop (policy workshop #2), among other actions the Board voted to:

- Take a second vote confirming the previous non-unanimous majority vote to bring back "before and after" maps reflecting the Reassessment Report's "Category I" proposed corrections for further Board consideration at the April Board meeting
- Express support for the Board chair's appointment of an advisory committee, consisting of seven Board members, to explore and form priority recommendations regarding Reassessment Report Category IV topics. In initial workshop discussion, Board members generally spoke favorably toward including further exploration of Category I issues and concerns in the advisory committee's scope, as was also recommended in the March 22 Board report.

As of this writing, the advisory committee is scheduled to hold its first meeting on Friday, April 5 at 1:30 PM. At the April 12 Board meeting, committee members and staff will be able to report on progress made during that meeting toward addressing remaining concerns related to Category I.

DISCUSSION

The Reassessment Report suggested corrections to 40 different BRP figures. As discussed in Attachment A to the March 15 Board report, most if not all BRP figures exist only on paper or as scanned images of paper copies of the maps. In other words, no editable digital files such as GIS map documents, AutoCAD files, or the like are currently known to exist for any of these figures. As part of a future BRP republication effort it would be possible, depending on resources, budget, and cost-effectiveness to:

- 1) Effectuate some changes by simply "Photoshopping" them directly into the existing figures, and/or
- 2) Re-create some of the existing figures using current GIS software/data and other tools to incorporate the identified corrections.

Alternatively, the identified Category I corrections—as potentially modified via the advisory committee's and/or Board's further review—could be:

- 3) Listed as text notes on each individual figure, or
- 4) Appended to the future BRP republication as a single consolidated errata sheet capturing the final form of all corrections (after further advisory committee and Board review, pending).

Given the time and resources available since the Board's previous direction regarding Category I, and as an interim measure while the policy advisory committee continues its review of Category I issues and concerns, staff is able to provide the following materials for the Board's consideration at this time:

- The existing BRP figures (**Attachment A- click on: <http://fora.org/Board/2013/Cat1figures.pdf>**)
Note: 23MB file size; may take several minutes to download.
- The Reassessment Report's Category I observations superimposed onto each figure in Attachment A as text notes, consistent with approach #3, above. These notes identify what the Reassessment Report observed as being potentially incorrect, out-of-date, or in need of clarification on each figure. Resources and budget permitting, the notes may be able to be replaced by graphic figure corrections as part of a future BRP republication effort (to be determined), subject to final Board review and adoption; and
- The full text of the Reassessment Report's category I corrections, as previously attached to the March 15 Board report (**Attachment B**).

FISCAL IMPACT

Reviewed by FORA Controller 

The BRP reassessment has been funded through FORA's FY 11-12 and FY 12-13 budgets to accomplish the final BRP Reassessment Report prepared by EMC Planning Group; there is a balance of approximately \$45,000 remaining in the current fiscal year's budget in this category. Future costs associated with BRP republication and/or other potential post-reassessment action items under consideration have not yet been determined.

COORDINATION

Administrative Committee, Executive Committee, FORA counsel

Prepared by 

Darren McBain

Reviewed by 

Steve Endsley

Approved by 

Michael A. Houlemard, Jr.

Base Reuse Plan maps/figures annotated with Reassessment Report "Category I" corrections and observations

click on: <http://fora.org/Board/2013/Cat1figures.pdf>

Note: 23MB file size; may take several minutes to download.

Table 5 Index of BRP Corrections and Updates

Corrections
Institutional Land Use Program B-1.1 (Seaside) typographical error
Streets and Roads Program D-1.3 typographical error
Land Use and Transportation Program A-2.1 typographical error
Recreation Policy A-1 (Marina and Seaside) typographical error
Recreation Policy A-2 (Marina) typographical error
Recreation Policy G-1 (all) typographical error
Soils and Geology Program A-2.3 (Seaside/County) format
Soils and Geology Policy A-4 (all) out-of-date reference
Soils and Geology Program A-6.1 (all) clarification
Soils and Geology Program C-2.1 (all) clarification
Hydrology and Water Quality Policy B-1 (all) format
Hydrology and Water Quality Program B-1.2 to 1.7 (Seaside/County) format
Hydrology and Water Quality Program B-2.4 to 2.7 (County) incorrect reference
Hydrology and Water Quality Program B-1.5 (all) clarification
Hydrology and Water Quality Program C-1.2 (all) out of date reference
Hydrology and Water Quality Program C-1.5 (County) typographical error
Hydrology and Water Quality Program C-2.1 (all) wording/format
Hydrology and Water Quality Policy C-3 (all) typographical error
Hydrology and Water Quality Program C-6.1 (Seaside/County) format
Biological Resources Objective A (all) period missing
Biological Resources Program A-3.2 (County) clarifications
Biological Resources Program A-3.2 (County) clarifications
Biological Resources Program A-7.1 (County) typographical error
Biological Resources Program A-8.1 (County/Del Rey Oaks) out-of-date reference
Biological Resources Program A-8.2 (County/Del Rey Oaks) out-of-date reference
Biological Resources Program C-2.2 (County) typographical error
Cultural Resources Program B-2.3 (County) out of date reference

Category I

Corrections
Noise Programs B-2.1 and B-2.2 (Seaside and County) mis-numbered
Seismic and Geologic Hazards Policy A-2.3 (all) out-of-date reference
Seismic and Geologic Hazards Policy A-3 (all) typographical error
Seismic and Geologic Hazards Program A-3.1 (Marina and Seaside) typographical error
Seismic and Geologic Hazards Program B-1.1 (all) out-of-date reference
Seismic and Geologic Hazards Program C-1.1 (Seaside) format error
Fire Flood and Emergency Management Program A-2.1 (Marina) out-of-date reference
Mitigation Measure (hydrology/water quality) typographical error
Mitigation Measure (biological resources) typographical error
Figure Corrections (Various map formatting and content inconsistencies)

Potential Options:

- Make no corrections to the existing typographical and other non-substantive errors found in the BRP.
- Direct FORA staff to modify the BRP with all corrections listed in Table 5.
- Deliberate all or some of the corrections listed in Table 5 before providing direction to FORA staff to modify the BRP with selected corrections.

Synopsis of Public Comments:

None

Text Corrections

Most of the text corrections referenced in Table 5, Index of BRP Corrections and Updates, were identified in the Scoping Report. Others have been independently identified by FORA staff apart from the Scoping Report process. The corrections are largely associated with BRP policies, programs, or mitigation measures. The corrections are grouped by the BRP Element in which the subject text is found. In

instances where the correction may not be obvious, an explanatory note is provided in *italics*. Some corrections are repeated two or three times, typically with different page references, one occurrence for each member jurisdiction to which the subject text applies. Text deletions are noted in ~~strikethrough~~ and text insertions are underlined.

Land Use Element

Volume II, Page 237

Program ~~E-1.2~~ E-1.3: The City of Marina shall designate convenience/specialty retail land use on its zoning map and provide standards for development within residential neighborhoods.

Volume II, Page 241

Program C-1.2: The City of Seaside shall zone and consider development of a golf course community in the New Golf Course Community District totaling 3,365 units. The ~~district~~ District includes the existing 297-unit Sun Bay apartment complex on Coe Road and 3,068 new housing units within the remainder

of this District. The City of Seaside shall replace the remaining residential stock in the New Golf Course Community District with a range of market-responsive housing. Development of this area is contingent on the reconfiguration of the existing POM Annex so that the Army residential enclave is located totally to the east of ~~North-South Road~~ General Jim Moore Boulevard.

Program C-1.3: The City of Seaside shall assist the U.S. Army to reconfigure the POM Annex. The reconfigured POM Annex should include approximately 805 existing units on 344 acres east of General Jim Moore Boulevard and an additional 302 acres of surrounding, vacant land that is intended to be developed for housing to replace the existing POM Annex housing west of ~~North-South Road~~ General Jim Moore Boulevard.

Volume II, Page 255

Program E-2.3: ~~The City~~ The City of Marina shall preserve sufficient land at the former Fort Ord for right-of-ways to serve long-range commercial build-outs.

Volume II, Page 265

Program B-2.4: In the Planned Development/Mixed Use District in the Existing City of Marina Neighborhoods Planning Area, intended for public facilities such as the future Marina Civic Center and related facilities, the City shall install an open space barrier along the border of adjacent Polygons 5a and 5b to prevent potential degradation of this undeveloped habitat. Both polygons provide corridor linkage from the maritime chaparral around the airfield to the habitats in the interior.

Volume II, Page 266

Program C-1.3: The City of Marina shall designate land uses for the following park locations and acreages:

- Neighborhood Park in housing area (Polygon 4): 27 acres.
- Neighborhood Park with community recreation center (Polygon 2B): 10 acres.
- Community Park at existing equestrian center (Polygon 2G): 39.5 acres.
- ~~Community Park with equestrian trailhead (Polygon 17A): 46 acres.~~

Note: Polygon 17A is near the Youth Camp and is not within the City of Marina.

Volume II, Page 271

Program C-1.2: The County of Monterey shall designate land uses for the following park locations and acreages:

- Neighborhood Park in Eucalyptus Road Residential Planning Area (Polygon 19a): 10 acres.
- A minimum of 200 acres in permanent open space within the Eucalyptus Road residential planning area.
- Community Park with equestrian trailhead (Polygon 17A): 46 acres.

Note: See note above regarding City of Marina Program C-1.3.

Volume II, Page 276

Program A-1.1: The City of Seaside shall request to be included in the master planning efforts undertaken by the California State University and shall take an active role to ensure compatible land ~~uses~~ use ~~into~~ transitions between university lands and non-university lands.

Program B-1.1: The City of Seaside shall review all planning and design for Fort Ord land use and infrastructure improvements in the vicinity of schools and

ensure appropriate compatibility including all safety standards for development near schools, as a condition of project approval.

Circulation Element

Volume II, Page 303

Program D-1.3: Each jurisdiction shall evaluate all new development proposals for the need to provide on-street parking as part of the overall ~~on-street~~ parking program.

Volume II, Page 312

Program ~~A-2-1~~ A-2.1: Each jurisdiction with lands at former Fort Ord shall develop transportation standards for implementation of the transportation system, including but not limited to, rights-of-way widths, roadway capacity needs, design speeds, safety requirements, etc. Pedestrian and bicycle access shall be considered for ~~at~~ incorporation into all roadway designs.

Recreation and Open Space Element

Volume II, Page 321

Recreation Policy A-1: The City of Marina shall work with the California State Park System to coordinate the development of Fort Ord ~~Beach~~ Dunes State Park.

Volume II, Page 321

Recreation Policy A-2: The City of Marina shall support the development of a regional Visitor Center/ Historical Museum complex adjacent to the 8th Street entrance to Fort Ord ~~Beach~~ Dunes State Park which will serve as a an orientation center to communicate information about ~~at~~ the former Fort Ord recreation opportunities.

Volume II, Page 324

Recreation Policy G-1: The City of Marina shall use incentives to promote the development of an integrated, attractive park and open space system during the ~~development~~ planning of individual districts and ~~neighborhood's~~ neighborhoods within the former Fort Ord.

Recreation Policy A-1: The City of Seaside shall work with the California State Park System to coordinate the development of Fort Ord ~~Beach~~ Dunes State Park.

Volume II, Page 327

Recreation Policy G-1: The City of Seaside shall use incentives to promote the development of an integrated, attractive park and open space system during the ~~development~~ planning of individual districts and ~~neighborhood's~~ neighborhoods within the former Fort Ord.

Volume II, Page 330

Recreation Policy G-1: Monterey County shall use incentives to promote the development of an integrated, attractive park and open space system during the ~~development~~ planning of individual districts and ~~neighborhood's~~ neighborhoods within the former Fort Ord.

Conservation Element

Volume II, Page 337

Soils and Geology Policy A-4: The City shall continue to enforce the ~~Uniform~~ California Building Code to minimize erosion and slope instability.

Program A-6.1: The City shall prepare and make available a slope map to identify locations in the ~~study area~~ former Fort Ord where slopes poses severe constraints for particular land uses.

Volume II, Page 338

Program C-2.1: The City shall require that the recipients of land recipients of properties within the former Fort Ord implement the Fort Ord Habitat Management Plan.

Volume II, Page 339

Soils and Geology Policy A-4: The City shall continue to enforce the Uniform California Building Code to minimize erosion and slope instability problems.

Program A-6.1: The City shall prepare and make available a slope map to identify locations in the study area former Fort Ord where slopes poses severe constraints for particular land uses.

Program A-2.3: See description of this program above.

Volume II, Page 341

Soils and Geology Policy A-4: The County shall continue to enforce the Uniform California Building Code to minimize erosion and slope instability problems.

Program C-2.1: The City shall require that the recipients of land recipients of properties within the former Fort Ord implement the Fort Ord Habitat Management Plan.

Volume II, Page 342

Program A-2.3: See description of this program above.

Volume II, Page 343

Program C-2.1: The County shall require that the recipients of land recipients of properties within the former Fort Ord implement the Fort Ord Habitat Management Plan.

Volume II, Page 346

Hydrology and Water Quality Policy B-1: The City/~~County~~ shall ensure additional water supply.

Volume II, Page 347

Program B-1.2: The City/~~County~~ shall work with FORA and the MCWRA to determine the feasibility of developing additional water supply sources for the former Fort Ord, such as water importation and desalination, and actively participate in implementing the most viable option(s).

Program B-1.3: The City/~~County~~ shall adopt and enforce a water conservation ordinance developed by the Marina Coast Water District.

Program B-1.4: The City/~~County~~ shall continue to actively participate in and support the development of “reclaimed” water supply sources by the water purveyor and the MRWPCA to insure adequate water supplies for the former Fort Ord.

Program B-1.5: The City/~~County~~ shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface rain water for in-tract irrigation and other non-portable use.

Program B-1.6: The City/~~County~~ shall work with FORA to assure the long-range water supply for the needs and plans for the reuse of the former Fort Ord.

Program B-1.7: The City/~~County~~, in order to promote FORA’s DRMP, shall provide FORA with an annual summary of the following: 1) the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA’s allocation and water from other available sources; 2) estimate of existing and projected jobs

within its Fort Ord boundaries based on development projects that are on-going, completed, and approved; and 3) approved projects to assist FORA’s monitoring of water supply, use, quality, and yield.

Note: These programs were originally presented to apply to both the cities and County, inconsistent with the presentation of other policies in the BRP; therefore, they are being separated out to match the predominant BRP format.

Volume II, Page 348

Program C-1.2: The City shall comply with the current version of the General Industrial Storm Water Permit adopted by the SWRCB in ~~November 1991~~ that requires all storm drain outfalls classified as industrial to apply for a permit for discharge.

Program C-2.1: The City/~~County~~ shall develop and make available a description of feasible and effective measures and site drainage designs that will be implemented in new development to minimize water quality impacts.

Note: This program was originally presented to apply to both the cities and County, inconsistent with the presentation of other policies in the BRP; therefore, it is being separated out to match the predominant BRP format.

Hydrology and Water Quality Policy C-3: The ~~MCWRA~~ and the City shall cooperate with MCWRA and MPWMD to mitigate further seawater intrusion based on Salinas Valley Basin Management Plan.

Volume II, Page 350

Program B-1.2: ~~See description of this program under Marina above.~~ The City shall work with FORA and the MCWRA to determine the feasibility of developing additional water supply sources for the former Fort Ord, such as water importation and desalination, and actively participate in implementing the most viable option(s).

Program B-1.3: ~~See description of this program under Marina above.~~ The City shall adopt and enforce a water conservation ordinance developed by the Marina Coast Water District.

Program B-1.4: ~~See description of this program under Marina above.~~ The City shall continue to actively participate in and support the development of “reclaimed” water supply sources by the water purveyor and the MRWPCA to insure adequate water supplies for the former Fort Ord.

Program B-1.5: ~~See description of this program under Marina above.~~ The City shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface rain water for in-tract irrigation and other non-portable use.

Program B-1.6: ~~See description of this program under Marina above.~~ The City shall work with FORA to assure the long-range water supply for the needs and plans for the reuse of the former Fort Ord.

Program B-1.7: ~~See description of this program under Marina above.~~ The City, in order to promote FORA’s DRMP, shall provide FORA with an annual summary of the following: 1) the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA’s allocation and water from other available sources; 2) estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved; and 3) approved projects to assist FORA’s monitoring of water supply, use, quality, and yield.

These separate programs are added for format consistency. See note above for Page 347.

Program C-1.2: The City shall comply with the current version of the General Industrial Storm Water Permit adopted by the SWRCB in ~~November 1991~~ that requires all storm drain outfalls classified as industrial to apply for a permit for discharge.

Volume II, Page 351

Hydrology and Water Quality Policy C-3: The ~~MCWRA and the~~ City shall cooperate with MCWRA and MPWMD to mitigate further seawater intrusion based on Salinas Valley Basin Management Plan.

Volume II, Page 352

Program C-6.1: ~~See Program C-6.1 above.~~ The City shall work closely with other Fort Ord jurisdictions and the CDPR to develop and implement a plan for stormwater disposal that will allow for the removal of the ocean outfall structures and end the direct discharge of stormwater into the marine environment. The program must be consistent with State Park goals to maintain the open space character of the dunes, restore natural landforms, and restore habitat values.

This separate program is added for format consistency. See note above for Page 348.

Volume II, Page 353

Program B-1.2: ~~See description of this program under Marina above.~~ The County shall work with FORA and the MCWRA to determine the feasibility of developing additional water supply sources for the former Fort Ord, such as water importation and desalination, and actively participate in implementing the most viable option(s).

Program B-2.4: ~~See description of this program under Marina above.~~ The County shall continue to actively participate in and support the development of “reclaimed” water supply sources by the water purveyor and the MRWPCA to insure adequate water supplies for the former Fort Ord.

Program B-2.5: ~~See description of this program under Marina above.~~ The County shall promote the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface rain water for in-tract irrigation and other non-portable use.

Program B-2.6: ~~See description of this program under Marina above.~~ The County shall work with FORA to assure the long-range water supply for the needs and plans for the reuse of the former Fort Ord.

Program B-2.7: ~~See description of this program under Marina above.~~ The County, in order to promote FORA’s DRMP, shall provide FORA with an annual summary of the following: 1) the number of new residential units, based on building permits and approved residential projects, within its former Fort Ord boundaries and estimate, on the basis of the unit count, the current and projected population. The report shall distinguish units served by water from FORA’s allocation and water from other available sources; 2) estimate of existing and projected jobs within its Fort Ord boundaries based on development projects that are on-going, completed, and approved; and 3) approved projects to assist FORA’s monitoring of water supply, use, quality, and yield.

These separate programs are added for format consistency. See note above for Page 347.

Program C-1.2: The County shall comply with the current version of the General Industrial Storm Water Permit adopted by the SWRCB in ~~November 1991~~ that requires all storm drain outfalls classified as industrial to apply for a permit for discharge.

Program C-1.5: The County shall adopt and enforce ~~an~~ a hazardous substance control ordinance that requires that hazardous substance control plans be prepared and implemented for construction activities involving the handling, storing, transport, or disposal of hazardous waste materials.

Volume II, Page 354

~~See Program C-6.1 above.~~ Program C-6.1: The County shall work closely with other Fort Ord jurisdictions and the CDPR to develop and implement a plan for stormwater disposal that will allow for the removal of the ocean outfall structures and end the direct discharge of stormwater into the marine environment. The program must be consistent with State Park goals to maintain the open space character of the dunes, restore natural landforms, and restore habitat values.

This separate program is added for format consistency. See note above for Page 348.

Hydrology and Water Quality Policy C-3: The ~~MCWRA and the~~ County shall cooperate with MCWRA and MPWMD to mitigate further seawater intrusion based on Salinas Valley Basin Management Plan.

Volume II, Page 356

Objective A: Preserve and protect the sensitive species and habitats addressed in the Installation-Wide Habitat Management Plan (HMP) for Fort Ord in conformation with its resource conservation and habitat management requirements and with the guidance provided in the HMP Implementing/Management Agreement.

Volume II, Page 378

Program A-3.2: The County shall restrict uses in the natural lands, outside of campground facilities, to low-impact programs for youth, outdoor nature, education, resource management, and trails. The existing pond in the parcel Polygon 17b shall continue to be used for recreational fishing.

Program A-3.3: The County shall prepare, or cause to be prepared, a management plan for ~~the parcel~~ Polygon 17b that addresses special status species

monitoring, controlled burning and firebreak construction/maintenance, vehicle access controls, erosion controls, and regular patrols to assure public use/unauthorized actions are not impacting the habitat. The County shall coordinate with the California Department of Forestry and CDFG to determine suitable habitat management practices for retaining and enhancing habitat values within the oak woodlands.

Note: Polygon 17b is referenced in the related policy.

Volume II, Page 381

Program A-7.1: The County shall consult with CSUMB during its Master Plan ~~Process~~ process regarding potential pedestrian, bicycle and vehicle access to adjacent habitat conservation and corridor areas from the campus. Methods for controlling this access should be developed by CSUMB with assistance from the County and UCNRS.

Biological Resources Policy A-8: The ~~County~~ City of Del Rey Oaks shall maintain the quality of the habitat in the Frog Pond Natural Area.

Note: The Frog Pond Natural Area was unincorporated County land when the BRP was adopted but has since been annexed to Del Rey Oaks.

Program A-8.1: The direct discharge of storm water or other drainage from new impervious surfaces created by development of the office park parcel into the ephemeral drainage in the natural area expansion parcel will be prohibited. No increase in the rate of flow of storm water runoff beyond pre-development quantities shall be managed on-site through the use of basins, percolation wells, pits, infiltration galleries, or any other technical or engineering methods which are appropriate to accomplish these requirements. Indirect sub-surface discharge is acceptable. These storm water management requirements will be used for ~~development~~ development on Polygon 31b.

Program A-8.2: The ~~County~~ City of Del Rey Oaks shall require installation of appropriate firebreaks and barriers sufficient to prevent unauthorized vehicle access along the border of Polygons 31a and 31b. A fuel break maintaining the existing tree canopy (i.e. shaded fuel break) shall be located within a five acre primary buffer zone on the western edge of Polygon 31b. No building or roadway will be allowed in this buffer zone with the exception of picnic areas, trailheads, interpretive signs, drainage facilities, and park district parking. Firebreaks should be designed to protect structures in Polygon 31b from potential wildfires in Polygon 31a. Barriers should be designed to prohibit unauthorized access into Polygon 31a.

Note: Polygons 31a and 31b were unincorporated County land when the BRP was adopted but have since been annexed to Del Rey Oaks.

Volume II, Page 383

Program C-2.2: The County shall apply certain restrictions for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (Ordinance 3420).

Volume II, Page 398

Program B-2.3: The County of Monterey, ~~in association with Monterey Peninsula College~~ and all other proponents of new uses of historic structures in the East Garrison area, shall cooperate with the California State Historic Preservation Officer to develop a management strategy that recognizes the historic value of the East Garrison historic district, in accordance with the 1994 agreement developed by the U.S. Army, the Advisory Council on Historic Preservation and the California SHPO. The county will be responsible for initiating any further consultation with the SHPO needed to modify these covenants or conditions.

Note: Monterey Peninsula College no longer has land at East Garrison, where this program applies.

Noise Element

Volume II, Page 414

Program ~~3-2.1~~ B-2.1: See description of Program A-1.1 above.

Program ~~3-2.2~~ B-2.2: See description of Program A-1.2 above.

Volume II, Page 416

Program ~~3-2.1~~ B-2.1: See description of Program A-1.1 above.

Program ~~3-2.2~~ B-2.2: See description of Program A-1.2 above.

Safety Element

Volume II, Page 427

Program A-2.3: The City shall continue to update and enforce the ~~Uniform~~ California Building Code to minimize seismic hazards impacts from resulting from earthquake induced effects such as ground shaking, ground rupture, liquefaction, and or ~~soils~~ soil problems.

Seismic and Geologic Hazards Policy A-3: The City shall designate areas with severe seismic hazard risk as open space or similar use if adequate measures cannot be taken to ensure the structural stability of ~~habitat~~ habitable buildings and ensure the public safety.

