



FORT ORD REUSE AUTHORITY

SPECIAL MEETING

FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS

Friday, September 28, 2018 at 2:00 p.m. | 910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON SEPTEMBER 27, 2018.

1. CALL TO ORDER

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

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

4. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Keep Fort Ord Wild v. Fort Ord Reuse Authority. Monterey County Superior Court Case No.: 17CV004540, Pending Litigation.
- b. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Marina Community Partners, LLC v. Fort Ord Reuse Authority, Monterey County Superior Court Case No.: 18CV000871, Pending Litigation.
- c. Conference with Legal Counsel - Potential Litigation, Gov. Code §54956.9(d)(4)

5. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

6. ROLL CALL

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

7. CONSENT AGENDA

INFORMATION/ACTION

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

- a. Approve August 10, 2018 Meeting Minutes
Recommendation: Approve August 10, 2018 meeting minutes.
- b. Administrative Committee
Recommendation: Receive a report from the Administrative Committee.
- c. Legislative Committee
Recommendation: Receive a report from the Legislative Committee.
- d. Executive Officer's Report
Recommendation: Receive a report and the Board approved Executive Officer's fiscal year 2018-2019 goals.
- e. Economic Development Report
Recommendation: Receive an Economic Development Report.
- f. Public Correspondence to the Board
Recommendation: Receive public correspondence to the Board.

8. BUSINESS ITEMS

INFORMATION/ACTION

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

- a. Consistency Determination (CD): City of Seaside Zoning Code – 2d Vote
Recommendation: Take a 2nd vote to approve the City of Seaside Zoning Code CD.
- b. Building Removal Program – 2d Vote
Recommendation: Take a 2nd vote to complete remaining base wide building removal.
- c. University of California (UC) Monterey Bay Education, Science and Technology Center Update
Recommendation: Receive an UC Monterey Bay Education, Science, and Technology Center update from UC Santa Cruz Chancellor George Blumenthal.
- d. Regional Urban Water Augmentation Project
Recommendation: Authorize the Executive Officer to execute a Reimbursement Agreement with Monterey One Water for the shared pipeline facilities not to exceed \$2.3M in Fiscal Year 2018-2019 for the M1W share of the New Pipeline Facilities.
- e. Transition Planning Process Update
Recommendation:
 1. Review attached Transition Plan resolution;
 2. Provide direction to staff on Local Agency Formation Commission jurisdiction issue to either:
 - a) Reach Agreements on all matters of assignment and succession prior to December 1, 2018 and well in advance of the June 30, 2020 statutory sunset; and/or
 - b) Secure any needed legislative amendment/clarification; and/or
 - c) Seek Court interpretation (i.e. declaratory relief) of authority/jurisdiction question.
 3. Provide direction to staff about Community Facilities District/Capital Improvement Program financing issue and any related legislative action requests needed to implement an approved transition plan.
 4. Provide direction to staff on the likely successor (either the City of Seaside or the County of Monterey) to the Environmental Services Cooperative Agreement contract and its associated contractual obligations and assets.
 5. Provide direction to staff on policy and/or other revisions to the Transition Plan and/or consider adoption;
 6. Take other actions as may be required to comply with state law requiring submitting a Transition Plan (based on the approved resolution) to LAFCO by December 2018.
 - a) Authorize the Executive Officer to prepare and execute the LAFCO Indemnification Agreement;
 - b) Authorize the Executive Officer to submit an approved Transition Plan to LAFCO;
 - c) Direct staff to begin working with all the jurisdictions on approved Transition Plan Implementation Agreements and return to report in January 2019 with status on Implementation Agreements;
 - d) Direct staff to work with Senator Monning to implement components or alternatives to items as approved in the Transition Plan.

9. PUBLIC COMMENT PERIOD

INFORMATION

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

10. ITEMS FROM MEMBERS

INFORMATION

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

11. ADJOURNMENT

NEXT REGULAR MEETING: October 12, 2018 AT 2:00 P.M.