Volume II, Page 428

Program A-3.1: As appropriate, the City should amend its General Plan and zoning maps to designate areas with severe seismic hazard risk as open space if ~~not~~ no other measures are available to mitigate potential impacts.

Program B-1.1: The City shall evaluate the ability of critical and sensitive buildings to maintain structural integrity as defined by the ~~Uniform~~ California

Building Code (UBC) in the event of a 6.0 magnitude or greater earthquake. The Public Works Director shall inventory those existing facilities determined to be unable to maintain structural integrity, and make recommendations for modifications and a schedule for compliance with the UBC California Building Code. The City shall implement these recommendations in accordance with the schedule.

Volume II, Page 429

Program A-2.3: The City shall continue to update and enforce the ~~Uniform~~ California Building Code to minimize seismic hazards impacts ~~from~~ resulting from earthquake induced effects such as ground shaking, ground rupture, liquefaction, and or ~~soils~~ soil problems.

Seismic and Geologic Hazards Policy A-3: The City shall designate areas with severe seismic hazard risk as open space or similar use if adequate measures cannot be taken to ensure the structural stability of ~~habitual~~ habitable buildings and ensure the public safety.

Program A-3.1: As appropriate, the City should amend its General Plan and zoning maps to designate areas with severe seismic hazard risk as open space if ~~not~~ no other measures are available to mitigate potential impacts.

Volume II, Page 430

Program B-1.1: The City shall evaluate the ability of critical and sensitive buildings to maintain structural integrity as defined by the ~~Uniform~~ California Building Code (UBC) in the event of a 6.0 magnitude or greater earthquake. The Public Works Director shall inventory those existing facilities determined to be unable to maintain structural integrity, and make recommendations for modifications and a schedule for compliance with the UBC California Building Code. The City shall implement these recommendations in accordance with the schedule.

Seismic and Geologic Hazards Policy C-1: The City shall, in cooperation with other appropriate agencies, create a program of public education for earthquakes which includes guidelines for retrofitting of existing structures for earthquake protection, safety procedures during an earthquake, necessary survival material, community resources identification, and procedures after an earthquake. ~~Program C-1.1: The City shall prepare and/or make available at City hall libraries and other public places, information and educational materials regarding earthquake preparedness.~~

Program C-1.1: The City shall prepare and/or make available at City hall, libraries, and other public places, information and educational materials regarding earthquake preparedness.

Note: Correction to formatting error.

Volume II, Page 431

Program A-2.3: The County shall continue to update and enforce the ~~Uniform~~ California Building Code to minimize seismic hazards impacts ~~from~~ resulting from earthquake induced effects such as ground shaking, ground rupture, liquefaction, and or ~~soils~~ soil problems.

Seismic and Geologic Hazards Policy A-3: The County shall designate areas with severe seismic hazard risk as open space or similar use if adequate measures cannot be taken to ensure the structural stability of ~~habitual~~ habitable buildings and ensure the public safety.

Volume II, Page 432

Program B-1.1: The County shall evaluate the ability of critical and sensitive buildings to maintain structural integrity as defined by the ~~Uniform~~ California Building Code (UBC) in the event of a 6.0 magnitude or greater earthquake. The Public Works Director shall inventory those existing facilities determined to

be unable to maintain structural integrity, and make recommendations for modifications and a schedule for compliance with the ~~UBC~~ California Building Code. The County shall implement these recommendations in accordance with the schedule.

Volume II, Page 436

Program A-2.1: The City shall incorporate the recommendations of the City Fire Department for all residential, commercial, industrial, and public works projects to be constructed in high fire hazard areas before a building permit can be issued. Such recommendations shall be in conformity with the current applicable ~~codes~~ Uniform Building Code Fire Hazards Policies. These recommendations should include standards of road widths, road access, building materials, distances around structures, and other standards for compliance with the ~~UBC Fire Hazards Policies~~ California Building Code, California Fire Code, and Urban Wildland Intermix Code.

Volume IV, Page 4-66

Mitigation: Add a new program that shall require preparation of Mater Drainage Plan ~~should be developed~~ for the Fort Ord property to assess the existing natural and man-made drainage facilities, recommend area-wide improvements based on the approved Reuse Plan and develop plans for the control of storm water runoff from future development, including detention/retention and enhanced percolation to the ground water. This plan shall be developed by FORA with funding for the plan to be obtained from future development. All Fort Ord property owners (federal, state, and local) shall participate in the funding of this plan. Reflecting the incremental nature of the funding source (i.e. development), the assessment of existing facilities shall be completed first and by the year 2001 and submitted to FORA. This shall be followed by recommendations for improvements and an implementation plan to be completed by 2003 and submitted to FORA.

Volume IV, Page 4-173

Mitigation: Because of the unique character of Fort Ord flora, the County shall use native plants from on-site stock ~~shall be used in for~~ all landscaping except turf areas. This is especially important with popular cultivars such as manzanita and ceonothus that could hybridize with the rare natives. All cultivars shall be obtained from stock originating on Fort Ord.

Figure Corrections

The graphics corrections described below were identified in the Scoping Report or have been identified by FORA staff. Textual descriptions of each change are presented; FORA staff would complete corrections to the figures after the reassessment process is complete. The figures are presented in the order in which they appear in the BRP, with a reference to the BRP volume, page number, figure number, and figure name. These corrections apply to figures in Volume 1 and Volume 2.

Framework for the Reuse Plan

Volume I, Page 72

3.2-1 Regional Vicinity Map

- Salinas and Carmel Rivers need labels
- Various font problems with labels

Volume I, Page 73

3.2-2 Topographic Relief Map

- No street names (inconsistent with other maps)
- No jurisdiction labels (inconsistent with other maps)

Volume I, Page 77

3.2-3 Regional Land Use Context

- Inconsistent labeling: Monterey County vs. Monterey Co.

- Does not show land use to northeast of former Fort Ord

Volume I, Page 83

3.2-4 Existing Development

- No Legend items - make it unclear what elements in map represent

Volume I, Page 87

3.2-5 Fort Ord Assets and Opportunities

- Fort Ord Dunes State Park identified as State Beach
- Some boundaries/names have changed, but that this map presents historic context

Volume I, Page 95

3.3-1 Land Use Concept: Ultimate Development

- SF Low Density Residential color in legend does not match color on map
- University Medium Density Residential color in legend does not match color on map
- Inconsistent labeling: Monterey County vs. Monterey Co.

Volume I, Page 97

3.3-2 Proposed Land Use and Regional Context

- Legend does not include regional context land uses (i.e. land uses outside the former Fort Ord)
- SF Low Density Residential color in legend does not match color on map
- University Medium Density Residential color in legend does not match color on map
- Inconsistent labeling: Monterey County vs. Monterey Co.

Volume I, Page 114

3.5-1 Proposed 2015 Transportation Network

- Remove Highway 68 Bypass
- Remove Prunedale Bypass
- Relocate Multimodal Corridor per prior FORA Board approval
- Remove realignment of Reservation Road at East Garrison to reflect adopted Specific Plan

Volume I, Page 117

3.5-2 Roadway Classification and Multimodal Network

- Fort Ord Boundary (in green on map) not identified on legend/not consistent with other figures
- Add proposed Monterey Road State Route 1 interchange, per current Caltrans plans
- Relocate Multimodal Corridor per prior FORA Board approval

Volume I, Page 129

3.6-1 Regional Open Space System

- Change BLM to Fort Ord National Monument
- "Bautista" misspelled "Batista"
- Star symbol not in legend

Volume I, Page 133

3.6-2 Habitat Management Plan

- No labels
- Revise HMP boundaries and designations per 2002 changes

Volume I, Page 137

3.6-3 Open Space & Recreation Framework

- Change BLM to Fort Ord National Monument

- CSUMB on map is shown in two different shades of blue (only one shade of which is identified in legend)
- Light Green & Lime Green colors on map are not identified on legend
- Dark Brown item in legend is not shown (clearly) on map
- Golf Course Item on Legend is not shown on map
- Equestrian Center item on legend is not shown on map
- Visitor/Cultural item on legend is now shown on map
- Fort Ord boundary (in green on map) not identified on legend/not consistent with other figures
- Update trailhead locations to reflect existing conditions and current plans

Volume I, Page 149

3.8-1 Marina Planning Areas

- Jurisdictional boundary labels: Monterey County as “County” inconsistent with other maps
- Font issue
- Leader lines inconsistent with Seaside and Monterey County maps

Volume I, Page 163

3.9-1 Seaside Planning Areas

- Jurisdictional boundary labels: Monterey County as “County” inconsistent with other maps

Volume I, Page 173

3.10-1 County Planning Areas

- No City/County boundary labels, inconsistent with other maps – Identify City of Monterey and Del Rey Oaks

- Change BLM to Fort Ord National Monument
- Typographical error in South Gate Planning Area

Volume I, Page 206

3.11-1 Legislative Land Use Consistency Determinations

- Not identified as a “Figure” (no figure number) on the figure

Volume I, Page 210

3.11-2 Appeals and Review of Development Entitlements

- Not identified as a “Figure” (no figure number) on the figure

Land Use Element

Volume II, Page 215

4.1-1 Existing Development Pattern at Fort Ord

- No legend items - unclear what elements in map represent
- Add historic U.S. Army Housing Area names

Volume II, Page 218

4.1-2 Planning Areas and Local Jurisdictions

- Inconsistent labeling: Monterey County vs. Monterey Co.
- Two labels for Seaside and Marina
- No legend item for Fort Ord boundary – Area shown in blue
- Coastal zone in legend does not appear on map
- Fort Ord Dunes State Park identified as State Beach

Volume II, Page 221

4.1-3 Generalized Land Use Setting

- Inconsistent labeling: Monterey County vs. Monterey Co.
- Does not show land use to northeast of former Fort Ord
- Fort Ord Dunes State Park identified as State Beach

Volume II, Page 227

4.1-4 Sphere of Influence and Annexation Requests

- Inconsistent labeling: Monterey County vs. Monterey Co.
- Legend item description can be confusing – Jurisdiction titles need to be added
- Fort Ord Dunes State Park identified as State Beach
- Polygon 1d mislabeled as Polygon 1e

Volume II, Page 229

4.1-5 City of Marina Land Use Concept

- Eq label on map not identified in legend
- Salinas River shown in black (shown in blue on other maps)
- Polygon 1d mislabeled as Polygon 1e

Volume II, Page 231

4.1-6 City of Seaside Land Use Concept

- SF Low Density in legend, but not shown on map
- Veterans' Cemetery site missing

Volume II, Page 233

4.1-7 County of Monterey Land Use Concept

- Outdated – Shows Monterey (City) and Del Rey Oaks as Monterey County

- SFD Medium Density and Military Enclave Shown in Legend not on Map

- H Symbol shown on map, not in legend
- Fort Ord Dunes State Park identified as State Beach
- Polygon 1d mislabeled as Polygon 1e

Volume II, Page 239

4.1-8 Reconfigured POM Annex

- Out of date – should also show final configuration

Circulation Element

Volume II, Page 287

4.2-1 Existing Transportation Network

- Outdated reference to “Fort Ord Access Gate” on Legend/Map – add “1997” to figure title

Volume II, Page 294

4.2-2 Proposed 2015 Transportation Network

- Remove Highway 68 Bypass per current Caltrans plans
- Remove Prunedale Bypass per current Caltrans plans
- Relocate Multimodal Corridor per prior FORA Board approval
- Remove realignment of Reservation Road at East Garrison to reflect adopted Specific Plan

Volume II, Page 296

4.2-3 Buildout Transportation Network

- Add proposed Monterey Road State Route 1 interchange per current Caltrans plans
- Relocate Multimodal Corridor per prior FORA Board approval
- Remove realignment of Reservation Road at East Garrison to reflect adopted Specific Plan

Volume II, Page 302

4.2-4 Roadway Design Standards

No changes noted.

Volume II, Page 305

4.2-5 Transit Activity Centers and Corridors

- Relocate Multimodal Corridor
- Remove 12th Street label

Volume II, Page 309

4.2-6 Proposed Bicycle Network

- Remove 12th Street label
- Arterial Bicycle Route in legend does not appear on map

Volume II, Page 313

4.2-7 Transportation Right-of-Way

Reservations

- No street names
- City boundary labels Monterey County as “County” inconsistent with other maps
- Label Highway 68 Bypass
- Add proposed Monterey Road State Route 1 interchange
- Update right-of-way widths in response to relocation of the intermodal corridor

Recreation and Open Space Element

Volume II, Page 323

4.3-1 Marina Open Space and Recreation Element

- Jurisdiction lines on map do not include city name label (inconsistent with other maps)
- Y symbol on map not identified in legend
- Orange arrows on map not identified in legend

- Golf Course and Equestrian items in legend are not shown on map
- Hatching on map not identified in legend
- Fort Ord Dunes State Park identified as State Beach
- Trails marker on map displays poorly

Volume II, Page 325

4.3-2 Seaside Recreation and Open Space Element

- Jurisdiction lines on map do not include city name label (inconsistent with other maps)
- CSUMB Legend Color does not match color on Map
- Other public Open Space/Rec legend color does not match color on map
- “Trail” Legend items are color coated in Legend, but one color (black) on map
- Trails marker on map displays poorly
- Black arrows on map not identified in legend and inconsistent with Marina map
- Equestrian and Visitor Center shown in legend not shown on map
- Change BLM to Fort Ord National Monument (legend)
- North Arrow mistake
- Remove color from hatching in legend

Volume II, Page 329

4.3-3 County Recreation and Open Space Element

- Jurisdiction lines on map do not include city name label (inconsistent with other maps)
- “Trail” Legend items are color coated in legend, but one color (black) on map

- Trails marker on map displays poorly
- Black arrows on map not identified in legend and inconsistent with Marina map
- Change BLM to Fort Ord National Monument
- Golf Course and Equestrian items in legend are not shown on map
- “Other Public Open Space – Habitat Management” areas shown in green, not consistent with other maps (where it’s shown as brown)
- Fort Ord Dunes State Park identified as State Beach
- Remove color from hatching in legend
- Update trailhead locations to reflect existing conditions and current plans

Conservation Element

Volume II, Page 369

4.4-1 Oak Woodland Areas

- No jurisdiction names – inconsistent with other maps
- Polygon 1d mislabeled as Polygon 1e
- Highway 68 Bypass not labeled

Volume II, Page 393

4.4-2 Archaeological Resource Sensitivity

- No jurisdiction names – inconsistent with other maps
- Change BLM to Fort Ord National Monument
- Fort Ord Dunes State Park identified as State Beach

Noise Element

Volume II, Page 403

4.5-1 Noise Contours for Monterey Peninsula Airport

- Legend does not include Fort Ord area shown on map
- No jurisdiction names – inconsistent with other maps

Volume II, Page 408

4.5-2 Forecast Year 2015 Airport Noise Contours

- Legend does not include Fort Ord area shown on map
- No jurisdiction names – inconsistent with other maps

Volume II, Page 409

4.5-3 Forecast Year 2010 and CNEL 65db Noise Contour for Monterey Peninsula Airport

- North Arrow mistake
- Legend does not include Fort Ord area shown on map
- No jurisdiction names – inconsistent with other maps

Safety Element

Volume II, Page 424

4.6-1 Seismic Hazards

- No jurisdiction names – inconsistent with other maps
- Legend does not include Highway 68 Bypass shown on map
- Fort Ord streets shown but no street names

Volume II, Page 434

4.6-2 Fire, Flood, and Evacuation Routes

- No jurisdiction names – inconsistent with other maps
- Legend does not include Highway 68 Bypass shown on map
- Fort Ord streets shown but no street names

Volume II, Page 442

4.6-3 Hazardous and Toxic Waste Sites (June 1995)

- No jurisdiction names – inconsistent with other maps
- Legend does not include Highway 68 Bypass shown on map
- Fort Ord streets shown but no street names

3.3 Category II – Prior Board Actions and Regional Plan Consistency

Category II options address two types of possible modifications to the BRP. The first type of modification is based on actions the FORA Board has already taken. These actions address the subject of modifications to BRP Figure 3.3-1, Land Use Concept Ultimate Development and modifications to BRP

transportation related figures and text. The second type of modification addresses the subject of adding new policies or programs or expanding existing BRP policies or programs to ensure the BRP is consistent with regional and local plans. Past consistency determinations and consistency of the BRP with regional and local plans are addressed in the Scoping Report. This chapter of the Reassessment Report includes discussion of the above-noted subjects, identifies topics to be considered for each subject as summarized in Table 6, Prior Board Action and Regional Plan Consistency Topics, and includes potential optional action items for each topic for FORA Board consideration.

Modification of the BRP Land Use Concept Map

Land Use Concept Map Modifications Based on Prior FORA Board Consistency Determinations

Background. Over time, the FORA Board has made numerous determinations regarding the consistency of legislative actions taken by local member jurisdictions with the BRP. A complete history of these consistency determinations is included in Section 4.3 of the Scoping Report. A number of the consistency determinations result in more precise descriptions of the actual land use and development approach for lands within the boundaries of member jurisdictions to which the consistency determinations apply.

Table 6 Prior Board Action and Regional Plan Consistency Topics

Topic
Land Use Concept Map Modifications Based on Prior FORA Board Consistency Determinations
Land Use Concept Map Modifications Based on Other Actions
Modify Circulation Related Maps and Text in the BRP and Modify Capital Improvements Program
BRP Modifications Regarding Consistency with Regional and Local Plans

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Fort Ord Reuse Authority Master Resolution	
Meeting Date:	April 12, 2013	INFORMATION/ACTION
Agenda Number:	7e	

RECOMMENDATION:

- i. Review Fort Ord Reuse Authority (FORA) / Ventana Chapter of the Sierra Club (Sierra Club) settlement agreement requirements/notification process.
- ii. Consider Sierra Club's 23 proposed Chapter 8 typographical corrections.
- iii. Consider Sierra Club's request to remove Sections 8.02.020(t) and 8.02.030(a)(8).
- iv. Consider Section 2.09.020 (FORA Conflict-of-Interest Code) modifications.

BACKGROUND/DISCUSSION:

- i. The following term is in the FORA / Sierra Club settlement agreement, of which Chapter 8 of the FORA Master Resolution is a part:

FORA agrees that in the event FORA considers any amendment to Chapter 8 of the FORA Master Resolution, FORA shall perform an environmental assessment consistent with the provisions of the California Environmental Quality Act (CEQA) and the rules and regulations promulgated thereunder prior to consideration of approval of any such amendment. In addition, FORA shall provide the Sierra Club and its attorney of record at least 30 days-notice of the preparation of such environmental assessment, which shall include an opportunity to comment on such assessment, and at least 15 days-notice of any hearing on any proposed amendment of Chapter 8. The parties further agree that each amendment to Chapter 8 will be reviewed under CEQA as a new project (and) not be subject to the environmental review limitations of Public Resources Code Section 21166.

- ii. Item 8b of the March 15, 2013 FORA Board packet included an attachment incorporating several changes to Master Resolution Chapter 8: 1) reversed changes made in March 2010 (aka the shall/may changes); 2) amended Section 8.01.050 to reflect a July 2012 FORA Board action to lower consistency determination appeal fees; and 3) incorporated 23 additional typographical edits noted by Sierra Club that had occurred over time. The Board voted unanimously to reverse changes made in March 2010. In this action, the Board reversed the shall/may changes but did not incorporate the 23 typographical edits.

Staff is recommending that the Board approve the version of Chapter 8 that was included in the March board packet (**Attachment A**). This would incorporate the additional 23 typographical edits, which are now shown in strikeout. This would essentially return Chapter 8 to the form originally adopted in 1998 (with the exception of the FORA Board approved amendment to the appeal fee and the language addressing jobs/housing balance, explained below).

- iii. The Sierra Club recently stated they had not agreed to amendments made to Chapter 8 in 2004, incorporating a policy requiring jobs/housing balance as a part of consistency determinations submitted to FORA. The language, originally introduced by Congressman Farr, was intended to ensure that land use agencies would describe how their local inclusionary housing policies, where applicable, address the Base Reuse Plan jobs/housing balance provisions, and identify and describe any factors that might impact production of housing (e.g. public financing, water resources, land use regulations and environmental conditions). The language was adopted in April 2004 after extensive review and several

months of Board, Administrative Committee and Affordable Housing Task Force (AHTF) meetings. See **Attachment B** for a timeline toward approval.

AHTF meeting sign-in sheets indicate Sierra Club representation and the board report outlining the proposed Master Resolution amendment indicates coordination with the Sierra Club. However, no formal acceptance/approval has been discovered in Sierra Club or FORA files. The Sierra Club is now requesting that since they cannot document notice or approval, Sections 8.02.020(t) and 8.02.030(a)(8) of the Master Resolution be removed (these Sections have been highlighted in **Attachment A**). Staff recommends the Board *not* remove the jobs/housing balance provisions. The provisions address the creation of additional affordable housing options, incentives for increasing below-market housing production, incorporating jobs creation targets in projects, etc. and its removal would undermine the nearly three years of research and development, Congressional direction and the communities most impacted by the closure of Fort Ord.

The FORA Board's jobs/housing balance policy has been known to the jurisdictions and the Sierra Club for nine years. Removing these sections brings into question the ability to require jurisdictional projects to address this concern. However, staff recognizes that the Sierra Club has identified concerns with the policy language. The Board does have the option to direct staff to work with the Sierra Club and return revisions to the policy to address updated development forecasts/market absorption, state law changes and economic considerations.

At the April 3, 2013 FORA Administrative and Executive Committee meetings, Sierra Club representative Jane Haines suggested a substitute motion for Board consideration:

Recommend that the FORA Board adopts the version of Chapter 8 of the Master Resolution that is contained in the March 15, 2013 FORA Board packet pages 93-109 with only one exception, and that exception is that FORA does not retain the highlighted portion of pages 105 and 106 of the same board packet.

The "highlighted portions" referred to by Ms. Haines are Sections 8.02.020(t) and 8.02.030(a)(8) as described above. As previously stated, FORA staff recommends that retaining these sections is essential to sustaining ongoing FORA Board policy. Some Board members have asked if the statute of limitations challenging this amendment has expired. Authority Counsel has reviewed this request and determined that the statute of limitations expired in 2008.

- iv. The Political Reform Act (PRA) requires public agencies to adopt a conflict-of-interest code. The code must designate positions held by "public officials" as defined in the Act. Typically, positions that involve voting on matters, negotiating contracts, or making recommendations on purchases without substantive review must be included in codes. Those decision-makers must file Statements of Economic Interests (Form 700).

Early this year, the FORA Accounting Office suggested that FORA amend its Conflict-of-Interest Code to address job title changes and new responsibilities assigned to positions not previously designated in the code. Subsequently, staff received a public records request for records demonstrating FORA's compliance with the Fair Political Practices Commission (FPPC) biennial reporting requirement. The biennial report notifies the FPPC of the agency's intention to amend their Conflict-of-Interest Code. FORA has never received one of these notices from the FPPC.

FORA staff and Counsel have asked the FPPC for direction regarding biennial notice filing requirements and conflict-of-interest code procedures. FORA does not fit neatly into any of the FPPC categories (state agency, city or county, and multi-county agency). Instead, the FORA Act designates FORA as a "public corporation of the state of California." It is

possible that FORA should comply with this notice, although the process by which the FPPC accepts and/or approves amendments to FORA's Conflict-of-Interest Code is unclear, even to the FPPC.

Staff recommends adjustments to the current Conflict-of-Interest Code (FORA Master Resolution Section 2.09.020) to: 1) include positions that must be designated due to newly assigned duties, 2) revise the titles of existing positions, and 3) delete the title of positions that have been abolished. Proposed changes are demonstrated in **Attachment C**.

Staff may have additional recommendations at the Board meeting if a response is received by the FPPC to Authority Counsel inquiries.

FISCAL IMPACT:

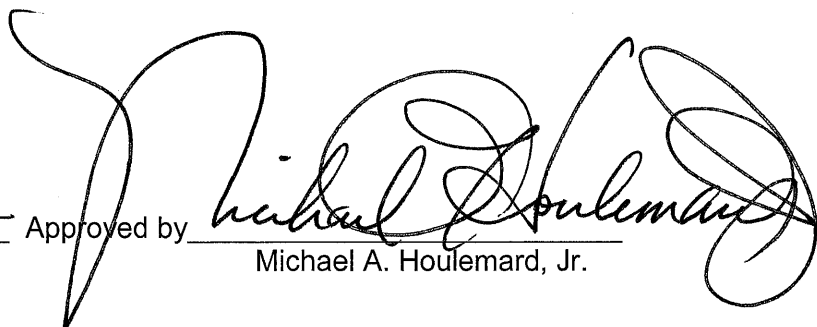
Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget.