Persons seeking disability related accommodations should contact FORA 48 hours prior to the meeting. This meeting is recorded by Access Monterey Peninsula and televised Sundays at 9 a.m. and 1 p.m. on Marina/Peninsula Channel 25. The video and meeting materials are available online at www.fora.org.



FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS REGULAR MEETING MINUTES
2:00 p.m., Friday, August 10, 2018 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Monterey County Supervisor John Phillips.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Michael Houlemard announced the following:

- Tuesday, August 14 at 10:00 a.m. - FORA Executive Committee Special meeting
- Friday, August 17 - FORA office closed for Staff Retreat
- Friday, August 17 at 1:00 p.m. - Castroville Seawater Intrusion Project Celebration
- Friday, August 24 at 1:00 p.m. - FORA Legislative Committee meeting
- Possible lack of quorum at the September regular Board meeting, due to the League of California Cities Annual Conference & Expo (9/12-9/14) in Long Beach. The Executive Officer asked Board members to consider their schedules and availability. It was determined that the September Board meeting would be rescheduled for September 28.

These announcement details and more can be found at www.fora.org

4. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Keep Fort Ord Wild v. Fort Ord Reuse Authority. Monterey County Superior Court Case No.: 17CV004540, Pending Litigation.
- b. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Marina Community Partners, LLC v. Fort Ord Reuse Authority, Monterey County Superior Court Case No.: 18CV000871, Pending Litigation.
- c. Conference with Legal Counsel - Potential Litigation, Gov. Code §54956.9(d)(4)
- d. Conference with Real Property Negotiators Gov. Code §54956.8
Property: Environmental Services Cooperative Agreement
Agency Negotiators: Michael A. Houlemard, Jr. (FORA) and Barry Steinberg (U.S. Army)
Negotiating Parties: Fort Ord Reuse Authority and United States Army
Under Negotiation: Amendment Terms
- e. Public Employment, Gov. Code §54959.7(b) - Executive Officer Evaluation

Time Entered: 2:08 p.m.

Time Exited: 2:47 p.m.

5. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Authority Counsel Jon Giffen announced there was no action to report on items 4a – 4d; and the Board accepted the Executive Officer's FY 2018-19 goals and self-evaluation.

Chair Rubio announced the City of Seaside would host a Building Removal Kick-Off event on September 5.

6. ROLL CALL

Voting Members Present:

Mayor Ralph Rubio (City of Seaside), Supervisor Mary Adams (Monterey County) *departed at 3:31 p.m.*, Supervisor Jane Parker (Monterey County), Supervisor John Phillips (Monterey County), Councilmember Dennis Alexander (City of Seaside), Mayor Mary Ann Carbone (City of Sand City), Mayor Jerry Edelen (City of Del Rey Oaks), Councilmember Frank O'Connell (City of Marina), Mayor Joe Gunter (City of Salinas), Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Gail Morton (City of Marina), Councilmember Jan Reimers (City of Carmel-by-the-sea), Councilmember Alan Haffa (City of Monterey)

Ex-officio (Non-Voting) Board Members Present:

Kathleen Lee (20TH Congressional), Nicole Hollingsworth (17th State Senate), Erica Parker (29th State Assembly), Dr. P.K. Diffenbaugh (MPUSD), Steve Matarazzo (UCSC), Andre Lewis (CSUMB), Col. Gregory Ford (US Army), Bill Collins (BRAC), Dr. Walter Tribley (MPC), Lisa Rheinheimer (MST), Jan Shriner (MCWD).

7. CONSENT AGENDA

- a. Approve July 13, 2018 Meeting Minutes
- b. Administrative Committee
- c. Veterans Issues Advisory Committee
- d. Prevailing Wage Status Report
- e. Fiscal Year 2017-18 Annual Report
- f. Transition Planning Process Update
- g. Public Correspondence to the Board

Chair Rubio introduced the consent agenda items and asked Board members to make their request for any items to be pulled. Board member Parker requested to pull item 7a for corrections. Board member Morton requested to pull item 7f for further discussion. Chair Rubio indicated that items pulled for further discussion are typically placed at the end of the business items and was requested by a Board member to do so. Public comment was received and it was requested that the public be allowed to comment on the item prior to the business items. In response to the public comment and considering the absence of the Board member with the request, the Chair allowed the item to be discussed.