COORDINATION:

Administrative Committee, Executive Committee, Authority Counsel, Sierra Club

Prepared by 
Crissy Maras

Approved by 
Michael A. Houlemard, Jr.

Chapter 8. BASE REUSE PLANNING AND CONSISTENCY DETERMINATIONS

Article 8.01 GENERAL PROVISIONS

8.01.010. REUSE PLAN.

(a) The Authority Board shall prepare, adopt, review, revise from time to time, and maintain a Reuse Plan for the use and development of the territory within the jurisdiction of the Authority. Such plan shall contain the elements mandated pursuant to the Authority Act and such other elements, policies, and programs as the Authority Board may, in its sole discretion, consider and adopt.

(b) The Reuse Plan, including all elements, policies and programs adopted in conjunction with the Reuse Plan, and any amendments thereto, shall be the official and controlling plan for the reuse of the Fort Ord Territory for the purposes specified or inferred in the Authority Act.

(c) All general and specific plans, redevelopment plans, and all other community and local plans regardless of title or description, and any amendments thereto, and all policies and programs relating to the land use or the construction, installation, or maintenance of capital improvements or public works within the Fort Ord Territory, shall be consistent with the Reuse Plan of the Authority and the plans and policies of the Authority, including the Master Resolution. The Authority shall make a determination of consistency as provided pursuant to the provisions of the Authority Act and, after the effective date hereof, this chapter.

(d) A revision or other change to the Reuse Plan which only affects Fort Ord Territory and only one of the member agencies may only be adopted by the Authority Board if one of the following conditions is satisfied:

- (1) The revision or other change was initiated by resolution adopted by the legislative body of the affected land use agency and approved by at least a majority affirmative vote of the Authority Board; or
- (2) The revision or other change was initiated by the Authority Board; or any entity other than the affected land use agency and approved by at least a two-thirds affirmative vote of the Authority Board.

(e) All property transferred from the federal government to any user or purchaser, whether public or private, shall only be used in a manner consistent with the Reuse Plan, with the following exceptions:

- (1) Property transferred to California State University or the University of California and such property is used for educationally related or research oriented purposes; or
- (2) Property transferred to the California State Parks and Recreation Department.

(f) No land use agency or any local agency shall permit, approve, or otherwise allow any development or other change of use, or approve any development entitlement, for property within the territory of the Authority that is not consistent with the Reuse Plan.

(g) No land use agency shall issue, approve, or otherwise allow any building permit until all applicable permits, development entitlements, and approvals required under law have been approved, including, but not limited to, the approvals and permits described and enumerated in Section 3.7 of the Final Environmental Impact Report for the Reuse Plan.

(h) The Reuse Plan shall be reviewed periodically at the discretion of the Authority Board. The Authority Board shall perform a full reassessment, review, and consideration of the Reuse Plan and all mandatory elements as specified in the Authority Act prior to the allocation of an augmented water supply, or prior to the issuance of a building permit for the 6001st new residential dwelling unit (providing a total population of 35,000 persons) on the Fort Ord Territory or by January 1, 2013, whichever event occurs first. No more than 6000 new dwelling units shall be permitted on the Fort Ord Territory until such reassessment, review, and consideration of the Reuse Plan has been prepared, reviewed, and adopted pursuant to the provisions of the Authority Act, the Master Resolution, and all applicable environmental laws. No development shall be approved by FORA or any land use agency or local agency after the time specified in this subsection unless and until the water supplies, wastewater disposal, road capacity, and the infrastructure to supply these resources to serve such development have been identified, evaluated, assessed, and a plan for mitigation has been adopted as required by California Environmental Quality Act (“CEQA”), the Authority Act, the Master Resolution, and all applicable environmental laws.

(i) The failure of any persons or entity to receive notice given pursuant to this chapter shall not constitute grounds for any court to invalidate the action on any legislative act or development entitlement pursuant to this chapter for which required notice was given.

(j) The Authority shall record a notice on all property in the Fort Ord Territory advising all current and future owners of property of the existence of the Reuse Plan and that development of such property shall be limited by the Reuse Plan, the policies and programs of the Authority, including the Master Resolution, and/or the constraints on development identified in the Reuse Plan, including lack of available water supply, wastewater and solid waste disposal capacity, and inadequate transportation and other services and infrastructure.

(k) In the event the Authority receives, purchases, or acquires, by any means, fee interest title to property within the Fort Ord Territory, the Authority shall record a covenant running with the land advising all future owners of such property that development and use of the property is subject to the Reuse Plan and that development of such property shall be limited by the Reuse Plan, the policies and programs of the

Authority, including the Master Resolution, and/or constraints on development identified in the Reuse Plan, including lack of available water supply, wastewater and solid waste disposal capacity, and inadequate transportation and other services and infrastructure.

8.01.020. PROCEDURES FOR CONSISTENCY DETERMINATIONS FOR LEGISLATIVE LAND USE DECISIONS.

(a) Each land use agency shall submit all legislative land use decisions affecting property in the territory of the Authority to the Executive Officer for review and processing.

(b) All submissions regarding a legislative land use decision shall

include:

- (1) A complete copy of the legislative land use decision, including related or applicable text, maps, graphics, and studies;
- (2) A copy of the resolution or ordinance of the legislative body approving the legislative land use decision, adopted at the conclusion of a noticed hearing certifying that the portion of a legislative land use decision applicable to the Fort Ord Territory is intended to be carried out in a manner fully in conformity with the Reuse Plan and the Authority Act;
- (3) A copy of all staff reports and materials presented or made available to the legislative body approving the legislative decision, or any advisory agency relating to the legislative land use decision;
- (4) A copy of the completed environmental assessment related to the legislative land use decision;
- (5) A statement of findings and evidence supporting the findings that the legislative land use decision is consistent with the Reuse Plan, the Authority's plans and policies, including the Master Resolution, and is otherwise consistent with the Authority Act; and
- (6) Such other materials as the Executive Officer deems necessary or appropriate and which have been identified within 15 days of the receipt of the items described in subsection (b) of this Section.

(c) Within ninety (90) days of the receipt of all of the items described in subsection (b) above, or from the date the Executive Officer accepts the submission as complete, whichever event occurs first, the Authority Board shall conduct a noticed public hearing, calendared and noticed by the Executive Officer, to certify or refuse to certify, in whole or in part, the portion of the legislative land use decision applicable to Fort Ord Territory. The Authority Board shall adopt a resolution making findings in support of its decision, such decision shall be rendered within the time frame described in this section, and such decision shall be final. In the event the Authority

Board fails, within the time frames described in this section, to conduct a public hearing or take action on determining whether the land use decision is consistent with the Plan and the Authority Act, the land use agency may file, upon ten days notice, a request with the Executive Officer to have the matter placed on the next Board agenda for a noticed public hearing to take action to consider the consistency finding and the Board shall take action at such noticed public hearing and such decision shall be final.

(d) In the event the Authority Board finds, on the basis of substantial evidence supported on the record, that the legislative act is consistent with the Reuse Plan and this chapter, the Authority Board shall certify the legislative act pursuant to the provisions of the Authority Act.

(e) In the event the Authority Board refuses to certify the legislative land use decision in whole or in part, the Authority Board's resolution making findings shall include suggested modifications which, if adopted and transmitted to the Authority Board by the affected land use agency, will allow the legislative land use decision to be certified. If such modifications are adopted by the affected land use agency as suggested, and the Executive Officer confirms such modifications have been made, the legislative land use decision shall be deemed certified. In the event the affected land use agency elects to meet the Authority Board's refusal or certification in a manner other than as suggested by the Authority Board, the legislative body of the affected land use agency shall resubmit its legislative land use decision to the Executive Officer and follow the procedures contained in this sSection.

(f) No legislative land use decision shall be deemed final and complete, nor shall any land use entitlement be issued for property affected otherwise permitted by such legislative land use decision unless it has been certified pursuant to the procedures described in this section.

(g) The Authority Board may only refuse to certify zoning ordinances, zoning district maps, or other legislative land use decision on the grounds that such actions do not conform with, or are inadequate to carry out, the provisions of the general plan, certified as consistent with the Reuse Plan pursuant to the provisions of this sSection, applicable to the affected property.

(h) Nothing in this sSection or in this eChapter shall apply to be or construed as adversely affecting any consistency determination previously obtained by a land use agency and certified by the Authority Board pursuant to the Authority Act.

8.01.030. REVIEW OF DEVELOPMENT ENTITLEMENTS.

(a) After the portion of a general plan applicable to Fort Ord Territory has become effective, development review authority within such portion of territory shall be exercised by the land use agency with jurisdiction lying within the area to which the general plan applies. Each land use agency may issue or deny, or conditionally issue, development entitlements within their respective jurisdictions so long as the land use agency has a general plan certified pursuant to Section 8.01.020 and the

decisions issuing, denying, or conditionally issuing development entitlements are consistent with the adopted and certified general plan, the Reuse Plan, and is in compliance with CEQA and all other applicable laws.

(b) All decisions on development entitlements of a land use agency affecting property within the territory of the Authority may be reviewed by the Authority Board on its own initiative, or may be appealed to the Authority Board, subject to the procedures specified in this Section. No development entitlement shall be deemed final and complete until the appeal and review procedures specified in this Section and Sections 8.01.040 and 8.01.050 of this Chapter have been exhausted.

(c) The land use agency approving a development entitlement within the jurisdiction of the Authority shall provide notice of approval or conditional approval to the Executive Officer. Notice of approval or conditional approval of a development entitlement shall include:

- (1) A complete copy of the approved development entitlement, including related or applicable text, maps, graphics, and studies.
- (2) A copy of all staff reports and materials presented or made available to any hearing body that reviewed the development entitlement.
- (3) A copy of the completed environmental assessment related to the development entitlement.

8.01.040. REVIEW OF DEVELOPMENT ENTITLEMENTS BY INITIATIVE OF THE AUTHORITY BOARD.

Within 35 days of the receipt of all of the notice materials described in Subsection (c) of Section 8.01.030, the Authority Board, on its own initiative, may consider a resolution setting a hearing on a development entitlement affecting Fort Ord Territory. The Authority Board may continue the matter of setting a hearing once for any reason. In the event the Authority Board does not act to set the matter for hearing within the 35 day time period or at the continued meeting, whichever event is last, the decision of the land use agency approving the development entitlement shall be deemed final and shall not be subject to review by the Authority Board pursuant to this Section. Nothing in this section shall be construed as abrogating any rights that any person may have to appeal development entitlements to the Authority Board pursuant to Section 8.01.050. In the event the Authority Board sets the matter for hearing, such hearing shall commence at the first regular meeting of the Authority Board following the date the Authority Board passed its resolution setting the matter for hearing or at a special hearing date prior to such regular meeting. The Authority Board may continue the matter once. In the event the Authority Board fails to take action on the development entitlement within such time period, the development entitlement shall be deemed approved.

8.01.050. REVIEW OF DEVELOPMENT ENTITLEMENTS BY APPEAL TO AUTHORITY BOARD.

(a) Within 10 days of a land use agency approving a development entitlement, any person aggrieved by that approval and who participated either orally or in

writing, in that agency's hearing on the matter, may file a written appeal of such approval with the Executive Officer, specifically setting forth the grounds for the appeal, which shall be limited to issues raised at the hearing before the land use agency. The person filing the appeal shall pay a filing fee in an amount equal to the average of the planning decision fees established by the nine member agencies of the Authority's Board, omitting the highest and the lowest fee, not to exceed the Authority's reasonable cost to prepare the appeal. The appeal fee shall be waived for an appellant who signs a declaration under penalty of perjury that she/he qualifies as very low income under low income eligibility standards set by the U.S. Department of Housing and Urban Development. The Authority Board must conduct a public hearing on the appeal within 60 days.

(b) At the time and place noticed by the Executive Officer, the Authority Board will conduct a hearing on the development entitlement. The Authority Board may continue the matter once for any reason.

(c) Said continued hearing must be rescheduled to a date that is not later than 35 days from the date of the initial hearing date. In the event the Authority Board determines the development entitlement is not consistent with the Reuse Plan, the development shall be denied and the Authority Board's decision shall be final. In the event the Authority Board determines the development entitlement is consistent with the Reuse Plan, the Authority Board shall approve the development entitlement.

8.01.060. SUPERCESSION.

In the event of a conflict or inconsistency between this eChapter of the Master Resolution and the Reuse Plan, the Development and Resource Plan, and other adopted FORA policies and procedures in regards to legislative land use decisions and/or development entitlements affecting lands within the affected territory, the provisions of this eChapter shall govern.

8.01.070. FORA AS RESPONSIBLE AGENCY UNDER CEQA.

In taking action on all legislative land decisions and for review of all development entitlements, the Authority Board shall act as a responsible agency under CEQA.

8.01.080. ADMINISTRATIVE APPEALS.

Any administrative decision made by the Executive Officer may be appealed to the Authority Board within 15 days by completing and filing a notice of appeal at the Office of the Executive Officer.

Article 8.02. CONSISTENCY DETERMINATION CRITERIA

8.02.010. LEGISLATIVE LAND USE DECISION CONSISTENCY.

(a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land use decision for which there is substantial evidence supported by the record, that

- (1) Provides a land use designation that allows more intense land uses than the uses permitted in the Reuse Plan for the affected territory;
- (2) Provides for a development more dense than the density of uses permitted in the Reuse Plan for the affected territory;
- (3) Is not in substantial conformance with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution.
- (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority;
- (5) Does not require or otherwise provide for the financing and/or installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the legislative land use decision; and
- (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.

(b) FORA shall not preclude the transfer of intensity of land uses and/or density of development involving properties within the affected territory as long as the land use decision meets the overall intensity and density criteria of Sections 8.02.010(a)(1) and (2) above as long as the cumulative net density or intensity of the Fort Ord Territory is not increased.

(c) The Authority Board, in its discretion, may find a legislative land use decision is in substantial compliance with the Reuse Plan when the Authority Board finds that the applicant land use agency has demonstrated compliance with the provisions specified in this section and Section 8.020.020 of this Master Resolution.

8.02.020. SPECIFIC PROGRAMS AND MITIGATION MEASURES FOR INCLUSION IN LEGISLATIVE LAND USE DECISIONS.

(a) Prior to approving any development entitlements, each land use agency shall act to protect natural resources and open spaces on Fort Ord Territory by including the open space and conservation policies and programs of the Reuse Plan, applicable to the land use agency, into their respective general, area, and specific plans.

- (1) Each land use agency shall review each application for a development entitlement for compatibility with adjacent open space land uses and require suitable open space buffers to be incorporated into the development plans of any potentially incompatible land uses as a condition of project approval.

(2) When buffers are required as a condition of approval adjacent to Habitat Management areas, the buffer shall be designed in a manner consistent with those guidelines set out in the Habitat Management Plan. Roads shall not be allowed within the buffer area adjacent to Habitat Management areas except for restricted access maintenance or emergency access roads.

(b) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure consistency of future use of the property within the coastal zone through the master planning process of the California Department of Parks and Recreation, if applicable. All future use of such property shall comply with the requirements of the Coastal Zone Management Act and the California Coastal Act and the coastal consistency determination process.

(c) Monterey County shall include policies and programs in its applicable general, area, and specific plans that will ensure that future development projects at East Garrison are compatible with the historic context and associated land uses and development entitlements are appropriately conditioned prior to approval.

(d) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall limit recreation in environmentally sensitive areas, including, but not limited to, dunes and areas with rare, endangered, or threatened plant or animal communities to passive, low intensity recreation, dependent on the resource and compatible with its long term protection. Such policies and programs shall prohibit passive, low-density recreation if the Board finds that such passive, low-density recreation will compromise the ability to maintain an environmentally sensitive resource.

(e) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall encourage land uses that are compatible with the character of the surrounding districts or neighborhoods and discourage new land use activities which are potential nuisances and/or hazards within and in close proximity to residential areas. Reuse of property in the Army urbanized footprint should be encouraged.

(f) Each land use agency with jurisdiction over property in the Army urbanized footprint shall adopt the cultural resources policies and programs of the Reuse Plan concerning historic preservation, and shall provide appropriate incentives for historic preservation and reuse of historic property, as determined by the affected land use agency, in their respective applicable general, area, and specific plans.

(g) The County of Monterey shall amend the Greater Monterey Peninsula Area Plan and designate the Historic East Garrison Area as an historic district in the County Reservation Road Planning Area. The East Garrison shall be planned and

zoned for planned development mixed uses consistent with the Reuse Plan. In order to implement this aspect of the plan, the County shall adopt at least one specific plan for the East Garrison area and such specific plan shall be approved before any development entitlement shall be approved for such area.

(h) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall support all actions necessary to ensure that sewage treatment facilities operate in compliance with waste discharge requirements adopted by the California Regional Water Quality Control Board.

(i) Each land use agency shall adopt the following policies and programs:

- (1) A solid waste reduction and recycling program applicable to Fort Ord Territory consistent with the provisions of the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 *et seq.*
- (2) A program that will ensure that each land use agency carries out all action necessary to ensure that the installation of water supply wells comply with State of California Water Well Standards and well standards established by the Monterey County Health Department; and
- (3) A program that will ensure that each land use agency carries out all actions necessary to ensure that distribution and storage of potable and non-potable water comply with State Health Department regulations.

(j) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to address water supply and water conservation. Such policies and programs shall include the following:

- (1) Identification of, with the assistance of the Monterey County Water Resources Agency and the Monterey Peninsula Water Management District, potential reservoir and water impoundment sites and zoning of such sites for watershed use, thereby precluding urban development;
- (2) Commence working with appropriate agencies to determine the feasibility of development of additional water supply sources, such as water importation and desalination, and actively participate in implementing the most viable option or options;
- (3) Adoption and enforcement of a water conservation ordinance which includes requirements for plumbing retrofits and is at least as stringent as Regulation 13 of

the Monterey Peninsula Water Management District, to reduce both water demand and effluent generation.

- (4) Active participation in support of the development of “reclaimed” or “recycled” water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency to ensure adequate water supplies for the territory within the jurisdiction of the Authority.
- (5) Promotion of the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use.
- (6) Adoption of policies and programs consistent with the Authority’s Development and Resource Management Plan to establish programs and monitor development at territory within the jurisdiction of the Authority to assure that it does not exceed resource constraints posed by water supply.
- (7) Adoption of appropriate land use regulations that will ensure that development entitlements will not be approved until there is verification of an assured long-term water supply for such development entitlements.
- (8) Participation in the development and implementation of measures that will prevent seawater intrusion into the Salinas Valley and Seaside groundwater basins.
- (9) Implementation of feasible water conservation methods where and when determined appropriate by the land use agency, consistent with the Reuse Plan, including; dual plumbing using non-potable water for appropriate functions; cistern systems for roof-top run-off; mandatory use of reclaimed water for any new golf courses; limitation on the use of potable water for golf courses; and publication of annual water reports disclosing water consumption by types of use.

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(k) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will require new development to demonstrate that all measures will be taken to ensure that storm water runoff is minimized and infiltration maximized in groundwater recharge areas. Such policies and programs shall include:

- (1) Preparation, adoption, and enforcement of a storm water detention plan that identifies potential storm water detention design and implementation measures to be considered in all new development, in order to increase groundwater recharge and thereby reduce

potential for further seawater intrusion and provide for an augmentation of future water supplies.

- (2) Preparation, adoption, and enforcement of a Master Drainage Plan to assess the existing natural and man-made drainage facilities, recommend area-wide improvements based on the approved Reuse Plan, and develop plans for the control of storm water runoff from future development. Such plans for control of storm water runoff shall consider and minimize any potential for groundwater degradation and provide for the long term monitoring and maintenance of all storm water retention ponds.

(l) Each land use agency shall adopt policies and programs that ensure that all proposed land uses on the Fort Ord Territory are consistent with the hazardous and toxic materials clean-up levels as specified by state and federal regulation.

(m) Each land use agency shall adopt and enforce an ordinance acceptable to the California Department of Toxic Substances Control ("DTSC") to control and restrict excavation or any soil movement on those parcels of the Fort Ord Territory, which were contaminated with unexploded ordnance, and explosives. Such ordinance shall prohibit any digging, excavation, development, or ground disturbance of any type to be caused or otherwise allowed to occur without compliance with the ordinance. A land use agency shall not make any substantive change to such ordinance without prior notice to and approval by DTSC.

(n) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will help ensure an efficient regional transportation network to access the territory under the jurisdiction of the Authority, consistent with the standards of the Transportation Agency of Monterey County. Such policies and programs shall include:

- (1) Establishment and provision of a dedicated funding mechanism to pay for the "fair share" of the impact on the regional transportation system caused or contributed by development on territory within the jurisdiction of the Authority; and
- (2) Support and participate in regional and state planning efforts and funding programs to provide an efficient regional transportation effort to access Fort Ord Territory.

(o) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure that the design and construction of all major arterials within the territory under the jurisdiction of the

Authority will have direct connections to the regional network consistent with the Reuse Plan. Such plans and policies shall include:

- (1) Preparation and adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development to assure that it does not exceed resource constraints posed by transportation facilities;
- (2) Design and construction of an efficient system of arterials in order to connect to the regional transportation system; and
- (3) Designate local truck routes to have direct access to regional and national truck routes and to provide adequate movement of goods into and out of the territory under the jurisdiction of the Authority.

(p) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to provide regional bus service and facilities to serve key activity centers and key corridors within the territory under the jurisdiction of the Authority in a manner consistent with the Reuse Plan.

(q) Each land use agency shall adopt policies and programs that ensure development and cooperation in a regional law enforcement program that promotes joint efficiencies in operations, identifies additional law enforcement needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services.

(r) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure development of a regional fire protection program that promotes joint efficiencies in operations, identifies additional fire protection needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services

(s) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure that native plants from on-site stock will be used in all landscaping except for turf areas, where practical and appropriate. In areas of native plant restoration, all cultivars, including, but not limited to, manzanita and ceanothus, shall be obtained from stock originating on Fort Ord Territory.

(t) Each land use agency shall include policies and programs in their general, area, and specific plans that will ensure compliance with the 1997 adopted FORA Reuse Plan jobs/housing balance provisions. The policies and programs for the provision of housing must include flexible targets that generally correspond with expected job creation on the former Fort Ord. It is recognized that, in addressing the Reuse Plan jobs/housing balance, such flexible targets will likely result in the availability of affordable housing in excess of the minimum 20% local jurisdictional inclusionary housing figure,

which could result in a range of 21% - 40% below market housing. Each land use agency should describe how their local inclusionary housing policies, where applicable, address the Reuse Plan jobs/housing balance provisions.

(1) Agencies submitting consistency determination requests to FORA should identify and describe, where applicable, any factors that impact production of housing. These factors may include, without limitation, public financing, water resources, land use regulations, and environmental conditions. Each jurisdiction should consider but not be limited to, the following in establishing its Reuse Plan jobs/housing balance policies and programs:

- (a) Earmarking of tax increment housing set aside funds for housing programs, production, and/or preservation linked to jobs;
- (b) Development and/or preservation of ownership or rental housing linked to jobs;
- (c) Incorporation of job creation targets in project specifications;
- (d) Linkage of existing housing resources with jobs created;
- (e) Development of agreements with such jurisdictions for Reuse Plan-enhancing job creation or housing programs, production, and/or preservation; and
- (f) Granting of incentives to increase additional below-market housing productions to meet job creation needs.

(2) As a reference and guide for determining income limits and housing affordability levels, each land use agency should use measures established by the U.S. Department of Housing and Urban Development, the California Department of Housing and Community Development, and/or the Association of Monterey Bay Area Governments when determining compliance for very low, low, median, moderate affordability and comparable affordability factors for below-market housing up to 180% of median as approved as FORA policy guidelines at the January 9, 2004 FORA Board meeting.

8.02.030. DEVELOPMENT ENTITLEMENT CONSISTENCY.

(a) In the review, evaluation, and determination of consistency regarding any development entitlement presented to the Authority Board pursuant to

Section 8.01.030 of this Resolution, the Authority Board shall withhold a finding of consistency for any development entitlement that:

- (1) Provides an intensity of land uses which is more intense than that provided for in the applicable legislative land use decisions, which the Authority Board has found consistent with the Reuse Plan;
- (2) Is more dense than the density of development permitted in the applicable legislative land use decisions which the Authority Board has found consistent with the Reuse Plan;
- (3) Is not conditioned upon providing, performing, funding, or making an agreement guaranteeing the provision, performance, or funding of all programs applicable to the development entitlement as specified in the Reuse Plan and in Section 8.02.020 of this Master Resolution and consistent with local determinations made pursuant to Section 8.02.040 of this Resolution.
- (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority.
- (5) Does not require or otherwise provide for the financing and installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the applicable legislative land use decision.
- (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.
- (7) Is not consistent with the Highway 1 Scenic Corridor design standards as such standards may be developed and approved by the Authority Board.
- (8) Is not consistent with the jobs/housing balance requirements developed and approved by the Authority Board as provided in Section 8.02.020(t) of this Master Resolution.

8.02.040.

ADOPTION OF REQUIRED PROGRAMS.

No development entitlement shall be approved or conditionally approved within the jurisdiction of any land use agency until the land use agency has taken appropriate action, in the discretion of the land use agency, to adopt the programs specified in the Reuse Plan, the Habitat Management Plan, the Development and Resource Management Plan, the Reuse Plan Environmental Impact Report Mitigation and Monitoring Plan and this Master Resolution applicable to such development entitlement.

Article 8.03 ENVIRONMENTAL QUALITY

8.03.010. ENVIRONMENTAL QUALITY AND PURPOSE.

The purposes of this Article are to provide guidelines for the study of proposed activities and the effect that such activities would have on the environment in accordance with the requirements of the California Environmental Quality Act ("CEQA").

8.03.020. DEFINITIONS.

Except as otherwise defined in this section, words and phrases used in this Article shall have the same meaning given them by Chapter 2.5 of the California Environmental Quality Act and by Article 20 of the State CEQA Guidelines.

8.03.030. STATE CEQA GUIDELINES ADOPTED.

The Authority hereby adopts the State CEQA Guidelines ("Guidelines") as set forth in Title 14, Section 15000 *et seq.* of the California Administrative Code and as may be amended from time to time. This adoption shall not be construed so as to limit the Authority's ability or authority to adopt additional implementing procedures in accordance with Section 15022 of such Guidelines, or to adopt other legislative enactments the Board may deem necessary or convenient for the protection of the environment.

8.03.040. EXECUTIVE OFFICER'S RESPONSIBILITY.

- (a) The Executive Officer shall, consistent with FORA obligations:
- (1) Generate and keep a list of exempt projects and report such list to the Board.
 - (2) Conduct initial studies.
 - (3) Prepare negative declarations.
 - (4) Prepare draft and final environmental impact reports.
 - (5) Consult with and obtain comments from other public agencies and members of the public with regard to the environmental effect of projects, including "scoping" meetings when deemed necessary or advisable.
 - (6) Assure adequate opportunity and time for public review and comment on a draft environmental impact report or negative declaration.
 - (7) Evaluate the adequacy of an environmental impact report or negative declaration and make appropriate recommendations to the Board.
 - (8) Submit the final appropriate environmental document to the Board who will approve or disapprove a project. The Board has the authority to certify the adequacy of the environmental document.
 - (9) File documents required or authorized by CEQA and the State Guidelines.
 - (10) Collect fees and charges necessary for the implementation of this aArticle in amounts as may be

specified by the Board by resolution and as may be amended from time to time.

- (11) Formulate rules and regulations as the Executive Officer may determine are necessary or desirable to further the purposes of this Article.

8.03.050. COMPLETION DEADLINES.

(a) Time limits for completion of the various phases of the environmental review process shall be consistent with CEQA and Guidelines and those time limits are incorporated in this Article by reference. Reasonable extensions to these time limits shall be allowed upon consent by any applicant.

(b) Time limits set forth in this section shall not apply to legislative actions.

(c) Any time limits set forth in this section shall be suspended during an administrative appeal.

8.03.060. PUBLIC NOTICE OF ENVIRONMENTAL DECISION.

(a) Notice of the decision of whether to prepare an environmental impact report, negative declaration, or declare a project exempt shall be available for public review at the Office of the Executive Officer. Notices of decisions shall be provided in a manner consistent with CEQA and the Guidelines.

(b) Notice that the Authority proposes to adopt a negative declaration shall be provided to the public at least ten (10) days prior to the date of the meeting at which consideration of adoption of the negative declaration shall be given.

(c) Notice of decisions to prepare an environmental impact report, negative declaration, or project exemption shall be given to all organizations and individuals ~~that~~ who have previously requested such notice. Notice shall also be given by publication one time in a newspaper of general circulation in Monterey County.

8.03.070. APPEAL OF ENVIRONMENTAL DECISION.

(a) Within fifteen (15) days after the Executive Officer provides notice of a decision, any interested person may appeal the decision to the Board by completing and filing a notice of appeal at the Office of the Executive Officer.

(b) The appellant shall pay a fee in the amount as specified in Section 8.01.050(a) of this Resolution.

(c) The Board shall hear all appeals of decisions on any environmental issue. The hearing shall be limited to considerations of the environmental or procedural issues raised by the appellant in the written notice of appeal. The decision of the Executive Officer shall be presumed correct and the burden of proof shall be on the appellant to establish otherwise. The Board may uphold or reverse the environmental

decision, or remand the decision back to the Executive Officer if substantial evidence of procedural or significant new environmental issues is presented.

(d) The decision of the Board will be final.

8.03.080. CONFLICT DETERMINATIONS.

This aArticle establishes procedural guidelines for the evaluation of the environmental factors concerning activities within the jurisdiction of the Authority and in accordance with State Guidelines. Where conflicts exist between this aArticle and State Guidelines, the State Guidelines shall prevail except where this aArticle is more restrictive.

Board Activity – Jobs/Housing Balance Amendment to Master Resolution

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1. Summer 2001 – Congressman Farr informed the FORA Board that he was proposing more stringent language be added to the Military Construction Appropriations Act which would limit transfers of Fort Ord land until FORA demonstrates the ability to produce an increase in the percentage of affordable/work force housing units.
2. FORA Board appoints a broadly representative (including local jurisdictions, housing, labor and special interest groups, etc.) Affordable Housing Task Force (AHTF).
3. FORA Board special workshop and follow-up meetings to review AHTF work, recommendations, etc.
4. Congressman Farr informed the Board that the earlier proposed bill language may be added to the FY 2003 Military Construction Appropriations Act. Legislative Committee directed FORA Board response. \$75K HUD grant was awarded and accepted for researching how to increase work force housing and financing availability to low income earners.
5. FORA Board approval of response letter. RFQ issued for work force housing consultant.
6. Congressman Farr work force housing presentation to the FORA Board.
7. Work force housing consultant introduction/presentation to the FORA Board.
8. Consultant updates to FORA Board.
9. Draft work force housing report to the FORA Board and special FORA Board workshop to receive final report and staff recommendations.
10. Staff recommendations to FORA Board.
11. Status reports and discussions about creating a Community Housing Trust.
12. Land Use Jurisdiction presentations to FORA Board regarding their individual affordable housing programs.
13. Status report and FORA Board analysis of consultant and staff recommendations and options.
14. Status report and staff policy recommendations to FORA Board.
15. Final work force housing report to FORA Board.
16. Master Resolution amendments proposed, reviewed, and finally approved.

Attachment B to Item 7e
 April 12, 2013 FORA Board Meeting

- FORA MASTER RESOLUTION EXCERPT -

Article 2.09. CONFLICT OF INTEREST CODE.

2.09.010. PURPOSE AND EFFECT.

The terms of Title 2, Division 6 of the California Code of Regulation (Section 18730, *et seq.*), and any amendments thereto duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the following sections in which officials and employees are designated and disclosure categories are set forth, constitute the conflict of interest code for the Authority. This Article constitutes the "Appendix" to Title 2, Division 6 of the California Code of Regulations Section 18730, *et seq.*

2.09.020. DESIGNATED POSITIONS; DISCLOSURE CATEGORIES.

(a) Each employee filling a designated position, and any employee filling a designated position on a temporary or acting basis for more than thirty consecutive calendar days, will disclose all of the information set forth in all applicable Schedules disclosure Categories A through H on such form as the Fair Political Practices Commission may designate (California Form 700). Designated positions are set forth below:

- (1) Board Members
- (2) Alternates to Board Members
- (3) Executive Officer
- (4) Assistant Executive Officer, if any
- ~~(5) Treasurer, if any~~
- ~~(6) Accounting/Finance Officer, if any~~
- ~~(7)(5) Controller/Finance Manager, if any~~
- ~~(8)(6) Authority Counsel~~
- ~~(9) Assistant Authority Counsel, if any~~
- ~~(10) Planning Services Manager~~
Director of Planning and Redevelopment
- ~~(11) Director of Engineering~~
- ~~(12) Contract Specialist~~
- (7) Senior Project Manager
- (8) Real Property/Facilities Manager
- (9) Principal Analyst
- (10) Principal/Senior Planner

(b) Each consultant, as defined in the California Code of Regulations Section 18700, will disclose all of the information set forth in all disclosure categories A through H on such form as the Fair Political Practices Commission may designate. The Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus are not required to fully comply with the disclosure requirements of this section. Such written determination will include a description of the consultant's duties

and, based upon that description, a statement of the extent of disclosure requirements. The determination of the Executive Officer is a public record and will be retained for public inspection in the same manner and location as this conflict of interest code.

2.09.030. PLACE AND TIME OF FILING.

(a) All officials and employees filling designated positions file statements of financial interest with the Executive Officer who receives such statements on behalf of the Authority Board. Unless otherwise required by state law, all statements of financial interest are deemed timely filed only when received by the Executive Officer on or before the following deadlines;

(b) Annual statements must be filed on or before April 1 of each calendar year. Such statements cover the period of the preceding calendar year or from the date of filing such statement as otherwise required by this Master Resolution.

(c) Initial statements must be filed within thirty days after assuming office-disclosing interests held on the date of assuming office.

(d) Leaving office statements must be filed within thirty days of leaving office. Such statements cover the period between the closing date of the last statement required to be filed and the date of leaving office.

2.09.040. CONFLICT WITH OTHER LAWS.

Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000, *et seq.*). The provisions of this Article are in addition to Government Code Section 87100 and other laws pertaining to conflicts of interest, including, but not limited to, Government Code Section 1090, *et seq.*

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject: Capital Improvement Program Review – Phase II Study

Meeting Date: April 12, 2013

Agenda Number: 7f

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Receive a report on the Fort Ord Reuse Authority (FORA) Fee Formula Calculation by Economic and Planning Systems (EPS) (**Attachment A**).
- ii. Review/Consider draft Resolution 13-XX to implement the FORA Community Facilities District (CFD) Special Tax and Base-wide Development Fee adjustment (**Attachment B**).

BACKGROUND/DISCUSSION:

On May 13, 2011, the FORA Board adopted resolution 11-02, implementing a FORA CFD and Base-wide Development Fee adjustment based on EPS’s Capital Improvement Program (CIP) Review – Phase I Study. The result was a 27% across the board fee reduction, and authorization for EPS’s work on a Phase II Study. On August 29, 2012, the FORA Board adopted a resolution and approved an amendment to FORA’s Implementation Agreements with the five land use jurisdictions that provide a formula for the setting/adjustment of FORA fees.

FORA and Marina signed the August 29, 2012 approved Implementation Agreement amendment in September 2012. Seaside and FORA executed their document in April 2013. The other three land use jurisdictions have not yet provided signature copies of their amended Implementation Agreements to FORA. The amendment includes language that FORA conduct the base fee calculation within 90 days of signing the amendment. To prepare for this, EPS did a draft formula analysis and presented the results to the FORA Administrative Committee on March 6, and April 3, 2013. On April 3, 2013, the joint Administrative/Capital Improvement Committee passed a motion recommending that this item be presented to the FORA Board on April 12, 2013 as an information item for their review. The motion noted that the policy requires using the development absorption schedule in the approved FORA CIP as the basis for the fee calculation. This is also described in the Implementation Agreement amendment language and FORA Board Resolution #12-5. The current FORA CIP is for FY 12-13. Staff is currently working with the jurisdictions to prepare the FY 13-14 FORA CIP for Board approval in June. The motion also noted that the final calculation would not be available until April 10, 2013, and the Administrative Committee members wished further review of that calculation before recommending Board action.

EPS’s analysis (**Attachment A**) utilizes the approved FY 12-13 FORA CIP absorption schedule as the basis for the fee calculation. Once the base calculation and fee are in effect, the policy requires a re-look in one year, followed by periodic review every 2 years. The automatic annual cost indexing would continue to take place. The draft resolution (**Attachment B**) is flexible enough to implement a fee adjustment consistent with the formula. FORA staff will make an oral presentation to the FORA Board on April

12, 2013 concerning this item. Staff expects EPS to present their final analysis to the FORA Board at the May 10, 2013 meeting, when this could return as an action item for Board consideration.

FISCAL IMPACT:

Reviewed by FORA Controller 13

Staff time for this item is included in the approved annual budget. EPS's costs for this item are included in the approved FY 12-13 budget, not to exceed \$87,500.

COORDINATION:

Administrative Committee, Executive Committee, EPS, Authority Counsel, Building Industry Association of the Bay Area, Development Planning & Financing Group, and development teams.

Prepared by Jonathan Garcia Reviewed by D. Steven Endsley
Jonathan Garcia Steve Endsley
Approved by Michael A. Houlemard, Jr.
Michael A. Houlemard, Jr.

Placeholder for Attachment A to Item 7f

CIP Review – Phase II Study

This attachment will be distributed as soon as it is available.

Resolution 13-XX

Resolution of the Fort Ord Reuse)
 Authority Board adjusting the FORA)
 Community Facilities District Special)
 Tax Rates and the Basewide Development)
 Fee Schedule.)

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A. Government Code section 67679(e) authorizes the Fort Ord Reuse Authority (hereinafter referred to as “Authority”) Board of Directors (hereinafter referred to as “Board”) to levy development fees on a development project within the area of the base in compliance with Government Code section 66000, *et seq.* The section stipulates that “No local agency shall issue any building permit for any development within the area of the former Fort Ord until the Board has certified that all development fees have been paid.”
- B. The Authority Board adopted Resolution 99-1 to establish Basewide Development Fees for all of the former Fort Ord area primarily to pay for basewide obligations intended to mitigate the costs associated with the impact of development of the Fort Ord territory. The basewide public facilities are identified in the Base Reuse Plan and the Public Facilities Improvement Plan and are annually approved by the Board as part of the Board’s adopted Capital Improvement Plan (hereinafter referred to as “CIP”), in particular the transportation, habitat management and other impacts caused by development as identified in the Final Environmental Impact Report, adopted by this Board on June 13, 1997.
- C. On January 18, 2002, the Authority Board adopted Resolution No. 02-1 establishing the Fort Ord Reuse Authority Basewide Community Facilities District (hereinafter referred to as the “CFD”) under State Law that approved a rate and method of apportionment of special taxes (the “RMA”) and provided for the levy of special taxes (the “Special Taxes”) on real property in selected areas of the former Fort Ord, and, on October 14, 2005, the Authority Board adopted Resolution No. 05-15, which effectively amended the RMA for the CFD in 2005 in order to provide a special tax structure that would encourage and benefit the development of affordable and workforce housing.
- D. The Board heard testimony from professional consultants, affected businesses, and community representatives and, on August 29, 2012, through adoption of resolution 12-5 and authorization to sign an Implementation Agreement Amendments with Fort Ord land use jurisdictions, the Board directed calculation

of a formula, which analyzes CIP contingent expenses and anticipated revenues to calibrate FORA's Development Fee Schedule and CFD Special Tax to the appropriate level. The formula calculation will be used as a basis for Board consideration of adjustments in the maximum Special Taxes for the CFD and the Fee Policy.

- E. As part of their CIP Review – Phase II Study contract work for the Authority, Economic and Planning Systems, Inc. (“EPS”) performed the Board-directed formula calculation (**Attachment A** to Item 7f, FORA Board meeting April 12, 2013), recommending an immediate proportional XX.X% reduction in FORA's Development Fee Schedule and CFD Special Tax. There is a reasonable relationship between the need for the public projects included in the CIP and the type of development project on which the development fee or Special Tax is imposed. There is also a reasonable relationship between the amount of the development fee or Special Tax and the cost of the public projects attributable to the development on which the fee or Special Tax is imposed and the Board has determined that the fee and Special Tax structure will continue to provide sufficient fees and Special Taxes to meet its State Law obligations and basewide expenses.
- F. The purpose of this Resolution is to amend Resolution 99-1 and to provide for levies of Special Taxes in the CFD at rates lower than the authorized maximum Special Tax rates in the RMA in order to lower the fees charged to, and the Special Taxes levied on, development occurring on the former Fort Ord, while maintaining the financial resources to meet the Authority's mitigation measure and basewide expense obligations and to sustain parity between the Special Taxes levied within the CFD and the fees charged in the non-CFD areas.
- G. Section 6.01.010 of the Authority Master Resolution provides that all fees, penalties, refunds, reimbursements and charges imposed by the Authority may be adopted by resolution and amended by the Board. In addition, the Authority has entered into separate Implementation Agreements with each of its member land use jurisdictions. Those Agreements require all development projects to pay their fair share of the Authority's costs to mitigate development impacts. The Authority Board has approved further agreements with individual jurisdictions and/or their developers to carry out the Implementation Agreements and the other authoritative documents cited in this Resolution.
- H. The Board's annually approved CIP lists each project for which the Fort Ord Reuse Authority CFD special taxes and Basewide Development Fees are to be used and accompanying text describing the need for the project.
- I. The Basewide Development Fees and Special Tax rates listed in **Table 1** reflect a proportional XX.X% reduction. There is a reasonable relationship between the need for the public projects included in the CIP and the type of development project on which the development fee or Special Tax is imposed. There is also a

reasonable relationship between the amount of the development fee or Special Tax and the cost of the public projects attributable to the development on which the fee or Special Tax is imposed and the Board has determined that the fee and Special Tax structure will continue to provide sufficient fees and Special Taxes to meet its State Law obligations and basewide expenses.

J. Government Code Section 66001 requires the Authority to do the following before adopting or amending a development impact fee:

- 1. Account for and expend the fees.
- 2. For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:
 - i. Identify the purpose of the fee (as described in "E." above).
 - ii. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements listed in the CIP.
 - iii. Designate the approximate dates on which the funding necessary to complete the project is expected to be deposited into the appropriate account or fund serving the CIP.

K. Any development impact fee so adopted shall be effective _____.

NOW THEREFORE the Board hereby resolves that:

- 1. The CFD Special Tax and the Basewide Development Fee is amended in the amounts listed for each type of development in the attached fee schedule (**Table 1**) and these fees will hereafter be levied as Special Taxes at the maximum Special Tax rates in the attached schedule (**Table 1**).
- 2. This Basewide Development fee schedule and CFD maximum Special Tax shall be fixed to the CFD maximum Special Tax rates and indexed in the same manner on July 1st of every year as evidenced in the attached **Table 1 – Taxable Property Classifications and Maximum Development Fee Rates**.
- 3. The adjusted Development Fees and the revised maximum Special Tax rates shall become effective immediately.
- 4. Proceeds of Development Fees and Special Tax levies shall be appropriately segregated through use of generally accepted government fund accounting methods according to the Board’s adopted Capital Improvement Program budget as provided for in section B and G of this resolution.

DRAFT

DRAFT

DRAFT

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this _____ day of _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jerry Edelen, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Fort Ord Reuse Authority hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 13-XX adopted

Michael A. Houlemard, Jr., Secretary

TABLE 1 – TAXABLE PROPERTY CLASSIFICATIONS AND
 MAXIMUM DEVELOPMENT FEE RATES
 (Figures as of _____)

PROPERTY CLASSIFICATION	Maximum Development Fee Rates (One-time Development Fee Payments)
Undeveloped Property	\$ - 0 -
Developed Property	
New Residential	\$ XX,XXX / Dwelling Unit
Existing Residential	\$ XX,XXX / Dwelling Unit
Office	\$ X,XXX / Acre
Industrial	\$ X,XXX / Acre
Retail	\$ XX,XXX / Acre
Hotel	\$ X,XXX / Room

On July 1, commencing July 1, 2013, the Maximum Development Fee Rates shown in Table 1 shall be increased by an amount equal to the lesser of (1) five percent (5%) or (2) the percentage change since the immediately preceding Fiscal Year in the Engineering News Record's Construction Cost Index applicable to the area in which the fee overlay is located (or, if such index is no longer published, a substantially equivalent index selected by the Development Fee Administrator)

TABLE 1 – TAXABLE PROPERTY CLASSIFICATIONS AND
 MAXIMUM SPECIAL TAX RATES
 (Figures as of _____)

PROPERTY CLASSIFICATION	Maximum Special Tax Rates (One-time Special Tax Payments)
Undeveloped Property	\$ - 0 -
Developed Property	
New Residential	\$ XX,XXX / Dwelling Unit
Existing Residential	\$ XX,XXX / Dwelling Unit
Office	\$ X,XXX / Acre
Industrial	\$ X,XXX / Acre
Retail	\$ XX,XXX / Acre
Hotel	\$ X,XXX / Room

On July 1, commencing July 1, 2013, the Maximum Special Tax Rates shown in Table 1 shall be increased by an amount equal to the lesser of (1) five percent (5%) or (2) the percentage change since the immediately preceding Fiscal Year in the Engineering News Record's Construction Cost Index applicable to the area in which the District is located (or, if such index is no longer published, a substantially equivalent index selected by the CFD Administrator)

FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject: Veterans Cemetery Agreement and Budget

Meeting Date: April 12, 2013

Agenda Number: 8a

ACTION

RECOMMENDATION(S):

- i. Consider authorizing the Executive Officer to execute the Seaside-Fort Ord Reuse Authority (FORA) Cemetery Agreement (**Attachment A**).
- ii. Consider approval of an FY 12-13 FORA Budget increase for Veterans Cemetery Consultants from \$56,000 to \$60,000.
- iii. Consider authorizing the Executive Officer to issue a check in the amount of \$30,000 to the California Department of General Services (DGS) for land acquisition services necessary for the state to acquire the approximately 84.4-acre cemetery area.

BACKGROUND/DISCUSSION:

Concerning recommendation #1, the offices of Congressman Sam Farr, State Senator Bill Monning, and Assemblymember Mark Stone have identified the need for the state to hold title to the cemetery burial area in the City of Seaside (approximately 32.22 acres) and County of Monterey (approximately 52.18 acres) in order to be eligible for federal grant funding. The state has requested to receive title to the cemetery area (approximately 84.4 acres) by April 1, 2013, or as close to that date as possible. The attached Seaside-FORA Cemetery Agreement provides City of Seaside's direction to FORA to transfer title to its portion of the cemetery burial area to the state. On March 26, 2013, the Monterey County Board of Supervisors, by adopted resolution, provided direction to FORA to transfer title to the County's portion of the cemetery burial area to the state. A copy of the Monterey County Board of Supervisors draft resolution is included as **Attachment B**. FORA Board approval with respect to the Monterey County Board of Supervisors' adopted resolution is not required. Authority Counsel has prepared an analysis of items pertinent to the transfer including California Environmental Quality Act (CEQA) requirements (**Attachment C**), concluding that these are ministerial acts and not projects under CEQA.

Concerning recommendations #2 and #3, DGS has identified that it will need approximately \$30,000 to complete its acquisition of the approximately 84.4-acre cemetery area. The state does not have this funding budgeted in their FY 12-13 budget and, therefore, would require funding from a non-state source to complete the transfer in the next few months. Using FORA funds for the state's acquisition of the land would provide the most expeditious solution to this funding need. If these recommendations are approved, FORA staff will convey title to the state.