Motion: On motion by Board member Parker, and second by Board member O'Connell and carried by the following vote, the Board moved to approve the consent agenda items 7a-7e and 7g.

MOTION PASSED UNANIMOUSLY

In response to item 7f – Transition Planning Process Update being pulled, Executive Officer Michael Houlemard introduced the item and advised the Board that the item was intended for information only. Risk Manager Sheri Damon provided a brief presentation and review of the item. Staff responded to questions and comments from the Board. Public comment was received. Board member Parker recommended that the item be accepted as an information item, without a vote. The Board agreed. Board member Garfield recommended that the Administrative Committee report on a method for keeping track of work being done by staff in different jurisdictions regarding transition planning.

8. BUSINESS ITEM

- a. Service Work Order for General Jim Moore Boulevard – 2d Vote

Principal Planner Jonathan Brinkmann presented the item and restated the second vote motion. Public comment was received. Staff responded to questions/comments from the Board and public.

MOTION (2d Vote): On motion by Board member Phillips and second by Board member Gunter and carried by the following vote, the Board moved to authorize the Executive Officer to execute Service Work Order (SWO) W5 to the Whitson Engineers Master Services Agreement No. FC-20171117 for the preparation of planning, specification and estimates for the General Jim Moore Boulevard and South Boundary Road intersection, not to exceed \$209,965.

Roll Call Vote: (10 Ayes; 2 No)

Item 8b: Motion			
Director Parker	Aye	Director Rubio	Aye
Director Phillips	Aye	Director Alexander	Aye
Director Adams	Absent	Director Carbone	Aye
Director Edelen	Aye	Director Gunter	Aye
Director O'Connell	No	Director Garfield	Aye
Director Morton	No	Director Reimers	Aye
Director Haffa	Aye		

b. Consistency Determination: City of Marina Municipal Airport Master Plan Update

Mr. Houlemard introduced the item and advised the Board and public that the item was found to be consistent with the Fort Ord Base Reuse Plan by the Planners Working Group, FORA Administrative Committee and the Airport Land Use Commission (ALUC). FORA Board and ALUC member Gunter provided comments regarding the item.

Marina Municipal Airport Manager Jeff Crechriou provided a presentation and Marina Planning Services Manager, Christy Hopper provided information and responded to questions and comments from the Board. Mr. Brinkmann also provided a presentation to the Board that reviewed the consistency and responded to questions and comments from the Board. There was no public comment received.

MOTION: On motion by Board member Edelen and second by Board member Parker and carried by the following vote, the Board moved to approve Resolution 18-XX certifying City of Marina's 2018 Municipal Airport Master Plan Update consistent with the Fort Ord Reuse Plan.

MOTION PASSED UNANIMOUSLY

c. Consistency Determination: City of Seaside Zoning Code

Mr. Houlemard introduced the item and Mr. Brinkmann provided a presentation that reviewed the consistency criteria and indicated that the item was deemed consistent with the Fort Ord Base Reuse Plan by the Planners Working Group and the FORA Administrative Committee.

City of Seaside Economic Development Manager Kurt Overmeyer provided further background information and responded to questions and comments from the Board. Public comment was received. The Board discussed the item and received a motion; Chair Rubio asked for a roll call vote.

MOTION: On motion by Board member Gunter and second by Board member Alexander and carried by the following vote, the Board moved to approve Resolution 18-XX certifying City of Seaside's Zoning Code consistent with the Fort Ord Reuse Plan.

Roll Call Vote: (10 Ayes; 2 No)

Item 8c: Motion			
Director Parker	No	Director Rubio	Aye
Director Phillips	Aye	Director Alexander	Aye
Director Adams	Absent	Director Carbone	Aye
Director Edelen	Aye	Director Gunter	Aye
Director O'Connell	Aye	Director Garfield	Aye
Director Morton	No	Director Reimers	Aye
Director Haffa	Aye		

A second vote will be taken on the item at the September 28, 2018 meeting. Board members Gunter and Phillips departed the meeting at 4:42 p.m.

d. Building Removal Program

Mr. Brinkmann provided a presentation and responded to questions and comments from the Board. Public comment was received.