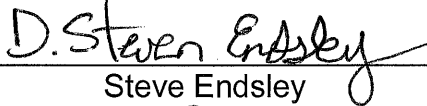
FISCAL IMPACT:

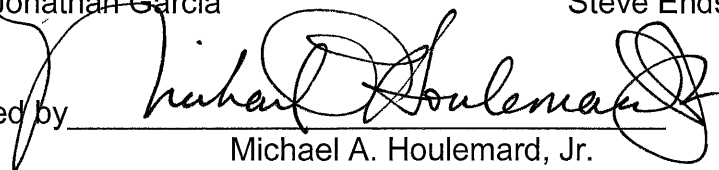
Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget. At its January 11, 2013 meeting, the FORA Board approved a \$56,000 Veterans Cemetery Record of Survey Budget and authorized the Executive Officer to select and enter into contract with a surveyor team for the survey work line item, not to exceed \$30,000. Thus far, FORA conducted a competitive selection process resulting in a contract with Whitson Engineers for \$17,030 to complete the survey work (completed), contracted with Chicago Title Company to complete a Condition of Title Report for \$1,000 (completed), and received an estimate from Whitson Engineers for completing title report review for \$9,665. In summary, of the \$56,000 budget approved in January, staff anticipates that approximately \$28,305 remains and could be applied toward the \$30,000 DGS land acquisition services cost identified in recommendation #3. However, given that the title report review line item is not yet complete, staff recommendation #2 would increase the \$56,000 to \$60,000 to accommodate potential changes to the title report review line item cost. If DGS's land acquisition services are less than \$30,000, the unspent funds will be returned to FORA.

COORDINATION:

Administrative Committee, Executive Committee, Authority Counsel, Congressman Sam Farr's Office, State Senator Bill Monning's Office, Assemblymember Mark Stone's Office, City of Seaside, State Departments of Finance, General Services, and Veterans Affairs.

Prepared by  Jonathan Garcia Reviewed by  Steve Endsley

Approved by  Michael A. Houlemard, Jr.

RECORDING REQUESTED BY:

Fort Ord Reuse Authority
920 Second Ave.
Marina, CA 93933
Attn: Michael A. Houlemard, Jr.

**CITY OF SEASIDE AND FORT ORD REUSE AUTHORITY
CEMETERY AGREEMENT**

This Agreement is made by and among the **FORT ORD REUSE AUTHORITY (FORA)** and the **CITY OF SEASIDE (CITY)** (collectively the "Parties"). It is dated for reference on _____, 2013.

I. RECITALS

A. FORA was formed in 1994 by the Fort Ord Reuse Authority Act, Government Code sections 67650 and following. The goals of the FORA Act are set out in section 67651 as follows:

- "(a) To facilitate the transfer and reuse of the real and other property comprising the military reservation known as Fort Ord with all practical speed.
- (b) To minimize the disruption caused by the base's closure on the civilian economy and the people of the Monterey Bay area.
- (c) To provide for the reuse and development of the base area in ways that enhance the economy and quality of life of the Monterey Bay community.
- (d) To maintain and protect the unique environmental resources of the area."

The FORA Board of Directors has determined by Resolution that, in principle, establishing a California Central Coast Veterans Cemetery (Veterans Cemetery) on the former Fort Ord would carry out these goals. This Agreement sets forth terms and conditions to assist the State of California (STATE) in its efforts to plan for that objective.

B. In 2011 the Legislature amended Military and Veterans Code section 1450.1 directing the STATE Department of Veterans Affairs (DEPARTMENT), in cooperation with the CITY, County of Monterey (COUNTY), FORA, and surrounding local agencies, to design, develop, and construct the Veterans Cemetery on the former Fort Ord. This statute also directed the DEPARTMENT to oversee and coordinate the design, development and construction of the Veterans Cemetery consistent with the concepts published in the Monterey County Redevelopment Agency's "California Central Coast Veterans Cemetery Fort Ord Development Master Plan."

C. Military and Veterans Code section 1450.1 further authorized the DEPARTMENT to enter into an agreement with FORA to potentially act on behalf of the STATE in completing elements of the Veterans Cemetery. The purpose of this Agreement is also to implement that statutory mandate. That provision is attached to this Agreement as **Exhibit B**.

- D. In 2012, the Legislature amended sections 1451 and 1453 of the Military and Veterans Code pertaining to use of an Endowment Fund to be a repository of monies generated by fundraising efforts or public agency advances for the Veterans Cemetery at the former Fort Ord. The Endowment Fund will serve as a mechanism to assure financing of the planning, design, processing, construction and operation of the Veterans Cemetery. This agreement also furthers the planning activities for the potential implementation of those provisions. See **Exhibit C**.
- E. FORA holds title to a parcel of land that may be suitable for use as burial site for a Veterans Cemetery. It is described in **Exhibit A** to this Agreement. FORA and the CITY have agreed to cooperate with the STATE in planning activities to evaluate the potential establishment of a Veterans Cemetery (burial site) on that site. The decision to proceed with this project rests with the STATE.
- F. Transfer of Title to the property noted in Exhibit A furthers the STATE's effort to apply for federal funds for the planning, processing, review, design, construction and operations financing for a STATE Veterans Cemetery.
- G. By separate agreement with the CITY, FORA has agreed to transfer title to a portion of the Cemetery Parcel (burial site) to the STATE for use as a Veterans Cemetery under restrictions administered by the United States Department of Veterans Affairs and the California Department of Veterans Affairs.

NOW THEREFORE, the parties agree as follows:

II. AGREEMENT

- 1.1. **Consent to Transfer.** CITY authorizes and directs FORA to transfer title to its portion of the Cemetery Parcel (burial site) described in Exhibit A to the STATE for potential use as a Veterans Cemetery.
- 1.2. **Use of Cemetery Parcel.** The transfer of title to the Cemetery Parcel will be restricted to the STATE's future potential efforts to apply for federal support and STATE planning of the goals and principles for a STATE Veterans Cemetery under regulations administered by the United States Department of Veterans Affairs and the STATE Department of Veterans Affairs.
- 1.3. **Waiver of Transfer Right.** CITY waives its right to receive title to the portion of the Cemetery Parcel lying within its jurisdictional limits from FORA, except as otherwise provided in Section 1.6.
- 1.4. **State Conveyance.** CITY authorizes and directs FORA to convey the Cemetery Parcel (burial site) directly to the STATE. CITY agrees to execute the instrument attached to this Agreement as **Exhibit B**.
- 1.5. **Lead Agency.** This agreement does not obligate any of the parties to proceed with the Veterans Cemetery. That decision has not been made. The decision to proceed with the Veterans Cemetery is in the purview of the STATE. If the STATE elects to proceed, it will act as "lead agency" for purposes of complying with the California Environmental Quality Act ("CEQA")

and, to the extent applicable, the National Environmental Policy Act ("NEPA"). The Veterans Cemetery shall not proceed unless and until the STATE has planned for and prepared additional studies, documents and agreements based on information produced from the CEQA/NEPA environmental review process and on other public review and hearing processes subject to all applicable governmental approvals.

1.6. Failure to Process a Grant Application to the U.S. Department of Veterans Affairs or Complete Veterans Cemetery. The parties to this Agreement acknowledge that they may fail in their mutual effort to, or decide not to, establish a Veterans Cemetery. In the event a) the STATE elects not to pursue a grant application with the U.S. Department of Veterans Affairs for funding for a Veterans Cemetery by October 1, 2013 or if the Veterans Cemetery is not completed, or b) if the parties decide not to move forward with planning the Veterans Cemetery by June 30, 2020, the terms of this Agreement may be terminated by the City, and the STATE, upon receiving a written request from the City, shall promptly convey a portion of the proposed Cemetery Property, as shown on Exhibit A (a portion of the Burial Site), to the City.

1.7. Consideration. As consideration for this Agreement:

(a) FORA relinquishes its right to receive half the value of the Cemetery Parcel.

(b) CITY relinquishes its entitlement to receive title to the portion of the Cemetery Parcel lying within its boundaries, except as set forth with the Agreement.

1.8. Conditional Effect. This Agreement will take effect only upon the execution of a companion Agreement between FORA and the STATE in the form attached to this Agreement as **Exhibit C**.

2. Further Actions.

Any further actions resulting from this Agreement will become effective only if and after such actions have been considered and approved by FORA and the CITY, following conduct of all legally required procedures. This Agreement does not obligate any of the parties to proceed with the Veterans Cemetery. That decision has not been made. The decision to proceed with the Veterans Cemetery is in the purview of the STATE. The Veterans Cemetery shall not proceed unless and until the STATE has planned for and executed all required studies, documents and agreements based on information produced from the CEQA/NEPA environmental review process and on other public review and hearing processes subject to all applicable governmental approvals. In the event the STATE commences required studies, documents and agreements for the proposed Veterans Cemetery, the STATE shall include an analysis of transportation plans for access into and out of the Veterans Cemetery, including but not limited to, the potential extension of a roadway as shown in the Regional Transportation Plan dated April 2005. .

Each of the Parties agrees to execute and deliver to the other party such documents and instruments, and to take such actions, as may reasonably be required to give effect to the terms and conditions of this Agreement.

3. Amendment.

This Agreement may only be amended in writing executed by the Parties.

4. Interpretation.

This Agreement contains all of the terms and supersedes any prior oral understandings. This Agreement has been arrived at through negotiation, has been reviewed by each party's respective counsel. Neither party is to be deemed the drafter under California Civil Code Section 1654.

5. Notices.

Any notice required to be given to any party shall be in writing and deemed given if personally delivered upon the other party or deposited in the United States mail and sent certified mail, return receipt requested postage prepaid and addressed to the other party at the address set forth below, or sent via facsimile transmission during normal business hours to the party to which notice is given at the telephone number listed for fax transmission:

To FORA: Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
920 Second Ave
Marina, CA 93933

Telephone: (831) 883-3672 Facsimile: (831) 883-3675

To CITY: John Dunn
City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

6. Indemnification.

Parties indemnify, defend and hold harmless each other, their officers, agents and employees, from and against any and all claims, liabilities and losses whatsoever (including but not limited to, damages to property, and injuries to or death of persons, court costs and attorneys fees) occurring to or resulting in any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies hired in connection with the performance of this Agreement, and from any and all claims, liabilities and losses occurring to or resulting in any person, firm, or corporation for damage, injury, or death arising out of or connected with the performance of this Agreement. This indemnification and hold harmless obligation shall not extend to any claim arising from the negligent or willful misconduct of the Parties, their officers, agents, and employees. The provisions of this Section shall survive the termination or expiration of this Agreement and extend for a five-year period thereafter.

7. Dispute Resolution.

Disputes arising under this agreement shall be resolved as follows:

a. Prevention of Claims/ Meet and confer (3 days)

The parties agree that they share an interest in preventing misunderstandings that could become claims against one another under this agreement. The parties agree to attempt to identify and discuss in advance any areas of potential misunderstanding that could lead to a dispute. If either party identifies an issue of disagreement, the parties agree to engage in a face-to-face discussion of the matter within three calendar days of the initial request. If the

parties are unable to amicably resolve such disagreements or misunderstandings, they agree to enlist the informal assistance of a third party to help them reach an accord. If any disagreement remains unresolved for ten days, the parties agree to submit it to mediation.

b. Mediation (30 days)

Either party may demand, and shall be entitled to, mediation of any dispute arising under this agreement at any time after completing the meet and confer process described in subsection (a). Mediation shall commence not more than ten days after the initial mediation demand and must be concluded not more than thirty (30) days after the date of the first mediation demand. If mediation is not concluded within that time, then either party may demand arbitration.

Mediation shall be submitted first to a mediator with at least ten years experience in public law. The mediator shall be selected by mutual agreement of the parties. Failing such mutual agreement, a mediator shall be selected by the presiding judge of the Monterey County Superior Court. In the interest of promoting resolution of the dispute, nothing said, done or produced by either party at the mediation may be discussed or repeated outside of the mediation or offered as evidence in any subsequent proceeding. The parties acknowledge the confidentiality of mediation as required by Evidence Code 1152.5.

No mediator shall submit, and no arbitrator or court shall consider, any mediator recommendations, declarations, or findings unless the parties give their written consent to the proposed mediator statement.

c. Arbitration (60 days)

If mediation fails to resolve the dispute, the mediator shall become the arbitrator, and shall proceed to dispose of the case under such rules or procedures as he or she shall select. If the mediator is unable or unwilling to serve as arbitrator, the parties shall select an arbitrator by mutual agreement. Failing such agreement, the arbitrator shall be selected by the Presiding Judge of the Superior Court. The decision of the arbitrator shall be final and not subject to judicial litigation.

Arbitration shall be commenced within thirty days of the arbitration demand and concluded within 60 days of arbitration demand.

Arbitration shall follow the so-called "baseball arbitration" rule in which the arbitrator is required to select an award from among the final offers presented by the contending parties. The arbitrator may not render an award that compromises between the final offers.

Unless the arbitrator selects another set of rules, the arbitration shall be conducted under the J.A.M.S. Endispute Streamlined Arbitration Rules and Procedures, but not necessarily under the auspices of J.A.M.S. Upon mutual agreement, the parties may agree to arbitrate under an alternative scheme or statute. The Arbitrator may award damages according to proof. Judgment may be entered on the arbitrator's award in any court of competent jurisdiction.

NOTICE: IN AGREEING TO THE FOREGOING PROVISION, YOU ARE WAIVING YOUR RIGHT TO HAVE YOUR RIGHTS UNDER THIS AGREEMENT TRIED IN A COURT OF LAW OR EQUITY. THAT MEANS YOU ARE GIVING UP YOUR RIGHT TO TRIAL BY JUDGE OR JURY. YOU ARE ALSO GIVING UP YOUR RIGHT TO DISCOVERY AND APPEAL EXCEPT AS PROVIDED IN THE ARBITRATION RULES. IF YOU REFUSE TO ARBITRATE YOUR DISPUTE AFTER A PROPER DEMAND FOR ARBITRATION HAS BEEN MADE, YOU CAN BE FORCED TO ARBITRATE OR HAVE AN AWARD ENTERED AGAINST YOU BY DEFAULT. YOUR AGREEMENT TO ARBITRATE IS VOLUNTARY.

BY INITIALING THIS PROVISION BELOW, THE PARTIES AFFIRM THAT THEY HAVE READ AND UNDERSTOOD THE FOREGOING ARBITRATION PROVISIONS AND AGREE

TO SUBMIT ANY DISPUTES UNDER THIS AGREEMENT TO NEUTRAL BINDING ARBITRATION AS PROVIDED IN THIS AGREEMENT.

FORA's INITIALS _____ CITY's INITIALS _____

8. Attorney's Fees.

If arbitration or suit is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of costs of suit, and not as damages, a reasonable attorneys' fee to be fixed by the arbitrator or Court. The "prevailing party" shall be the party entitled to recover costs of suit, whether or not the suit proceeds to arbitrator's award or judgment. A party not entitled to recover costs shall not recover attorneys' fees. No sum for attorneys' fees shall be counted in calculating the amount of an award or judgment for purposes of determining whether a party is entitled to recover costs or attorneys' fees.

If either party initiates litigation without first participating in good faith in the alternative forms of dispute resolution specified in this Agreement, that party shall not be entitled to recover any amount as attorneys' fees or costs of suit even if such entitlement is established by statute.

9. Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

10. Waivers

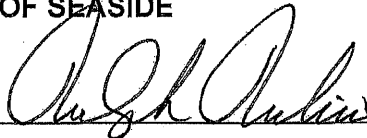
Any waiver by the Parties of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the individual Parties to take action on any breach or default of Parties or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to either of the Parties to perform any individual obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement.

III. EXECUTION

FORT ORD REUSE AUTHORITY

By: _____
MICHAEL A. HOULEMARD, JR.
FORA Executive Officer

CITY OF SEASIDE

By:  _____

IV. EXHIBITS

The following Exhibits are incorporated into this Agreement.

- EXHIBIT A. Description of Cemetery Parcel
- EXHIBIT B. Section 1450 of the Military and Veterans Code
- EXHIBIT C. Sections 1451 and 1453 of the Military and Veterans Code
- EXHIBIT D. ~~Authorization to Convey Cemetery Parcel to State~~

EXHIBIT "A"
LEGAL DESCRIPTION
CALIFORNIA CENTRAL COAST VETERANS CEMETERY

Parcel X

Certain real property situate in the incorporated area of the City of Seaside, also situate in the City Lands of Monterey, Tract No. 1, County of Monterey, State of California, described as follows:

Being a portion of the land shown as Parcel B on the map filed in Volume 29 of Surveys at Page 106, Official Records of said County, particularly described as follows:

Beginning at the most northeasterly corner of said Parcel B, thence along the easterly boundary line of said Parcel B, South 18°59'46" West, 1951.16 feet, said line also being the City Limit line of the City of Seaside, to the **True Point of Beginning**; thence continuing along said line

- X-1) South 18° 59' 46" West, 1938.75 feet; thence departing said easterly line and said City Limit line
- X-2) Along the arc of a non-tangent curve, the center of which bears North 36° 12' 19" East, 2468.00 feet distant, through a central angle of 11° 54' 41", for an arc distance of 513.08 feet; thence
- X-3) North 41° 53' 00" West, 1237.64 feet to a point which bears North 48° 07' 00" East, 59.00 feet from the northwesterly terminus of the course shown as N41°53'00"W, 791.67' on said map filed in Volume 29 of Surveys at Page 106; thence
- X-4) Along the arc of a tangent curve, the center of which bears North 48° 07' 00" East, 91.00 feet distant, through a central angle of 30° 00' 00", for an arc distance of 47.65 feet; thence
- X-5) North 11° 53' 00" West, 59.60 feet; thence
- X-6) Along the arc of a tangent curve, the center of which bears North 78° 07' 00" East, 20.00 feet distant, through a central angle of 117° 07' 49", for an arc distance of 40.89 feet; thence
- X-7) Along the arc of a tangent reverse curve, the center of which bears North 15° 14' 49" East, 552 feet distant, through a central angle of 13° 02' 02", for an arc distance of 125.57 feet; thence
- X-8) South 05° 24' 15" East, 194.48 feet; thence
- X-9) South 41° 53' 00" East, 53.63 feet; thence
- X-10) North 84° 35' 45" East, 278.11 feet; thence
- X-11) North 05° 24' 15" West, 232.73 feet; thence

- X-12) North 84° 35' 45" East, 297.28 feet; thence
- X-13) Along the arc of a tangent curve, the center of which bears North 05° 24' 15" West, 1832.00 feet distant, through a central angle of 20° 16' 03", for an arc distance of 648.04 feet; thence
- X-14) North 64° 19' 42" East, 542.01 feet; thence
- X-15) Along the arc of a tangent curve, the center of which bears South 25° 40' 18" East, 468.00 feet distant, through a central angle of 00° 58' 31", for an arc distance of 7.97 feet, more or less, to the True Point of Beginning.

Containing an area of 32.22 acres, more or less.

Parcel Y

Certain real property situate in the unincorporated area of Monterey County, also situate in the City Lands of Monterey, Tract No. 1, County of Monterey, State of California, described as follows:

Being a portion of the land shown as Parcel 1 on the map filed in Volume 23 of Surveys at Page 105, Official Records of said County, particularly described as follows:

Beginning at the most northeasterly corner of Parcel B, as shown on the map filed in Volume 29 of Surveys at Page 106, Official Records of said County, thence along the easterly boundary line of said Parcel B, South 18°59'46" West (shown as S 18° 59' 35" W on the map filed in Volume 30 of Surveys at Page 41), 1951.16 feet, said line also being the City Limit line of the City of Seaside, to the **True Point of Beginning**; thence departing said line

- Y-1) Along the arc of a non-tangent curve, the center of which bears South 24° 41' 47" East, 468.00 feet distant, through a central angle of 27° 51' 54", for an arc distance of 227.61 feet; thence
- Y-2) South 86° 49' 53" East, 248.88 feet, more or less, to a point on the easterly line of Parcel D, as shown on the map filed in Volume 30 of Surveys at Page 41; thence along said easterly line
- Y-3) South 04° 34' 26" East, 255.63 feet; thence
- Y-4) South 14° 47' 14" East, 1369.35 feet; thence
- Y-5) South 20° 28' 20" West, 520.37 feet; thence
- Y-6) South 30° 46' 05" West, 373.72 feet; thence departing said easterly line
- Y-7) North 59° 56' 41" West, 185.02 feet; thence
- Y-8) Along the arc of a non-tangent curve, the center of which bears North 31° 48' 45" West, 245.00 feet distant, through a central angle of 64° 30' 09", for an arc distance of 275.82 feet; thence

- Y-9) South 48° 26' 44" West, 151.27 feet; thence
- Y-10) Along the arc of a tangent curve, the center of which bears South 48° 26' 44" West, 632.00 feet distant, through a central angle of 01° 45' 32", for an arc distance of 19.40 feet; thence
- Y-11) North 43° 18' 48" West, 400.28 feet; thence
- Y-12) Along the arc of a tangent curve, the center of which bears South 46° 41' 12" West, 1302.00 feet distant, through a central angle of 12° 17' 09", for an arc distance of 279.19 feet; thence
- Y-13) Along the arc of a tangent reverse curve, the center of which bears North 34° 24' 03" East, 2468.00 feet distant, through a central angle of 01° 48' 16", for an arc distance of 77.73 feet, more or less, to a point on the easterly line of said Parcel B as shown on said map filed in Volume 29 of Surveys at Page 106, said point also being on the City Limit line of the City of Seaside; thence along said easterly line
- Y-14) North 18° 59' 46" East (shown as S 18° 59' 35" W on said map filed in Volume 30 of Surveys at Page 41), 1938.75 feet to the true point of beginning.

Containing an area of 52.16 acres, more or less.

Attached hereto is a plat to accompany this legal description, and by this reference made a part hereof.