MOTION: On motion by Board member Garfield and second by Board member Edelen and carried by the following vote the Board moved to direct the Executive Officer to seek and make effort to obtain an opinion/response letter from the Department of Finance as to the Board's action to authorize the Executive Officer to solicit and execute service contracts for a financial advisor and bond counsel to explore the feasibility of bonding FORA property tax to complete remaining base wide building removal, in an amount not to exceed \$75,000.

A friendly amendment that proposed the Executive Officer obtain an opinion letter from the Department of Finance prior to Board action, with assistance from Senator Monning and/or Assemblymember Stone's office was denied.

Ayes: Edelen, O'Connell, Morton, Haffa, Rubio, Alexander, Carbone, Garfield, Reimers
Noes: Parker

A second vote will be taken on the item at the September 28, 2018 meeting. Chair Rubio called for a motion to extend the meeting beyond 5:00 p.m.

MOTION: On motion by Board member O'Connell and second by Board member Morton and carried by the following vote, the Board moved to hear public comment and adjourn the meeting.

e. Habitat Conservation Plan Update

This item will be continued to another Board meeting.

9. PUBLIC COMMENT

There were no comments from the public.

10. ITEMS FROM MEMBERS

There were no items from members.

11. ADJOURNMENT at 5:16 p.m.

Minutes Prepared by:
Dominique L. Davis
Deputy Clerk

Approved by:

Michael A. Houlemard, Jr.
Executive Officer

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Administrative Committee

Meeting Date: September 28, 2018

Agenda Number: 7b

INFORMATION/ACTION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The Administrative Committee held a Special meeting on July 18, 2018 and a regular meeting on August 1, 2018. The approved minutes for these meetings are provided as **Attachment A** and **B**.

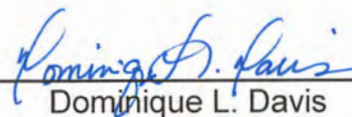
FISCAL IMPACT:

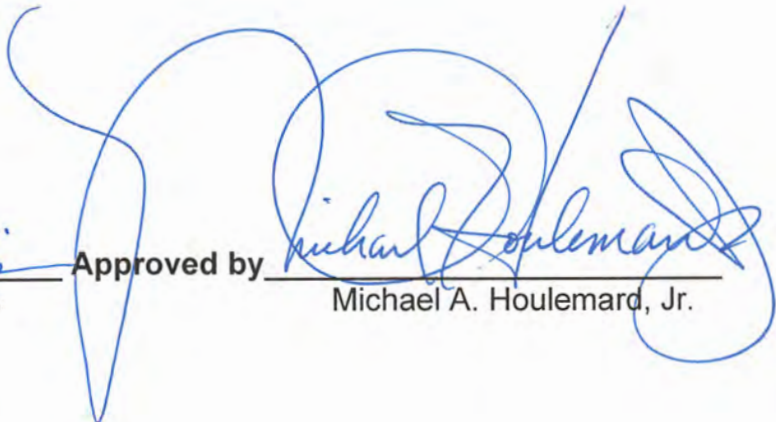
Reviewed by the FORA Controller 

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

COORDINATION:

Administrative Committee

Prepared by 
Dominique L. Davis

Approved by 
Michael A. Houlemard, Jr.



APPROVED

FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE SPECIAL MEETING MINUTES
8:30 a.m., Wednesday, July 18, 2018 | FORA Conference Room
920nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Executive Officer Michael Houlemard called the meeting to order at 8:33 a.m.

The following members were present:

Craig Malin* (City of Seaside)

Steve Matarazzo (UCMBEST)

Hans Uslar* (City of Monterey)

Bill Collins (US Army)

Dino Pick* (City of Del Rey Oaks)

Anya Spear (CSUMB)

Layne Long* (City of Marina)

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Jon Wizard.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Executive Officer Michael Houlemard reported on the US Army Community Involvement Mobile Workshop that was held on July 14, 2018. U.S. Army Base Closure and Realignment Environmental Coordinator Bill Collins added that there were about 175 participants and the next tour is scheduled for February 2019 and will focus on water and landfills.

4. PUBLIC COMMENT PERIOD

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

There were no public comments received.

5. APPROVAL OF MEETING MINUTES

ACTION

a. July 11, 2018 Special Meeting Minutes

MOTION: On motion by Committee member Pick and second by Committee member Uslar and carried by the following vote, the Administrative Committee moved to approve the July 11, 2018 special meeting minutes.

MOTION PASSED UNANIMOUSLY

6. JULY 13, 2018 TRANSITION PLANNING STUDY SESSION FOLLOW-UP

INFORMATION

Assistant Executive Officer Steve Endsley provided an overview of the study session and advised the Committee to coordinate with their elected officials in regards to the transition plans and what that might mean for each jurisdiction. Mr. Houlemard also provided comments and responded to questions and comments from the Committee and public.

Committee member Layne Long arrived at 8:42 a.m. There was no public comment received.

This item was for information only.

7. JULY 13, 2018 BOARD MEETING FOLLOW-UP

INFORMATION

Mr. Houlemard provided a brief overview of the action taken at the July 13, 2018 Board meeting and reviewed the discussion surrounding the Service Work Order for General Jim Moore Boulevard and the second vote that will take place at the August 10, 2018 Board meeting. Comments from the Committee and public were received.

This item was for information only.

8. BUSINESS ITEMS

INFORMATION/ACTION

a. Building Removal Updates

Principal Planner Jonathan Brinkmann introduced Project Manager Peter Said whom provided updates on recent building removal activity. A brief background was provided which reviewed the 2017 Capital Improvement Program (CIP) updated that estimated the budget for the Stockade at \$4.2M. The Surplus II and Marina Stockade timeline was also reviewed. Staff responded to questions and comments from the Committee and the public.

A vote was not taken on this item.

b. Department of Toxic Substances Control Annual Land Use Covenant Reporting

Mr. Brinkmann reviewed the land use covenant agreement item and reminded the Committee of the survey due date of September 28, 2018. Mr. Houlemard also provided comments and reminded that the County would have to take on the responsibility of transmitting the reports to DTSC in 2020.

This item was for information only.

9. ITEMS FROM MEMBERS

City of Marina City Manager Layne Long sought clarification on eligible activities that would allow CFD fees to be used on building removal. Mr. Houlemard responded to questions and comments from the Committee and the public.

10. ADJOURNMENT at 9:11 a.m.

Minutes Prepared By:
Dominique Jones
Deputy Clerk



APPROVED

FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE SPECIAL MEETING MINUTES
8:30 a.m., Wednesday, August 1, 2018 | FORA Conference Room
920nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair City of Seaside City Manager Craig Malin called the meeting to order at 8:31 a.m.

The following members were present:

Craig Malin* (City of Seaside)

Hans Uslar* (City of Monterey)

Dino Pick* (City of Del Rey Oaks)

Layne Long* (City of Marina)

Elizabeth Caraker (City of Monterey)

Melanie Beretti* (County of Monterey)

Vicki Nakamura (Monterey Peninsula College)

Patrick Breen (Marina Coast Water District)

Steve Matarazzo (UCMBEST)

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mr. Malin.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Mr. Malin advised the Committee and public to review the revised Administrative Committee meeting calendar. The revised dates included regular meetings on October 31, November 14, December 5 and December 19 2018.

Executive Officer Michael Houlemard announced that the FORA office would be closed on Friday, August 17 for a staff retreat.

4. PUBLIC COMMENT PERIOD

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

There were no public comments received.