END OF DESCRIPTION

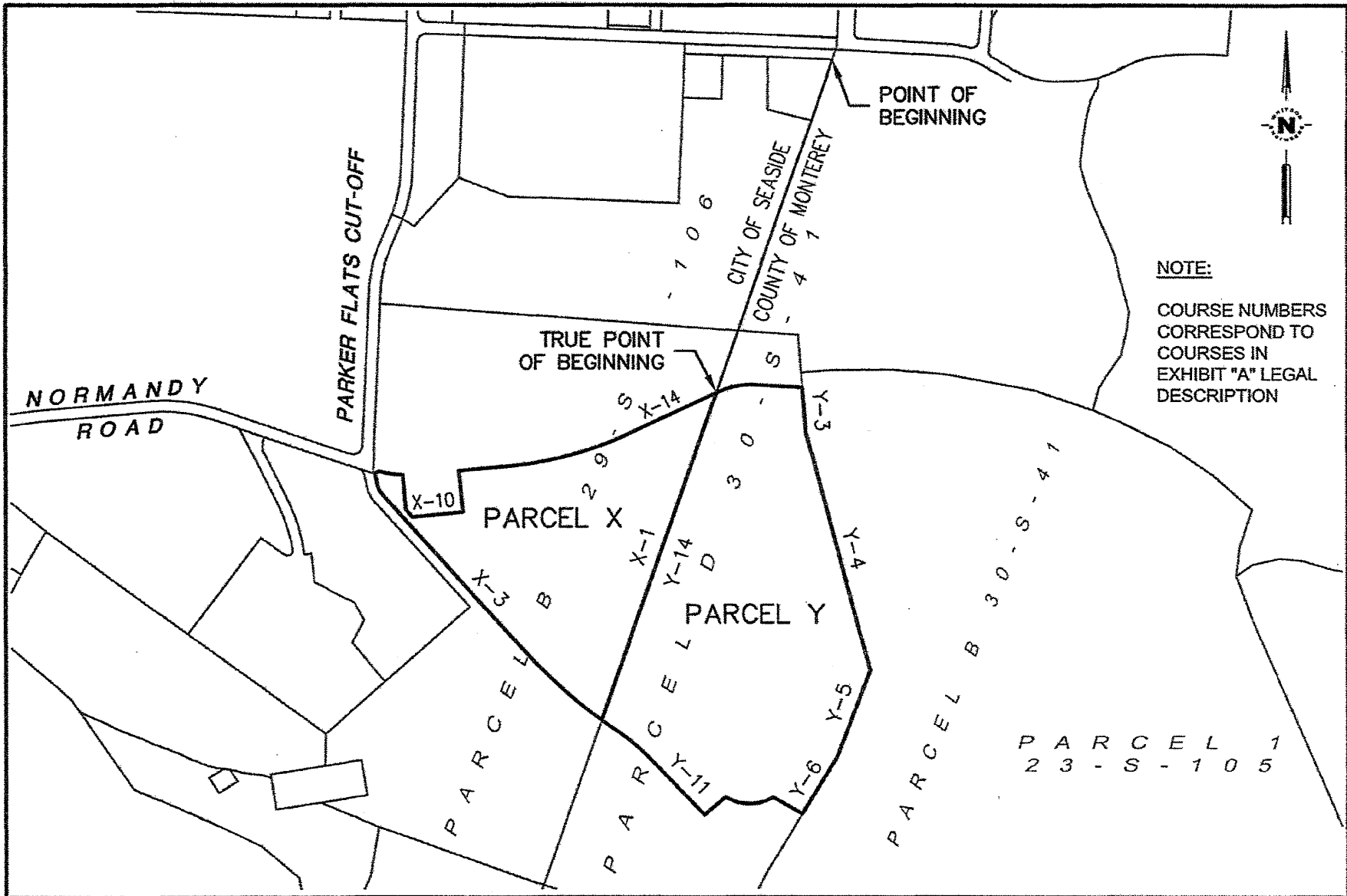
PREPARED BY:

WHITSON ENGINEERS

Kenneth M. Whitson

KENNETH M. WHITSON, P.E.
R.C.E. NO. 25766





NOTE:
 COURSE NUMBERS
 CORRESPOND TO
 COURSES IN
 EXHIBIT "A" LEGAL
 DESCRIPTION



MONTEREY COUNTY

ATTACHMENT TO EXHIBIT 'A'

CALIFORNIA

CALIFORNIA CENTRAL COAST VETERANS CEMETERY

DRAWING PATH: T:\Monterey Projects\2232123201\CAD\Exhibits\Plats\CCCCV\C Plat-Attachment A.dwg

DATE:	MAY 31, 2011
SCALE:	1" = 700'
DRAWN:	APH
CHECKED:	KMW
PROJECT No.:	2232.01

SHEET

1

OF 1

MILITARY AND VETERANS CODE SECTION 1450

1450. For purposes of this chapter, the following definitions apply:

(a) "Administrative and oversight costs" means costs incurred by the department for the maintenance of the veterans cemetery including, but not limited to, personnel costs, the opening and closing of graves, the interment of remains, committal service coordination, grounds keeping, landscaping, general maintenance, and janitorial services.

(b) "Department" means the Department of Veterans Affairs.

(c) "Endowment Fund" means the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund.

(d) "Operations Fund" means the California Central Coast State Veterans Cemetery at Fort Ord Operations Fund.

(e) "Phases" means the usual phases of a capital outlay project, and includes studies, preliminary plans, working drawings, including documents necessary to put the construction phase out to bid, and construction.

(f) "Veterans cemetery" means the California Central Coast State Veterans Cemetery at Fort Ord.

1450.1. (a) Pursuant to this chapter, the department, in voluntary cooperation with the Board of Supervisors of the County of Monterey, the City of Seaside, the Fort Ord Reuse Authority, and surrounding counties, cities, and local agencies, shall design, develop, and construct the state-owned and state-operated veterans cemetery, which shall be located on the site of the former Fort Ord.

(b) The department shall oversee and coordinate the design, development, construction, and equipping of the veterans cemetery.

(c) It is the intent of the Legislature that the design of the veterans cemetery closely follows the concepts published in the California Central Coast Veterans Cemetery Fort Ord Development Master Plan as prepared for the Monterey County Redevelopment Agency.

(d) Notwithstanding Section 10107 of the Public Contract Code, and as authorized by Section 67679 of the Government Code, in fulfilling the requirements of subdivision (a), the department may enter into an agreement with the Fort Ord Reuse Authority for the project under subdivision (a) to be under the sole charge and direct control of the veterans cemetery public works project.

1450.2. (a) The Secretary of the California Department of Veterans Affairs shall establish the California Central Coast Veterans Cemetery Advisory Committee that consists of the following persons appointed by the secretary:

(1) One representative from the County of Monterey, nominated by the Board of Supervisors of the County of Monterey.

(2) One representative from the City of Seaside, nominated by the City Council of the City of Seaside.

(3) One representative from the Fort Ord Reuse Authority, nominated by the board of directors of the Fort Ord Reuse Authority.

(4) Two members from the Fort Ord Veterans Cemetery Citizens Advisory Committee, nominated by that committee.

(5) At least two members from the department.

(b) In recognition of the fact that the Endowment Fund will be made up largely of private and local funds, the department shall seek the advice of the Advisory Committee when considering significant changes in the design of the veterans cemetery.

Assembly Bill No. 1842

CHAPTER 745

An act to amend Sections 1451 and 1453 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 29, 2012. Filed with
Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1842, Monning, California Central Coast State Veterans Cemetery: Endowment Fund.

Existing law requires the Department of Veterans Affairs, in voluntary cooperation with specified local entities, to design, develop, and construct a state-owned and state-operated veterans cemetery located on the site of the former Fort Ord. Existing law creates the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund (Endowment Fund) in the State Treasury, and requires moneys in the fund to be allocated, upon appropriation by the Legislature, to the department for the annual administrative and oversight costs of the veterans cemetery, as specified, and to generate funding through interest for the veterans cemetery. Existing law provides that the Endowment Fund may consist of, among other things, donations from public and private entities and fees.

This bill would authorize the department to enter into any financial agreement to receive cash advances in the Endowment Fund, provided that no obligations of repayment are made to the state and the agreement is reviewed and performed in consultation with the Department of Finance.

Existing law requires the department, upon the determination of specified parties that the Endowment Fund has adequate principal to annually yield sufficient investment earnings, from the date of the determination, to cover the annual administrative and oversight costs over the next 10 years and to fund the estimated costs of developing and submitting the federal State Veterans Cemetery Grant Program application, to develop and submit a State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs for the establishment of a veterans cemetery. Under existing law, if awarded, the moneys received from the federal grant program are required to be used to reimburse the Endowment Fund for specified costs, as well as the state's share of any other costs for the design, construction, and equipping of the veterans cemetery.

This bill would authorize the department to use any moneys received from the State Veterans Cemetery Grant Program that are transferred to the Endowment Fund for the reimbursement of those specified costs to reimburse any cash advances made to the Endowment Fund used for those costs to the extent allowed by grant requirements, once it is determined by the California

Department of Veterans Affairs and certified by the Controller's office that sufficient funds remain in the Endowment Fund to cover ongoing maintenance and operating costs.

The people of the State of California do enact as follows:

SECTION 1. Section 1451 of the Military and Veterans Code is amended to read:

1451. (a) The California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund is hereby created in the State Treasury. Moneys in the Endowment Fund shall be allocated, upon appropriation by the Legislature, to the department for the annual administrative and oversight costs of the veterans cemetery, pursuant to Sections 1453 and 1454, and to generate funding through interest for the veterans cemetery.

(b) (1) Moneys in the fund shall first be invested with the goal of achieving capital appreciation to create a balance sufficient to generate ongoing earnings to cover the estimated annual oversight and maintenance costs associated with the veterans cemetery pursuant to Section 1453.

(2) Upon the determination of the Controller that the Endowment Fund balance has attained the goal established in paragraph (1), moneys in the fund shall be invested to generate earnings to fund annual oversight and maintenance costs associated with the veterans cemetery.

(c) (1) The Endowment Fund may consist of donations from public and private entities, partnerships between public and private entities, fees, cash advances, and transfers from the state General Fund as may be specified by law.

(2) The department may enter into any financial agreement to receive cash advances in the Endowment Fund, provided that no obligations of repayment are made to the state and the agreement is reviewed and performed in consultation with the Department of Finance.

(d) To the extent possible, donations made in-kind to the Endowment Fund shall be monetized so as to offset the ongoing administrative and oversight costs under Sections 1452 and 1453.

(e) Earnings generated by the Endowment Fund shall be retained by the fund.

(f) Moneys deposited in the Endowment Fund are exempt from the requirements of Sections 11270 through 11277 of the Government Code.

(g) Moneys in the Endowment Fund shall be invested by the Treasurer, after consultation with the department, in a manner that best meets the goals of the fund.

(h) If, through changes in state or federal law, additional revenues are identified for the administration and oversight of the cemetery, including increases in federal burial allowances, so that the amount of annual revenue exceeds the annual administrative and oversight costs, the excess revenues shall be deposited in the Endowment Fund.

SEC. 2. Section 1453 of the Military and Veterans Code is amended to read:

1453. (a) (1) Upon the determination of the Controller, after consultation with the Secretary of Veterans Affairs, that the Endowment Fund has adequate principal to annually yield sufficient investment earnings, from the date of the determination, to cover the annual administrative and oversight costs over the next 10 years and to fund the estimated costs of developing and submitting the State Veterans Cemetery Grant Program application, the department shall develop and submit a State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs for the establishment of a veterans cemetery.

(2) The Controller, upon appropriation by the Legislature, shall transfer moneys from the Endowment Fund to the Operations Fund in an amount equal to the estimated costs of developing and submitting the State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs.

(3) Notwithstanding paragraph (1), the Controller, upon appropriation by the Legislature, shall transfer funds from the Endowment Fund to the Operations Fund in an amount at least equal to the estimated costs to complete preliminary plans and working drawings. Transfers shall be made only when sufficient funds, as determined by the Director of Finance, exist to fully accomplish each of these project phases.

(4) The department shall not proceed with advertisement for construction bids until the Endowment Fund has adequate principal to cover annual administrative and oversight costs, in accordance with paragraph (1).

(b) (1) The Secretary of Veterans Affairs shall submit the State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs within six months of the Controller's determination pursuant to subdivision (a). The Secretary of Veterans Affairs is authorized to act as the official representative of the state in connection with the State Veterans Cemetery Grant Program application, including providing the United States Department of Veterans Affairs throughout the application process with all necessary assurances that additional information shall be provided when required. The Secretary of Veterans Affairs shall have final approval of all aspects of the cemetery design and operation.

(2) Upon transfer of funds pursuant to paragraphs (2) and (3) of subdivision (a), the department is authorized to proceed with all activities necessary to support the submission of the State Veterans Cemetery Grant Program application.

(3) Upon the United States Department of Veterans Affairs' certification of the grant award, the department is authorized to proceed with construction and equipping of the veterans cemetery.

(c) (1) If awarded, the moneys received from the State Veterans Cemetery Grant Program shall be used to reimburse the Endowment Fund for the costs of developing and submitting the State Veterans Cemetery Grant Program application to the United States Department of Veterans Affairs and other eligible costs, and to fund 100 percent of costs allowed by the grant

requirements, as well as the state's share of any other costs for the design, construction, and equipping of the veterans cemetery.

(2) Any moneys received from the State Veterans Cemetery Grant Program that are transferred to the Endowment Fund for the reimbursement of the costs specified in paragraph (1) may be used by the department to reimburse any cash advances made to the Endowment Fund used for those costs to the extent allowed by grant requirements, once it is determined by the California Department of Veterans Affairs and certified by the Controller's office that sufficient funds remain in the Endowment Fund to cover ongoing maintenance and operating costs.

O

Before the Board of Supervisors in and for the
County of Monterey, State of California

Resolution No.

Resolution of the Monterey County Board of Supervisors waiving County's right to receive title to that certain property in the Fort Ord Master Plan area that is proposed as a site for a state Veterans Cemetery and directing FORA to transfer the property directly to the State of California subject to certain conditions

RECITALS

WHEREAS, the former Fort Ord served as an active military installation for nearly a century and was closed on September 30, 1994 pursuant to and in accordance with the Defense Base Closure and Realignment Act of 1990, as amended (Public Law 101-510); and

WHEREAS, the Fort Ord Reuse Authority (FORA) is a regional agency established under California Government Code section 67650 et seq. whose goals, as set forth in Government Code section 67651, are to facilitate the transfer and reuse of former Fort Ord property, to minimize the economic disruption caused by base closure, to provide for reuse and development of the property in ways that enhance the economy and quality of life of the Monterey Bay community, and to maintain and protect the unique environmental resources of the area; and

WHEREAS, on June 13, 1997, FORA certified an environmental impact report and adopted the Fort Ord Base Reuse Plan (BRP); and

WHEREAS, pursuant to an Implementation Agreement, dated May 8, 2001, between FORA and the County ("Implementation Agreement"), when property in the former Fort Ord is ready for transfer to the County, FORA must convey the property to the County and the County must accept the property, except that the County "may direct FOR A to transfer property directly to a third party" rather than to the County. (Implementation Agreement, section 4.e.); and

WHEREAS, Figure 3.3-1 of the BRP, entitled "Land Use Concept – Ultimate Development," designates desirable uses of the former Fort Ord and identifies a site for a Veterans Cemetery in an area generally located east of General Jim Moore Boulevard and bounded by Parker Flats Road and Parker Flats Cutoff; and

WHEREAS, Figure LU 6a of the Ford Ord Master Plan, which is part of the Monterey County 2010 General Plan, designates the portion of the site that is within the unincorporated area of the County as "SFD Low Density Residential" and identifies the site as an opportunity area for a Veterans Cemetery; and

WHEREAS, the proposed site for a Veterans Cemetery as shown on Figure 3.3-1 of the BRP and Figure LU 6a of the 2010 General Plan straddles the County and the City of Seaside and is generally located on Polygons 21a (APN: 031-011-050-000, within County) and 20c (portion of APN: 031-151-048-000, within City of Seaside), as such Polygons are identified on the map of Planning Areas (Figure 3.10-1 of the BRP) (hereafter collectively "the Veterans' Cemetery site"). (The parcels are also identified as Parcel number E18.1.2 (within the County) and E18.1.1

(within the City of Seaside) on the Environmental Services Cooperative Agreement (ESCA) Remediation Program map.); and

WHEREAS, a legal description prepared by FORA of the portion of the Veterans Cemetery site designated for burials, comprising some 78.7 acres, is attached hereto as **Exhibit A** and incorporated herein by reference (“hereafter Burial Site”); and

WHEREAS, Parcel Y as denoted in the legal description is that portion of the Burial Site that lies within the County of Monterey and is the property which is the subject of this resolution (hereafter “the Property”); and

WHEREAS, FORA currently holds title to the Property, and FORA has not yet tendered title to the Property to the County; and

WHEREAS, in light of the dissolution of the Redevelopment Agency of the County of Monterey pursuant to state law and in light of the fact that FORA has not conveyed the Property to either the County or Redevelopment Agency, this resolution supersedes Board of Supervisors’ Resolution No. 06-243 to the extent Resolution No. 06-243 authorized FOR A to convey County’s interest in the Property to the Redevelopment Agency of the County of Monterey; and

WHEREAS, subdivision (a) of section 1450.1 of the California Military and Veterans Code provides that the California Department of Veterans Affairs “in voluntary cooperation with the Board of Supervisors of the County of Monterey, City of Seaside, the Fort Ord Reuse Authority (FORA), and surrounding counties, cities, and local agencies, shall design, develop, and construct the state-owned and state-operated veterans cemetery, which shall be located on the site of the former Fort Ord”; and

WHEREAS, FORA staff, Congressman Farr, and State Senator Monning have requested that the County take action prior to April 1, 2013 to waive County’s right to receive title to the Property and to direct FORA to convey the Property to the State of California in order to enable the State of California to apply for and be eligible for consideration for federal grant money for the proposed Veterans Cemetery; and

WHEREAS, at the Board of Supervisors Fort Ord Committee meeting on February 25, 2013, representatives from the offices of Congressman Sam Farr and State Senator Bill Monning expressed the need for the state to hold title to the subject parcels in both the City of Seaside and the County of Monterey by August 15, 2013 in order to retain priority for federal grant funding, and the Fort Ord Committee recommended that the Board of Supervisors consider adopting a resolution to waive County’s right to receive title to that portion of the Veterans Cemetery lying within County’s jurisdiction and direct FORA to transfer the Property to the state; and

WHEREAS, the Board of Supervisors received letters from United States Congressman Sam Farr, State Senator Bill Monning, and State Assembly member Mark Stone requesting Monterey County to transfer the portion of the Veterans Cemetery designated for burials; and

WHEREAS, the Board of Supervisors finds that this transfer of title does not obligate the County or the State to proceed with the Veterans Cemetery project, that the decision to proceed with the Veterans Cemetery project is in the purview and within the discretion of the state, and that any such decision would occur only after completion of environmental review required by law; and

WHEREAS, the Board of Supervisors further recognizes and finds that the exact site of a Veterans Cemetery would be determined only after the necessary environmental review and entitlement process and that the County's action herein does not and is not intended to limit the choice of alternatives or mitigation measures, including consideration of alternative sites or configurations; and

WHEREAS, the Board's actions herein are intended to be and are conditioned upon the state complying with the California Environmental Quality Act (CEQA) and, if necessary, the National Environmental Policy Act (NEPA), before deciding whether to use the Property for a Veterans Cemetery; and

WHEREAS, in recognition that transfer of title is necessary to qualify for federal grant funding but does not commit the state to approval of a Veterans Cemetery on the Property, the County's action is conditioned upon the state conveying the Property back to the County, or such other entity as the County may identify or direct, if the Veterans Cemetery on the Property is neither a) funded, b) approved, or c) constructed; and

WHEREAS, the Board of Supervisors finds, pursuant to CEQA Guidelines section 15004(b), that County's waiver of its right to receive title to the Property and direction to FORA to transfer title to the Property to the state subject to the conditions stated herein is not a decision to approve or carry out a project within the meaning of the California Environmental Quality Act; County's action pertains only to land acquisition that is conditioned upon CEQA review of the proposed use of the site as a Veterans Cemetery before a decision whether to authorize such use would be made, and furthermore, the County's action does not commit to the use of the site, does not commit to a definite course of action, and does not limit or foreclose alternatives or mitigation measures or approve any use of the site before CEQA compliance; **NOW, THEREFORE**

DECISION

BE IT RESOLVED, by the Board of Supervisors in and for the County of Monterey as follows:

- a. The foregoing recitals are true and correct.
- b. The County hereby waives its right to receive title to that certain Property in the Fort Ord Master Plan area that is proposed as a site for a state Veterans Cemetery, more particularly described as Parcel Y in **Exhibit A** attached hereto and incorporated herein by reference.
- c. FORA is directed to transfer the above-described Property directly to the State of California, subject to the state's agreement that the state will comply with the California Environmental Quality Act and, if necessary, the National Environmental Policy Act, before deciding whether to approve the use of the Property as a Veterans Cemetery, and subject to the state's further agreement that the state will convey the Property back to the County, or such other entity as the County may identify or direct, upon the earlier to happen of: 1) the failure of the Veterans Cemetery project to receive funding; 2) the failure of the Veterans Cemetery to be approved; or 3) the failure of the Veterans Cemetery to be constructed on the Property.

PASSED AND ADOPTED on this 26th day of March, 2013 by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book____ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

EXHIBIT "A"
LEGAL DESCRIPTION
CALIFORNIA CENTRAL COAST VETERANS CEMETERY

Parcel X

Certain real property situate in the incorporated area of the City of Seaside, also situate in the City Lands of Monterey, Tract No. 1, County of Monterey, State of California, described as follows:

Being a portion of the land shown as Parcel B on the map filed in Volume 29 of Surveys at Page 106, Official Records of said County, particularly described as follows:

Beginning at the most northeasterly corner of said Parcel B, thence along the easterly boundary line of said Parcel B, South 18° 59' 46" West, 1951.16 feet, said line also being the City Limit line of the City of Seaside, to the **True Point of Beginning**; thence continuing along said line

- X-1) South 18° 59' 46" West, 1938.75 feet; thence departing said easterly line and said City Limit line
- X-2) Along the arc of a non-tangent curve, the center of which bears North 36° 12' 19" East, 2468.00 feet distant, through a central angle of 11° 54' 41", for an arc distance of 513.08 feet; thence
- X-3) North 41° 53' 00" West, 1237.64 feet to a point which bears North 48° 07' 00" East, 59.00 feet from the northwesterly terminus of the course shown as N41° 53' 00" W, 791.67' on said map filed in Volume 29 of Surveys at Page 106; thence
- X-4) Along the arc of a tangent curve, the center of which bears North 48° 07' 00" East, 91.00 feet distant, through a central angle of 30° 00' 00", for an arc distance of 47.65 feet; thence
- X-5) North 11° 53' 00" West, 59.60 feet; thence
- X-6) Along the arc of a tangent curve, the center of which bears North 78° 07' 00" East, 20.00 feet distant, through a central angle of 117° 07' 49", for an arc distance of 40.89 feet; thence
- X-7) Along the arc of a tangent reverse curve, the center of which bears North 15° 14' 49" East, 552 feet distant, through a central angle of 13° 02' 02", for an arc distance of 125.57 feet; thence
- X-8) South 05° 24' 15" East, 194.48 feet; thence
- X-9) South 41° 53' 00" East, 53.63 feet; thence
- X-10) North 84° 35' 45" East, 278.11 feet; thence
- X-11) North 05° 24' 15" West, 232.73 feet; thence

- X-12) North 84° 35' 45" East, 297.28 feet; thence
- X-13) Along the arc of a tangent curve, the center of which bears North 05° 24' 15" West, 1832.00 feet distant, through a central angle of 20° 16' 03", for an arc distance of 648.04 feet; thence
- X-14) North 64° 19' 42" East, 542.01 feet; thence
- X-15) Along the arc of a tangent curve, the center of which bears South 25° 40' 18" East, 468.00 feet distant, through a central angle of 00° 58' 31", for an arc distance of 7.97 feet, more or less, to the True Point of Beginning.

Containing an area of 32.22 acres, more or less.

Parcel Y

Certain real property situate in the unincorporated area of Monterey County, also situate in the City Lands of Monterey, Tract No. 1, County of Monterey, State of California, described as follows:

Being a portion of the land shown as Parcel 1 on the map filed in Volume 23 of Surveys at Page 105, Official Records of said County, particularly described as follows:

Beginning at the most northeasterly corner of Parcel B, as shown on the map filed in Volume 29 of Surveys at Page 106, Official Records of said County, thence along the easterly boundary line of said Parcel B, South 18° 59' 46" West (shown as S 18° 59' 35" W on the map filed in Volume 30 of Surveys at Page 41), 1951.16 feet, said line also being the City Limit line of the City of Seaside, to the **True Point of Beginning**; thence departing said line

- Y-1) Along the arc of a non-tangent curve, the center of which bears South 24° 41' 47" East, 468.00 feet distant, through a central angle of 27° 51' 54", for an arc distance of 227.61 feet; thence
- Y-2) South 86° 49' 53" East, 248.88 feet, more or less, to a point on the easterly line of Parcel D, as shown on the map filed in Volume 30 of Surveys at Page 41; thence along said easterly line
- Y-3) South 04° 34' 26" East, 255.63 feet; thence
- Y-4) South 14° 47' 14" East, 1369.35 feet; thence
- Y-5) South 20° 28' 20" West, 520.37 feet; thence
- Y-6) South 30° 46' 05" West, 373.72 feet; thence departing said easterly line
- Y-7) North 59° 56' 41" West, 185.02 feet; thence
- Y-8) Along the arc of a non-tangent curve, the center of which bears North 31° 48' 45" West, 245.00 feet distant, through a central angle of 64° 30' 09", for an arc distance of 275.82 feet; thence

- Y-9) South 48° 26' 44" West, 151.27 feet; thence
- Y-10) Along the arc of a tangent curve, the center of which bears South 48° 26' 44" West, 632.00 feet distant, through a central angle of 01° 45' 32", for an arc distance of 19.40 feet; thence
- Y-11) North 43° 18' 48" West, 400.28 feet; thence
- Y-12) Along the arc of a tangent curve, the center of which bears South 46° 41' 12" West, 1302.00 feet distant, through a central angle of 12° 17' 09", for an arc distance of 279.19 feet; thence
- Y-13) Along the arc of a tangent reverse curve, the center of which bears North 34° 24' 03" East, 2468.00 feet distant, through a central angle of 01° 48' 16", for an arc distance of 77.73 feet, more or less, to a point on the easterly line of said Parcel B as shown on said map filed in Volume 29 of Surveys at Page 106, said point also being on the City Limit line of the City of Seaside; thence along said easterly line
- Y-14) North 18° 59' 46" East (shown as S. 18° 59' 35" W on said map filed in Volume 30 of Surveys at Page 41), 1938.75 feet to the true point of beginning.