5. APPROVAL OF MEETING MINUTES

ACTION

a. July 18, 2018 Special Meeting Minutes

MOTION: On motion by Committee member Pick and second by Committee member Beretti and carried by the following vote, the Administrative Committee moved to approve the July 18, 2018 special meeting minutes.

MOTION PASSED UNANIMOUSLY

Committee member Layne Long arrived at 8:34 a.m. Committee member Uslar arrived at 8:36 a.m.

6. AUGUST 10, 2018 DRAFT BOARD MEETING AGENDA REVIEW

INFORMATION

Mr. Houlemard provided an overview of the items on the draft August 10, 2018 Board meeting agenda and responded to questions and comments from the Committee and public. Assistant Executive Officer Steve Endsley provided further information on the Habitat Conservation Plan (HCP) Update item. Mr. Houlemard reviewed the options that would be reviewed in the Board discussion on the HCP item. The Committee discussed suggested changes to the agenda which included but were not limited to moving the Transition Planning Process Update to the last business item; making the Administrative Committees recommendations regarding the building removal programs clear to the Board, in regards to

the outreach that is planned for each jurisdiction; and adding a fourth option to the HCP options with a consensus from the Committee to host a HCP workshop to further discuss and explore the topic.

7. BUSINESS ITEMS

INFORMATION/ACTION

a. Building Removal Program

Principal Planner Jonathan Brinkmann provided a presentation on the Building Removal Program and responded to questions and comments from the Committee and public. The presentation reviewed the remaining buildings, financing plan, cost/benefit analysis, policy/decision maker's recommendation.

Based on the discussion, it was recommended that the Administrative Committee recommend that the Board authorize the Executive Officer to solicit and execute service contracts for a Financial Advisor and Bond Counsel to explore the feasibility of bonding FORA property tax to complete remaining base-wide building removal, not to exceed \$75,000.

b. Consistency Determination: Marina Municipal Airport Master Plan Update

Mr. Houlemard introduced the item and advised the Committee that the Planners Working Group met and made a recommendation that found the Marina Municipal Airport Master Plan update as consistent with the Base Reuse Plan. Marina Municipal Airport Manager Jeff Crechriou provided a presentation to the Committee that reviewed the process in developing the Master Plan and the results. Marina Planning Services Manager, Christy Hopper was also available to answer any questions on the planning and CEQA process.

Questions and comments were received from the Committee and public.

MOTION: On motion by Committee member Pick and second by Committee member Beretti and carried by the following vote, the Administrative Committee moved that the Marina Municipal Airport Master Plan as consistent with the Base Reuse Plan.

MOTION PASSED UNANIMOUSLY

c. Consistency Determination: City of Seaside Zoning Code

Mr. Malin provided some background information regarding the City of Seaside Zoning Code consistency determination. Mr. Brinkmann provided a brief synopsis of the consistency determination analysis.

Questions and comments were received from the Committee and public.

MOTION: On motion by Committee member Uslar and second by Committee member Pick and carried by the following vote, the Administrative Committee moved that the City of Seaside Zoning Code was consistent with the Base Reuse Plan.

MOTION PASSED ABSTAIN: Malin

8. ITEMS FROM MEMBERS

There were no items from members.

9. ADJOURNMENT at 9:55 a.m.

Minutes Prepared By:
Dominique Jones
Deputy Clerk

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Legislative Committee

Meeting Date: September 28, 2018

Agenda Number: 7c

INFORMATION/ACTION

RECOMMENDATION:

Receive a report from the Legislative Committee.

BACKGROUND/DISCUSSION:

The Legislative Committee met on August 24, 2018 and approved the May 23, 2018 meeting minutes (**Attachment A**).

A report of the 2018 Bill List from Assembly Member Mark Stone 29th State Assembly District was provided by Field Representative Erica Parker (**Attachment B**).

The Committee received updates and a status of the 2018 FORA Legislative track, the 2018 proposed positions on State legislation including Senate Bills 50 and 1.

The Committee also provided staff with direction to write a letter of support to California Governor Jerry Brown for Senate Bill 50 and also to indicate FORA's position of opposition of Senate Bill 1.

The next Legislative Committee meeting is slated for winter 2018.

FISCAL IMPACT:

Reviewed by the FORA Controller 

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

COORDINATION:

Legislative Committee

Prepared by 
Dominique L. Davis

Approved by 
Michael A. Houlemard, Jr.



APPROVED

FORT ORD REUSE AUTHORITY (FORA) LEGISLATIVE COMMITTEE MEETING MINUTES

3:30 p.m., Wednesday, May 23, 2018
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER

City of Seaside Mayor Ralph Rubio called the meeting to order at 3:30 p.m.

Voting Members Present:

Mayor Ralph Rubio (City of Seaside)
Mayor Jerry Edelen (City of Del Rey Oaks)
Council Member Frank O'Connell (City of Marina)
Mayor Mary Ann Carbone (City of Sand City)

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was led by FORA Principal Analyst Robert Norris.

3. ACKNOWLEDGMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

There were no acknowledgements, announcements or correspondence.

4. PUBLIC COMMENT PERIOD

There were no verbal comments received from the public.

5. APPROVAL OF MEETING MINUTES

a. April 23, 2018 Meeting Minutes

MOTION: On motion by Committee member O'Connell and second by Committee member Edelen and carried by the following vote, the Legislative Committee moved to approve the regular meeting minutes for April 23, 2018.

MOTION PASSED UNANIMOUSLY

6. REPORTS FROM LEGISLATIVE OFFICES

a. 20th U.S. Congressional District – Kathleen Lee

Ms. Lee provided the report of the 20th U.S. Congressional District and including information about the National Defense Authorization Act for FY2019.

b. 17th State Senate District – Nicole Hollingsworth

Ms. Hollingsworth provided the report of 17th State Senate District Senator Monnings' 2017-18 revised Bill Package was provided in the meeting.

Lauri Johnson from JEA & Associates called in to participate in the meeting. Chair Rubio asked that Mr. Houlemard provide comments coordination with Senator Monning and staff. Mr. Houlemard also outlined the efforts regarding AB 3160, FORA's position to strongly support amendments and the draft language that FORA staff proposed.

- c. 29th State Assembly District – Erica Parker
No report.

7. BUSINESS ITEMS

- a. 2018 Legislative Session Follow Up
JEA & Associates, Inc. President John Arriaga provided a review of the measures that were being tracked as approved by the FORA Board on June 8, 2018. Mr. Arriaga and FORA staff provided further information on the status of the items and responded to the Committee's questions.
- b. Report on Updates to Proposed Positions on State Legislation
Mr. Houlemard provided the Committee with the connection between the current status of the legislative items being tracked and what it means for the work of FORA.
 - i. Senate Bill 50
Mr. Houlemard provided an update and responded to questions from the Committee. This item was for information only.
- c. Discuss and Schedule Future Meeting Dates
Mr. Houlemard advised the Committee that a Legislative Committee meeting should take place in the fall – possibly September 2018. Staff will poll members to establish another meeting date.

8. ITEMS FROM MEMBERS

There were no items from Committee members.

9. ADJOURNMENT

The meeting was adjourned at 3:51 p.m.

COMMITTEES
BANKING AND FINANCE
BUDGET
BUDGET SUBCOMMITTEE NO. 5 ON
PUBLIC SAFETY
HUMAN SERVICES
NATURAL RESOURCES

SELECT COMMITTEES
CHAIR: COASTAL PROTECTION AND
ACCESS TO NATURAL RESOURCES
CO-CHAIR: ENVIRONMENTAL CAUCUS

Assembly California Legislature



MARK STONE
CHAIR, JUDICIARY

ASSEMBLYMEMBER, TWENTY-NINTH DISTRICT

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0029
(916) 319-2029
FAX (916) 319-2129

DISTRICT OFFICES
701 OCEAN STREET, SUITE 318B
SANTA CRUZ, CA 95060
(831) 425-1503 OR
(408) 782-0647
FAX (831) 425-2570

99 PACIFIC STREET, SUITE 575G
MONTEREY, CA 93940
(831) 649-2832
FAX (831) 649-2935

2018 Bill List

PUBLIC SAFETY

AB 372: Domestic Violence: Reforming Batterer Intervention Programs

This measure seeks to modify the components of a batterer's treatment program, establish requirements for the provider of a batterer's treatment program, and establish additional requirements when the probation department conducts its initial assessment.