Containing an area of 52.16 acres, more or less.

Attached hereto is a plat to accompany this legal description, and by this reference made a part hereof.

END OF DESCRIPTION

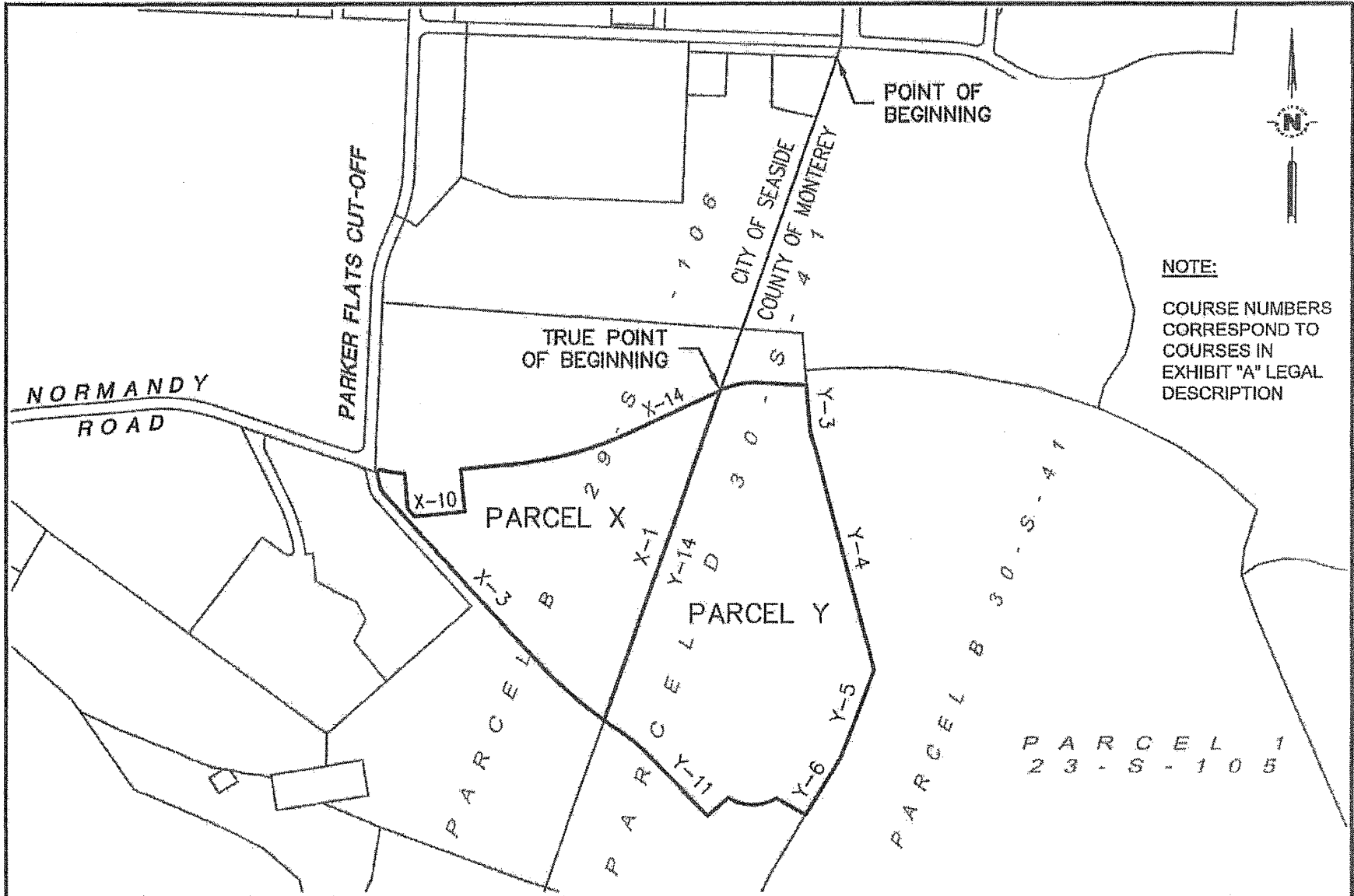
PREPARED BY:

WHITSON ENGINEERS

Kenneth M. Whitson

 KENNETH M. WHITSON, P.E.
 R.C.E. NO. 25766





ATTACHMENT TO EXHIBIT 'A'



MONTEREY COUNTY

CALIFORNIA

CALIFORNIA CENTRAL COAST VETERANS CEMETERY

DATE: MAY 31, 2011
SCALE: 1" = 700'
DRAWN: APH
CHECKED: KMW
PROJECT No.: 2232.01

SHEET

1

DRAWING PATH: T:\Monterey Projects\2232\223201\CAD\Exhibits\Plats\CCVC Plat-Attachment A.dwg

OF 1



Fort Ord Reuse Authority

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

Phone: (831) 883-3672 • Fax: (831) 883-3675 • www.fora.org

Attachment C to Item 8a
FORA Board Meeting, 4/12/13

MEMO

To: MICHAEL HOULEMARD, Executive Officer
From: JERRY BOWDEN, Authority Counsel
Subject: TRANSFER OF THE VETERANS CEMETERY PARCEL
Date: April 4, 2013

I. QUESTIONS

- a) **Is FORA required to perform a CEQA analysis prior to transferring title to the Veterans Cemetery parcel?**
Answer: No. The land transfer is not a “project” under CEQA
- b) **Are the City of Seaside and the County of Monterey (City/County) required to perform a CEQA analysis prior to directing FORA to transfer title to the Veterans Cemetery parcel?**
Answer: No. Directing FORA to transfer land is not a “project” under CEQA
- c) **Does the Surplus Lands Act apply to FORA’s land transfers?**
Answer: No. The Surplus Lands Act applies only to local agencies.
- d) **Does the Surplus Lands Act apply to City/County land transfer instructions to FORA?**
Answer: No. The Surplus Lands Act is confined to transfers of land held by the City/County, not to land held by FORA

II. ANALYSIS

- a) **Is FORA required to perform a CEQA analysis prior to transferring title to the Veterans Cemetery parcel?**
The land transfer is a ministerial act. FORA has a statutory duty to transfer land received from the Army to the land use jurisdictions. Government Code 67678 (b)(1) reads in part:

(b) (1) The board shall transfer all real and personal property received pursuant to this section and intended for municipal or county use, ... within reasonable period of time after receiving title to the property to the city or county with jurisdiction over the property, ...

FORA also has a contractual duty to transfer land to its member jurisdictions. The Implementation Agreements between FORA and its land use jurisdictions provide:

Section 4 b. Concurrently with FORA's acquisition of Jurisdiction Property from the Army (or at such other times as the Parties may agree in writing), FORA shall transfer such property to the Jurisdiction, and the Jurisdiction shall accept such property. Upon transfer, such property shall become Jurisdiction-Owned Jurisdiction Property.

...

e The Jurisdiction may direct FORA to transfer property directly to a third party rather than to the Jurisdiction. If the Jurisdiction so elects, the distribution of Sale or Lease Proceeds as defined in Section 1r shall apply to the direct transfer.

These provisions leave FORA with no discretion. FORA has no choice but to convey the land to the jurisdictions or their designees. FORA's transfer of the Veterans Cemetery parcel is ministerial.

CEQA is limited to discretionary actions. Public Resources Code 21080(b) (CEQA) reads:

(b) This division does not apply to any of the following activities

(1) Ministerial projects proposed to be carried out or approved by public agencies

CEQA does not apply to the Veterans Cemetery transfer because it is a ministerial action.

The other reason FORA is excused from performing a CEQA analysis of this transfer is that FORA is not the "lead agency" for the cemetery project. Public Resources Code 21067 defines "lead agency" as follows:

21067. "Lead agency" means the public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment

Under CEQA the environmental assessment is performed by the "lead agency."

The lead agency for the cemetery project is the California Department of Veterans Affairs. Neither the City, County nor FORA is a lead agent. For that reason none of these agencies is required to perform a CEQA analysis of the veterans cemetery project.

FORA could not be the lead agency on this project even if it were willing to do so because FORA lacks the legal authority to develop a cemetery. FORA's "powers and duties" are specifically enumerated in the FORA Act. GC 67658 reads:

The Authority's purpose is to plan for, finance, and manage the transition of the property known as Fort Ord from Military to civilian use.

FORA's statutory mission is to:

- Adopt a Reuse Plan (GC 67675(a))
- Finance or build roads and similar public works (GC 67679(a)) and
- Transfer Army land to member agencies (GC 67678(a))

FORA does not have authority to develop cemeteries or similar enterprises. The most FORA can do is act as agent of the state to carry out the state's responsibilities under Military and Veterans Code 1450.1(d).

b) Are the City of Seaside and the County of Monterey (City/County) required to perform a CEQA analysis prior to directing FORA to transfer title to the Veterans Cemetery parcel?

As noted above, only "lead agencies" are governed by CEQA's environmental assessment procedures. Since neither the City nor County is a lead agency, they are excused from CEQA's requirements.

The argument has been made that assisting the state with its cemetery project is in itself a separate project requiring environmental assessment. There is no authority for that argument and it makes no sense. If the asserted proposition were valid, anyone assisting a lead agency to perform a project, such as a material supplier or a subcontractor, would be required to perform a separate environmental assessment. That is not the law. On the contrary, CEQA requires a comprehensive assessment of project impacts by the lead agency. Separate assessments of the sub-parts of a project are properly condemned as "piecemealing" the assessment.¹

c) Does the Surplus Lands Act apply to FORA's land transfers?

The Surplus Lands Act applies to "local agencies." This is the statutory definition of Local Agency is found in GC 54221:

- (a) As used in this article, the term "local agency" means every **city**, whether organized under general law or by charter, **county, city and county, and district**, including school districts of any kind or class, empowered to acquire and hold real property.

FORA is not a "local agency" under that definition. The FORA Act (GC 67657 provides that FORA is a "public corporation of the State of California." Furthermore, the Veterans Cemetery is not "surplus land." The statute defines "Surplus Land" as follows:

- (b) the term "surplus land" means **land owned by any local agency**, that is determined to be no longer necessary for the agency's use,(emphasis added)

The cemetery parcel is not, and will not be, "owned by a local agency." On the contrary, it will be transferred by a state corporation (FORA) to a state department (Veteran's Affairs).

¹ Molly Erickson has argued that *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, stands for the proposition that sub-projects (land transfer) meant to assist the prime project (Veterans Cemetery) require separate CEQA assessment. That argument is wrong because the County/Seaside are not lead agents for the project. *Save Tara* is a case in which the lead agency backed into an irrevocable commitment by inches. That case does not apply here because the County/Seaside will never build the cemetery.

d) Does the Surplus Lands Act apply to City/County land transfer instructions to FORA?

The reason the Surplus Lands Act does not apply to the County or Seaside is that they have never taken title to the land. On the contrary, these agencies have expressly chosen not to take title to the land. Since they do not "own" the land in question, the statute does not pertain to them. The fact that they could have chosen to own it is irrelevant. Declining to own land is not the same as owning it.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Outstanding Receivables

Meeting Date: April 12, 2013

Agenda Number: 10a

INFORMATION

RECOMMENDATIONS:

Receive a Fort Ord Reuse Authority (FORA) outstanding receivables update as of March 31, 2013.

BACKGROUND/DISCUSSION:

There remains one outstanding receivable as noted below. The Late Fee policy adopted by the FORA Board requires receivables older than 90 days be reported to the Board.

	Item Description	Amount Owed	Amount Paid	Amount Outstanding
City of Del Rey Oaks	PLL Loan Payment 09-10	182,874	-	182,874
	PLL Loan Payment 10-11	256,023	-	256,023
	PLL Loan Payment 11-12	256,023	-	256,023
	<i>DRO Total</i>			694,920

City of Del Rey Oaks (DRO)

- PLL insurance annual payments: In 2009, DRO cancelled agreement with its project developer who made 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 remain current.

Payment status: First Vice Chair/Mayor Edelen has informed both the Board and Executive Committee that DRO selected a new development partner who has agreed to meet this obligation once legal issues are resolved with the past firm. The remaining obligation is expected to be repaid this calendar year.

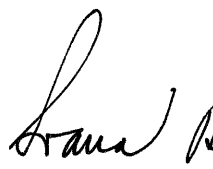
FISCAL IMPACT:

FORA must expend resources or borrow funds until 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.

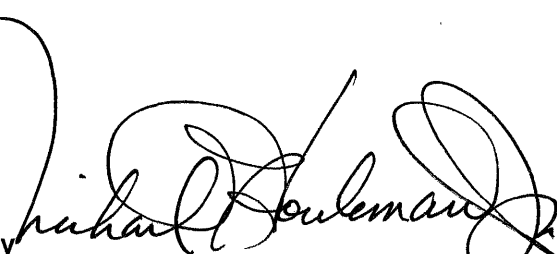
COORDINATION:

Executive Committee

Prepared by


Ivana Bednarik

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Administrative Committee Report

Meeting Date: April 12, 2013

Agenda Number: 10b

INFORMATION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The approved minutes from the March 6, 2013 and the March 20, 2013 Administrative Committee meetings are attached for your review (**Attachments A and B**).

FISCAL IMPACT:

Reviewed by the FORA Controller 

Staff time for the Administrative Committee is included in the approved annual budget.

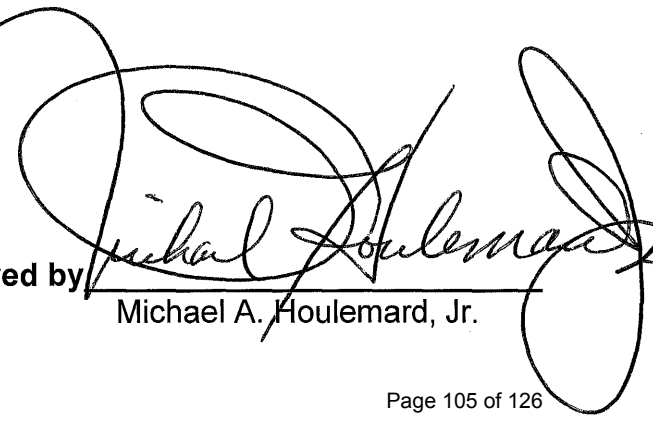
COORDINATION:

Administrative Committee

Prepared by


Lena Spillman

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

Attachment A to Item 10b
FORA Board Meeting, 4/12/13

ADMINISTRATIVE COMMITTEE MEETING 8:15 A.M. WEDNESDAY, MARCH 6, 2013 920 2nd Avenue, Suite A, Marina CA 93933 (FORA Conference Room) MINUTES

APPROVED

1. CALL TO ORDER

Co-Chair Houlemard called the meeting to order at 8:20 a.m. The following were present, as indicated by signatures on the roll sheet:

Debby Platt, City of Marina*
Carl Holm, County of Monterey*
Elizabeth Caraker, City of Monterey*
John Dunn, City of Seaside*
Diana Ingersoll, City of Seaside
Tim O'Halloran, City of Seaside
Lisa Brinton, City of Seaside
Rick Medina, City of Seaside
Ray Corpuz, City of Salinas
Anya Spear, CSUMB
Heidi Burch, City of Carmel
Lyle Shurtleff, BRAC
Vicki Nakamura, MPC

Hank Myers, TAMC
Graham Bice, UC MBEST
Patrick Breen, MCWD
Chuck Lande, Marina Heights
Bob Schaffer
Sid Williams, UVC
Scott Hilke, MCP
Brian Boudreau, Monterey Downs
Beth Palmer, Monterey Downs
Andy Lief, South County Housing
Michael Groves, EMC Planning
Jane Haines
Crisand Giles, BIA

FORA Staff:
Michael Houlemard
Steve Endsley
Jim Arnold
Jonathan Garcia
Crissy Maras
Lena Spilman

* Voting Members

2. PLEDGE OF ALLEGIANCE

Carl Holm led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Co-Chair Houlemard discussed the May 2-3, 2013 Fort Ord Prevailing Wage Conference, noting that details of the event would be available in the coming weeks.

4. PUBLIC COMMENT PERIOD

The Committee received comments from members of the public.

5. APPROVAL OF FEBRUARY 20, 2013 MEETING MINUTES

MOTION: John Dunn moved, seconded by Carl Holm, to approve the February 20, 2013 Administrative Committee meeting minutes, as presented.

MOTION PASSED: Abstain: Debby Platt

6. AGENDA REVIEW

a. **March 15, 2013 Regular Board Meeting**

Executive Officer Michael Houlemard reviewed items on the upcoming Board agenda.

b. **March 22, 2013 Special Board Meeting/Workshop**

Associate Planner Darren McBain reviewed the February 22, 2013 Board agenda and workshop format.

7. OLD BUSINESS

a. CIP Review – Phase II Study: FORA Fees Formula Calculation

EPS representative Ellen Martin joined the meeting via telephone. Senior Planner Jonathan Garcia provided an overview of the formula fee calculation, reviewed the FORA Phase II CIP Review document, and distributed a draft staff report for the March 15th Board packet. The Committee received comments from members of the public and the development community. Several members of the development community expressed interest in meeting with the California Department of Fish and Wildlife, EPS, and FORA staff the following week. Staff agreed to coordinate a meeting.

MOTION: John Dunn moved, seconded by Carl Holm, to 1) present the item for information at the March 13, 2013 Board meeting, and 2) present the item for action at the April Board meeting.

MOTION PASSED: unanimous.

b. Master Resolution Correction

Mr. Houlemard presented the item to the Committee, noting that Authority Counsel was recommending a return to the pre-2010 Master Resolution Chapter 8 language for most items and that the affordable housing addition was still under discussion. Jane Haines addressed the Committee on behalf of the Sierra Club.

8. NEW BUSINESS

a. Consistency Determination: Seaside Local Coastal Program

Lisa Brinton, City of Seaside, presented the item to the Committee, providing an overview of the Seaside Local Coastal Program.

MOTION: Carl Holm moved, seconded by Elizabeth Caraker, to recommend Board concurrence in Seaside's determination of consistency with the FORA Base Reuse Plan.

MOTION PASSED: unanimous.

9. ITEMS FROM MEMBERS

Mr. Houlemard welcomed Lyle Shurtleff, BRAC Office, to his first Administrative Committee meeting as a representative for the U.S. Army.

10. ADJOURNMENT

Co-Chair Houlemard adjourned the meeting at 9:55 a.m.

*Minutes Prepared by:
Lena Spilman, Deputy Clerk*

Approved by:

Michael A. Houlemard, Jr., Executive Officer



Fort Ord Reuse Authority

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

Attachment B to Item 10b
FORA Board Meeting, 4/12/13

ADMINISTRATIVE COMMITTEE MEETING 8:15 A.M. WEDNESDAY, MARCH 20, 2013 920 2nd Avenue, Suite A, Marina CA 93933 (FORA Conference Room) MINUTES

APPROVED

1. CALL TO ORDER

Co-Chair Houlemard called the meeting to order at 8:18 a.m. The following were present, as indicated by signatures on the roll sheet:

Carl Holm, County of Monterey*
Elizabeth Caraker, City of Monterey*
Debby Platt, City of Marina*
John Dunn, City of Seaside*
Diana Ingersoll, City of Seaside
Anya Spear, CSUMB
Heidi Burch, City of Carmel
Vicki Nakamura, MPC
Patrick Breen, MCWD
Brian Lee, MCWD

Bill Collins, BRAC
Kathleen Lee, Office of Sup. Potter
Bob Schaffer
Scott Hilk, MCP
Crisand Giles, BIA Bay Area
Jack Stewart, UVC/CAC
Michael Groves, EMC Planning
Jane Haines
LeVonne Stone, Fort Ord
Environmental Justice League

FORA Staff:
Michael Houlemard
Steve Endsley
Jim Arnold
Jonathan Garcia
Darren McBain
Crissy Maras
Lena Spilman

* Voting Members

2. PLEDGE OF ALLEGIANCE

LeVonne Stone led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Co-Chair Houlemard distributed a letter received that morning from the Sierra Club regarding Category II of the Base Reuse Plan Reassessment.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MARCH 6, 2013 MEETING MINUTES

MOTION: Carl Holm moved, seconded by John Dunn, to approve the March 6, 2013 Administrative Committee meeting minutes, as presented.

MOTION PASSED: Unanimous.

6. MARCH 15, 2013 BOARD MEETING FOLLOW-UP

Co-Chair Houlemard provided an overview of the March 15, 2013 Board meeting. He distributed copies of both the Sierra Club Settlement Agreement and a March 19, 2013 letter from Sierra Club Legal Counsel regarding amendments to chapter 8 of the FORA Master Resolution.

7. OVERVIEW OF THE MARCH 22, 2013 SPECIAL BOARD MEETING/WORKSHOP

a. Format/Presentations

Associate Planner Darren McBain discussed the upcoming Board workshop and the staff recommendation for creation of an *ad-hoc* advisory committee to review the Base Reuse Plan Reassessment Category IV policy options.

b. April/May Workshop Impacts

Mr. McBain explained that if the Board concurred in staff's recommendation for the creation of an advisory committee, the previously anticipated April workshop would be rescheduled for May in order to allow the committee time to meet.

8. OLD BUSINESS

a. CIP Review – Phase II Study: FORA Fees Formula Calculation

Senior Planner Jonathan Garcia reviewed the draft tables included in the Committee packet and addressed comments/questions from members of the public.

9. NEW BUSINESS

None.

10. ITEMS FROM MEMBERS

None.

11. ADJOURNMENT

Co-Chair Houlemard adjourned the meeting at 9:46 a.m.

*Minutes Prepared by:
Lena Spilman, Deputy Clerk*

Approved by:

Michael A. Houlemard, Jr., Executive Officer

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Finance Committee	
Meeting Date: April 12, 2013	INFORMATION
Agenda Number: 10c	

RECOMMENDATION(S):

Receive minutes from the April 2, 2013 Finance Committee (FC) meeting.

BACKGROUND/DISCUSSION:

During the course and deliberations of the FC meeting held on April 2, 2013 FC members made considerable progress toward a recommendation to the Board on the form, detail and substance for the FY 13-14 preliminary budget. FORA staff anticipates that the FY 13-14 budget will be presented to Board for review on its May 2013 meeting as an Information/Action item once the FC completes its reviews. Final adoption may incur either in May or June 2013.

Please refer to the attached minutes (**Attachment A**) from this meeting for more details and the FC recommendations.

FISCAL IMPACT:

Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget.

COORDINATION:

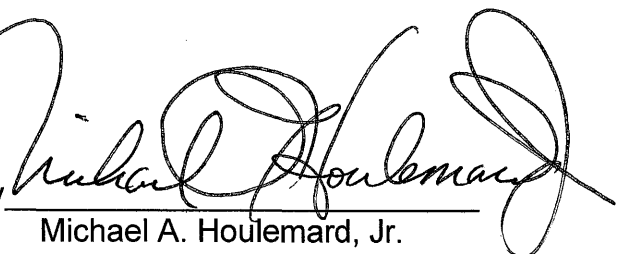
Finance Committee

Prepared by



Marcela Fridrich

Approved by



Michael A. Houlemard, Jr.



Fort Ord Reuse Authority

920 2nd Avenue, Suite A, Marina, CA 93933
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Finance Committee Meeting
Tuesday, April 2, 2013 at 2:00 pm

ACTION MINUTES

Present: Chair Bill Kampe, Members: Ian Oglesby, Graham Bice, Gail Morton
Absent: Nick Chiulos (excused)
Staff: Michael A. Houlemard, Jr., Steve Endsley, Ivana Bednarik, Marcela Fridrich

AGENDA

The Finance Committee (FC) discussed the following agenda items:

1. Roll Call
A quorum was achieved at 2:05 PM. Chair Kampe joined meeting at 2:13 PM.
2. Acknowledgements, Announcements, and Correspondence
Executive Officer Michael Houlemard informed FC members about the Community Facilities District/Capital Improvement Program developer fee formula calculation Administrative Committee discussion.
3. Public Comment Period
None
4. January 28, 2013 Minutes
Affirmed
5. FY 13-14 Preliminary Budget
FC Members received the draft FY 13-14 Preliminary budget tables prior to the meeting. Executive Officer Houlemard and Controller Bednarik described the listed revenues and expenditures on the *all funds combined* table. FC members discussed in detail the estimates for development fees and determined that 30% of jurisdictional forecasts should be listed in the budget. They further concurred in staff recommendation to defer listing potential Preston Park sale proceeds due to ongoing litigation. FC Members continued discussing expenditures concentrating on legal, Base Reuse Plan post-reassessment and environmental review, HCP consulting, capital projects and habitat management set aside costs. FC Members directed staff to make changes/adjustments in the following categories: 1) Salaries & Benefits – clarify that potential adjustments are not included in the budget, that increase in employer contribution to medical insurance includes dependents, provide a full year fiscal impact of salary step increases; 2) in the CIP category itemize Habitat Management set-aside on the separate line item with explanation about reserved funds and the current balance; 3) Itemize/break down the ending fund balance to display general fund balance. Motion by FC Member Gail Morton to recommend Board consideration of the draft budget as presented, subject to the above noted changes and additional information that will become available pending Board action at the April meeting; Second by FC Member Graham Bice.
6. 2013 Meeting Calendar
FC Members reviewed and finalized the 2013 meeting calendar. The next meeting is scheduled on April 25th, 2013 at 2:30 PM to continue discussing the FY 13-14 preliminary budget.
7. Adjournment
Meeting adjourned at 3:45 pm.

Minutes prepared by Marcela Fridrich.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Post-Reassessment Advisory Committee Report

Meeting Date: April 12, 2013

Agenda Number: 10d

INFORMATION

RECOMMENDATION:

Receive a report regarding the Post-Reassessment Advisory Committee.

BACKGROUND/DISCUSSION:

On March 22, 2013, at the second post-reassessment Board workshop, Chair Edelen appointed a seven-member Advisory Committee to explore policy options identified in the 2012 Reassessment Report. The Committee consists of Board members Beach, Edelen, Moore, Morton, Ochoa, Oglesby, and Parker. The Committee will hold noticed public meetings to develop action-item priority recommendations for the full Board's consideration at the next post-reassessment workshop.

The first scheduled Committee meeting will occur on Friday, April 5 at 1:30 PM at the FORA offices. Minutes from that meeting will be considered for approval at the next Committee meeting (date not yet determined).

FISCAL IMPACT:

Reviewed by the FORA Controller 

Staff time for the Committee is included in the approved annual budget.

COORDINATION:

Post-Reassessment Advisory Committee

Prepared by 

Darren McBain

Approved by 

Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Veterans Issues Advisory Committee

Meeting Date: April 12, 2013

Agenda Number: 10e

INFORMATION

RECOMMENDATION:

Receive a report from the Veterans Issues Oversight Committee ("VIAC").

BACKGROUND/DISCUSSION:

The VIAC met on March 28, 2013. The draft minutes from that meeting are attached (**Attachment A**).

FISCAL IMPACT:


Reviewed by FORA Controller 

Staff time for this item is included in the approved FY 12-13 budget.

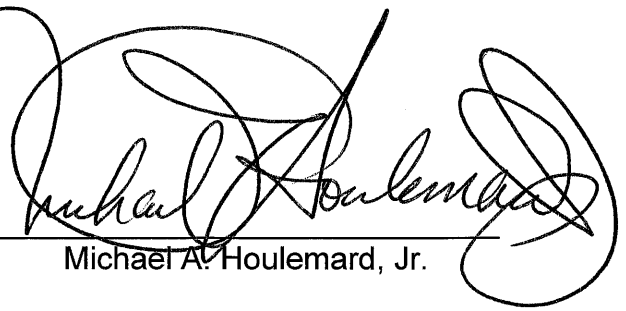
COORDINATION:

WWOC

Prepared by


Crissy Maras

Approved by


Michael A. Houlemard, Jr.



Fort Ord Reuse Authority

920 2nd Avenue, Ste. A, Marina, CA 93933

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VETERANS ISSUES ADVISORY COMMITTEE MEETING (VIAC)

2:00 PM Thursday, March 28, 2013

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

ACTION MINUTES

1. CALL TO ORDER AND ROLL CALL

Confirming a quorum, Acting Chair Greg Nakanishi (Chair Edelen was delayed due to flight cancellations) called the meeting to order at 2:05 p.m. Sid Williams led the Pledge of Allegiance.

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

a. Santa Cruz VFW Post Resolution in Support of the California Central Coast Veterans Cemetery

The Committee received the Santa Cruz VFW resolution, and a letter from the Monterey County Board of Supervisors supporting a bill related to the California Central Coast Veterans Cemetery was distributed.

3. PUBLIC COMMENT PERIOD

Jack Stewart asked if the Cemetery Advisory Committee could be represented on the Committee. Staff will research the possibility of adding members and report back at the next meeting.

4. NEW BUSINESS

a. Review of Committee Charge

The Committee reviewed the Charge and noted modifications: "Veterans Administration/ US Army Clinic" is changed to "Veterans Administration/ Department of Defense Clinic" and "processing these projects and others as assigned" is changed to "processing these projects and others related to veterans or military issues".

The Charge will be taken to the FORA Executive Committee for concurrence and then deemed established.

b. California Central Coast Veterans Cemetery

i. Receive Report on FORA Meetings with California Department of Veterans Affairs

Executive Officer Houlemard reported that meetings with the CA Department of Veterans Affairs (CDVA), CA Department of General Services (CDGS) and CA Department of Finance (CDF) were held in Sacramento on March 11 to determine how the State could be prepared to accept the transfer of the cemetery parcel. There was also discussion

regarding how FORA could contract with the CDVA on behalf of the State for the planning and construction of the cemetery.

Nicole Charles reported that there are four different State agencies involved in the process of getting the land transferred from FORA to the State. The meetings allowed these agencies to outline the process toward approval by an August 15th deadline. Congressman Farr has asked that all support this deadline to assure consideration of the capital grant in the current federal fiscal year.

Wes Morrell asked if UXO issues existed on-site. Executive Officer Houlemard responded that the US Environmental Protection Agency and the CA Department of Toxic Substances Control had issued letters declaring the parcel clean and ready for transfer and use as a cemetery. Both Monterey County and the City of Seaside have approved transfer to the State, but Seaside approved by an agreement. The FORA Board will be asked to approve the City of Seaside agreement at their April meeting.

Acting Chair Nakanishi asked about the \$30K fee required by the State to transfer the land. Executive Officer Houlemard noted that the fee is required for reimbursement of the time required to process and accept the land transfer. The Cemetery Foundation may be asked to pay the fee, which might be reimbursable as a project cost.

ii. State Burial Claim Reimbursements

The US Department of Veterans Affairs will reimburse the State for burial costs. The CDVA will base the reserve amount on the reimbursement rate.

c. Joint Army/VA Clinic – Status Report

The FORA Board approved the consistency determination this past December. The City of Marina conducted a Request for Proposals and is currently in the selection phase. The clinic is expected to open in about one year.

d. Approve 2013 Meeting Dates

Although the VIAC was originally expected to meet quarterly, some ramping up is anticipated, requiring monthly meetings in the beginning. Monthly meetings on the last Thursday of the month at 2:00 PM were suggested (with the exception of November and December). The Committee reviewed the suggested meeting dates and determined that the start time should change to 3:00 PM to accommodate committee members. Edith Johnsen made a motion to approve the suggested meeting dates, changing the start time from 2:00 to 3:00, and choosing December 19th as the preferred December date. Mr. Williams seconded the motion and it passed unanimously.

5. ITEMS FROM MEMBERS

a. Other items concerning the VIAC or Veteran Community

Ms. Johnsen requested the addition of a columbarium first phase and re-phasing to future agendas in order to think the process through and meet the needs of the community.

Mr. Williams noted that since the metes and bounds had been completed, it would be important to take all of the next steps in a timely way to help ensure the project can be found consistent by the FORA Board.

Mr. Williams provided a copy of the cemetery master plan to the US Army representative which anticipated the Army would provide water for the cemetery, in perpetuity, from the Army's allocation. Tom Moore noted that the permanent amount needed (a smaller amount) would be deducted from the Army's water allocation, not the amount necessary for the initial phase/ establishment (much larger). Chair Edelen said FORA staff would assemble a briefing for the command on the water issue and would research the previous Army agreement related to this request.

Mr. Williams noted a petition being circulated by the Fort Ord Access Alliance asking to designate several hundred acres of Fort Ord land as permanent open space.

6. **ADJOURNMENT**

The meeting was adjourned at 3:00 PM.

NEXT SCHEDULED MEETING: April 25, 2013

Action minutes prepared by Crissy Maras, FORA Grants and Contracts/Records Coordinator.

DRAFT

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Water/Wastewater Oversight Committee Report

Meeting Date: April 12, 2013

Agenda Number: 10f

INFORMATION

RECOMMENDATION:

Receive a report from the Water/Wastewater Oversight Committee ("WWOC").

BACKGROUND/DISCUSSION:

The WWOC met on March 20, 2013. The draft minutes from that meeting are attached (**Attachment A**).

FISCAL IMPACT:


Reviewed by FORA Controller 

Staff time for this item is included in the approved FY 12-13 budget.

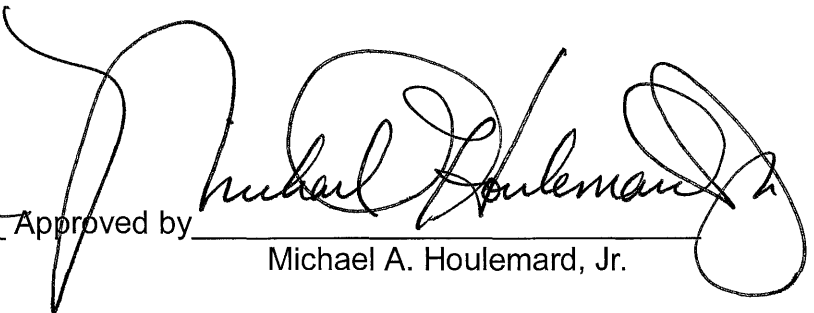
COORDINATION:

WWOC

Prepared by


Crissy Maras

Approved by


Michael A. Houlemard, Jr.



Fort Ord Reuse Authority

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

Attachment A to Item 10f
FORA Board Meeting, 4/12/13

WATER/WASTEWATER OVERSIGHT COMMITTEE MEETING

9:00 AM WEDNESDAY, MARCH 20, 2013

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

ACTION MINUTES

1. CALL TO ORDER AT 9:00 AM

Confirming a quorum, FORA Assistant Executive Officer Steve Endsley called the meeting to order at 10:00 AM. The following people, indicated by signatures on the roll sheet, attended:

Committee Members

Elizabeth Caraker, City of Monterey
Mike Lerch, CSUMB
Debby Platt, City of Marina
Carl Holm, Monterey County
Tim O'Halloran, City of Seaside

Bob Schaffer, MCP
Brian Lee, MCWD
Steve Endsley, FORA
Jim Arnold, FORA

Crissy Soares, FORA
Patrick Breen, MCWD
Jonathan Garcia, FORA
Crisand Giles, BIA

2. PUBLIC COMMENT PERIOD:None noted

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE:

MCWD Deputy General Manager/District Engineer Brian Lee reported that the MCWD Board workshop held Saturday February 23rd allowed staff to update new Board members on the water augmentation program.

4. APPROVAL OF MEETING MINUTES:February20, 2013

Carl Holm noted that he had attended the February meeting but was not listed in the minutes, and requested the minutes be revised to reflect his attendance. On a motion made by Mike Lerch, seconded by Mr. Holm, the minutes were approved as corrected.

5. OLD BUSINESS

a. Ord Community annexation – Update

MCWD filed a sphere of influence application with LAFCO for all developable land on Fort Ord. MCWD expects to have the sphere of influence by late 2013/early 2014. Working with LAFCO, MCWD wants to ensure that separate cost centers are memorialized in the annexation to protect their rate payers. Annexation will allow Ord Community residents to vote and be on the Board, but initial legal opinion is unclear as to authority to expand district. The Seaside County Sanitation District has been directed to annex their Fort Ord land. They are currently determining what they will seek to annex. If conflict arises, that would have to be negotiated by Seaside County Sanitation and MCWD.

b. Ord Community Budgets and Rates – Schedule meetings

MCWD is currently conducting a rate study and associated Prop 218 process. An updated budget and rate package will not be ready for Board review until August or September. On a motion made by Mr. Holm and seconded by Debby Platt, the meeting schedule was set to follow the second Administrative Committee meeting of each month.

c. Ord Community Capital Improvement Projects

MCWD will work closely with the WWOC to ensure capital projects are correctly placed based on timing and need. At the last MCWD Board meeting, the Board cancelled their desalination plant design contract with Marina Water Alliance. Current estimates show that a 180 unit per-year absorption rate (based on FORA's current CIP Phase II study) can support using groundwater for the foreseeable future. A more aggressive build-out would alter this assumption. A desalination plant would be very expensive to

construct and if it's not needed within the next several years, would deteriorate rapidly. FORA Senior Project Manager Jim Arnold gave a thorough explanation of the desalination process, which committee members appreciated.

At this time, none of the Fort Ord developments have agreed to take reclaimed water. MCWD negotiations with MRWPCA need to continue in order to provide the land use jurisdictions with the cost of the water. Committee members stated that they would not be in a position to agree to reclaimed water until the cost is known.

6. NEW BUSINESS– none

7. ADJOURNMENT

The meeting was adjourned at 11:20 AM.

Minutes prepared by Crissy Maras, Grants and Contracts Coordinator

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Habitat Conservation Plan Update

Meeting Date: April 12, 2013

Agenda Number: 10g

INFORMATION

RECOMMENDATION(S):

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

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority ("FORA"), with the support of its member jurisdictions and ICF International (formerly Jones & Stokes), FORA's HCP consultant, is on a path to receive approval of a completed basewide HCP and 2081 permit in 2014, concluding with US Fish and Wildlife Service ("USFWS") and California Department of Fish and Wildlife ("CDFW") (formerly known as California Department of Fish and Game) issuing federal and state permits.

Most recently, FORA received comments on the Administrative Draft HCP from USFWS in July 2012 and CDFW staff in August 2012, and held in-person meetings on October 30 and 31, 2012 to discuss specific comments; however, a legal review by these wildlife agencies is not yet complete and several policy-level issues must be resolved between CDFW and BLM, CDFW and State Parks/UC before a public review draft can be issued. **Update:** After meeting with CDFW Chief Deputy Director Kevin Hunting on January 30, 2013, FORA was told that CDFW and BLM assurances issues require a Memorandum of Understanding ("MOU") between CDFW and BLM, resulting in an estimated additional timeframe of six months, the most protracted issue. According to CDFW, final approval of an endowment holder no longer rests with CDFW (due to passage of SB 1094 [Kehoe]). However, CDFW must review the anticipated payout rate of the HCP endowment holder to verify if the rate assumption is feasible. CDFW has outlined a process for FORA and the other permit applicants to identify CDFW's HCP endowment funding requirements over the next year. FORA has engaged Economic and Planning Systems ("EPS") to initiate this process. Other policy issues and completion of the screencheck draft HCP should be completed in less than six months. If the current schedule can be maintained, FORA staff expects a Public Draft HCP available for public review in November 2013. The current HCP schedule is included as Attachment A.

FISCAL IMPACT:

Reviewed by FORA Controller 

ICF and Denise Duffy and Associates' (FORA's/USFWS's NEPA/CEQA consultant) contracts have been funded through FORA's annual budgets to accomplish HCP preparation and environmental review. EPS's contract has been funded through FORA's annual budgets to accomplish Capital Improve Program Review, including review of HCP funding requirements. Staff time for this item is included in the approved FORA budget.

COORDINATION:

Executive Committee, Administrative Committee, Legislative Committee, HCP working group, FORA Jurisdictions, USFWS, CDFW, ICF, Denise Duffy & Associates, EPS, UC Natural Reserve System, State Parks, and Bureau of Land Management.

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

Approved by Michael A. Houlemard, Jr.
Michael A. Houlemard, Jr.

Table 1. Schedule for Installation-Wide Multispecies Habitat Conservation Plan for Former Fort Ord, CA

Key: Document Preparation
 Meetings
 Review Periods
 Notice prep/publish
 Final Approval Steps

Attachment A to Item 10g
 FORA Board Meeting, 4/12/13

Status	2012												2013												2014													
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D		
HCP																																						
1 Draft Pre-Public HCP	Done																																					
2 Key Issue Resolution status updates	Done																																					
3 Wildlife Agency and Working Group Review Period (8 wk)																																						
4 Meetings to Identify Key Issues																																						
5 Bi-weekly meetings (as necessary) with Wildlife Agencies, FORA, and Working Group Members to check-in or resolve outstanding issues																																						
6 Prepare 3rd Admin Draft HCP	Done																																					
7 Review 3rd Admin Draft HCP (Permit Applicants and BLM only)	Done																																					
8 Revise 3rd Admin Draft HCP	Done																																					
9 Review 3rd Admin Draft HCP (Permit Applicants, BLM, Wildlife Agencies)	Done																																					
10 Prepare Screen-check Draft HCP																																						
11 Review Screen-check Draft HCP (Wildlife Agencies)																																						
12 Prepare Public Draft HCP																																						
13 Prepare and publish Notice in Federal Register for HCP, EIS, IA																																						
14 Public/Agencies Review Period (90 days)																																						
15 Prepare Final HCP																																						
16 See Approval process steps																																						

Table 1. (Continued)

Key: [Redacted]
Document Preparation
Meetings
Review Periods
Notice prep/publish
Final Approval Steps

Attachment A to Item 10g
FORA Board Meeting, 4/12/13

EIR/EIS	Status	2012												2013												2014														
		J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D			
1 Prepare 1st Admin Draft EIS/EIR	Done	■	■	■	■																																			
2 Review Period			■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■																			
3 Prepare 2nd Admin Draft EIS/EIR														■	■	■	■	■	■	■	■																			
4 Solicitor review																			■	■	■																			
5 Prepare Public Review EIS/EIR																				■	■																			
6 Prepare and publish Notice of Availability in Federal Register (see HCP-7 above)																				■	■																			
7 Prepare and publish CEQA Notice of Availability (1 - 2 months)																				■	■																			
8 Public/Agencies Review Period (90 days)																				■	■	■																		
9 Respond to public comments/Prepare 1st Admin Draft Final EIS/EIR																				■	■																			
10 Review Period																				■	■																			
11 Prepare Final Public Draft EIS/EIR - clear for publication																					■	■																		
12 Publish Notice of Final EIS, HCP and IA Availability in Federal Register - 30 day comment period																					■	■																		
13 Publish CEQA Notice of Determination - Permit Applicants - 30 day challenge period																						■	■																	
14 CEQA Notice of Determination--CDFG - 30 day challenge period																							■	■																
15 See Approval Process steps																								■	■															
16 Federal Prep and Pub of Record of Decision (ROD) - 30 day wait period																									■	■														
17 See Approval Process steps																										■	■													

Table 1. (Continued)

Key: Document Preparation
 Meetings
 Review Periods
 Notice prep/publish
 Final Approval Steps

Attachment A to Item 10g
FORA Board Meeting, 4/12/13

Status	2012												2013												2014																
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D					
Implementing Agreement																																									
1 Prepare 2nd Admin Draft IA	Done																																								
2 Wildlife Agency and Working Group Review Period	Done																																								
7 Prepare 3rd Admin Draft IA	Done																																								
8 Review 3rd Admin Draft IA (Permit Applicants and BLM only)	Done																																								
9 Respond to comments	Done		█	█	█																																				
10 Review 3rd Admin Draft IA (Permit Applicants, BLM, Wildlife Agencies)	Done			█	█	█	█	█	█	█	█																														
11 Prepare Screen-check Draft IA												█	█	█	█	█	█																								
12 Review Screen-check Draft IA (Wildlife Agencies)													█												█	█	█														
13 Prepare Public Draft IA																█	█	█																							
14 Prepare and publish Notice of Availability in Federal Register (see HCP-12 above)																	█												█												
15 Public/Agencies Review period (90 days)																	█	█	█																						
16 Prepare Final IA																				█	█	█	█																		
17 See Approval Process steps																																									
Approval Process																																									
1 Permit Applicants and BLM Approval of Final Plan, Final EIR/EIS and Final IA																								█	█																
2 Establish Implementing Entity																								█																	
3 Implementing Entity approves Final Plan. EIR/EIS and Implementing Agreement																								█																	
4 See EIR/EIS steps 11, 12 and 13																																									
5 Local Agencies Adopt Imp Ordinances																								█	█	█															
6 Wildlife Agencies Approval of Plan, EIR and EIS and IA																								█	█	█	█														
7 FG Findings Preparation																								█	█	█	█														
8 FWS Findings/Biological Opinion																								█	█	█	█														
9 Permits Issued by FWS																								█	█	█	█														
10 Permits issued by CDFG																								█	█	█	█														

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Travel Report

Meeting Date: April 12, 2013

Agenda Number: 10h

INFORMATION

RECOMMENDATION(S):

Receive an informational travel report from the Executive Officer.

BACKGROUND:

The Executive Officer regularly submits reports to the Executive Committee providing details of his travel requests, including those by the Fort Ord Reuse Authority ("FORA") staff and Board members. 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, and the travel information is reported to the Board as an informational item.

Completed Travel

Destination: Washington, D.C.

Date: February 26-27, 2013

Purpose: Principal Analyst Robert Norris serves on the Board of Directors for the National Coalition for Homeless Veterans and is the staff liaison to the FORA Veterans Issues Advisory Committee. Mr. Norris recently attended a National Coalition for Homeless Veterans Board of Directors Meeting in Washington D.C. This two-day session was attended by the Assistant Secretary of Veteran's Affairs, the Director of Homeless Programs for Veterans Affairs, the Assistant Secretary for the Department of Labor, representatives from the Department of Urban Development, and others. The sessions focused on the development and implementation of effective programs to provide employment opportunities, affordable housing, bureaucratic assistance, and local support for homeless veterans. Mr. Norris covered all travel related expenses for this trip.

Upcoming Travel

Destination: Sacramento, CA

Date: April 2013 (Tentative)

Purpose: The Executive Committee approved Executive Officer Houlemard, Senior Planner Jonathan Garcia, and two members of the Legislative Committee, as schedules permit, to travel to Sacramento for the purpose of conducting follow-up meetings with CDGS, CDFW, and CDVA. These meetings were tentatively scheduled for March 20-21, 2013. Due to scheduling conflicts, these meetings were postponed and have been tentatively rescheduled for the end of April.

FISCAL IMPACT:


Reviewed by FORA Controller 

Staff time for this item was included in the approved annual budget. Travel expenses are reimbursed according to the FORA Travel Policy.

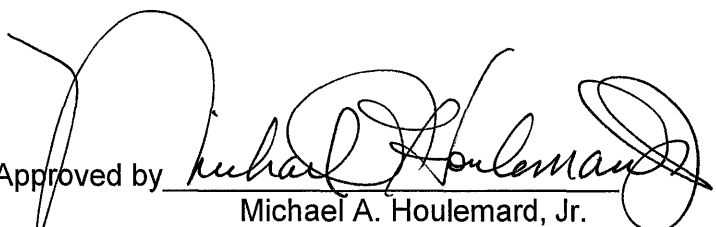
COORDINATION:

Executive Committee

Prepared by


Lena Spilman

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Public Correspondence to the Board

Meeting Date: April 12, 2013

Agenda Number: 10i

INFORMATION

Public correspondence submitted to the Board is posted to FORA's website on a monthly basis and is available to view at <http://www.fora.org/Board/PublicComm.html>.

Correspondence may be submitted to the Board via email to board@fora.org or mailed to the address below:

FORA Board of Directors
920 2nd Avenue, Suite A
Marina, CA 93933