- In Assembly. Concurrence in Senate amendments pending

AB 1214: Juvenile Competency

This bill seeks to establish timelines and processes relating to the determination of competency in court proceedings and the evaluation and delivery of remediation services.

- In Senate, eligible for a Floor vote

AB 2533: Inmates: indigence

This bill will help protect basic civil rights for people in prison by creating a statutory definition of an "indigent inmate." Under this measure, inmates who have \$25.00 or less in their Inmate Trust Accounts for at least 30 days can access resources for communicating with the courts, and can access medical, dental, and mental health care without being charged a copayment. The bill also requires the California Department of Corrections and Rehabilitation to supply indigent inmates with basic hygiene supplies.

- In Senate, eligible for a Floor vote

AB 2952: Juvenile records: sealed records: access

This bill provides that a prosecutor may access, inspect, or use certain juvenile records that have been sealed by the court if the prosecutor believes that it is necessary to meet a legal obligation to provide exculpatory evidence to a defendant in a criminal case.

- In Senate, eligible for a Floor vote

CONSUMER AND EMPLOYEE PROTECTIONS

AB 38: Student loan servicers: licensing and regulation: Student Loan Servicing Act

The Student Loan Servicing Act gave California the power to regulate student loan servicers and protect student loan borrowers. AB 38 continues the last year's goals of increased transparency and protection for student loan borrowers. AB 38 allows for easier implementation for the Department of Business Oversight and increases transparency within an industry that often lacks readily available information

- In Senate, eligible for a Floor vote

AB 2192: State-funded research: grant requirements

Under current law, California taxpayers fund scientific research through grants given to scholars, but the published results of these projects often remain behind paywalls. AB 2192 requires that the results from state-funded research are free and openly accessible to the public.

- In Assembly. Concurrence in Senate amendments pending

AB 2376: Civil actions: provisional remedies: injunctions

This measure clarifies criteria sufficient to establish taxpayer standing to sue a local government entity for alleged wasteful or illegal expenditures, such as payment of sales and use taxes, income taxes, business license taxes, and property taxes.

- In Assembly. Concurrence in Senate amendments pending

AB 2751: Agricultural labor relations: collective bargaining: mediation

This measure requires the Agricultural Labor Relations Board (ALRB) to study how to eliminate delays and expedite the implementation of bargaining agreements ordered by the ALRB after mandatory mediation and provide recommendations and adopt regulations to implement any recommendations by a time specified.

- In Senate, eligible for a Floor vote

AB 3066: AB 1269 Vehicle

This bill is intended to duplicate the Mobilehome Residents and Senior Protection Act which was vetoed by the Governor in 2017.

- In Senate, eligible for a Floor vote

AB 3109: Contracts: waiver of right of petition or free speech

This bill would specify that a contract or settlement agreement is void and unenforceable if it includes a provision that waives a party's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue or restricts a party's right to seek employment or reemployment in any lawful occupation or profession.

- Engrossing and Enrolling

IMPROVING THE LIVES OF VULNERABLE CHILDREN AND FAMILIES**AB 1930: Foster care**

Due to the extensive ongoing collaboration between the Department of Social Services, county partners, and stakeholders through multiple workgroups as CCR is implemented, additional clarifying legislation is needed in a variety of areas. AB 1930 will clarify and address additional topics related to CCR, including provisions to streamline county reviews of Resource Family Approval applications.

- In Senate, eligible for a Floor vote

AB 2608: Licensed Mental Health Service Provider Education Program: former foster youth

The bill would require applicants who were formerly in California's foster youth care system to receive priority over other applicants for grants funded with licensing fee proceeds under the Licensed Mental Health Service Provider Education Program. This bill would also require the Board of Behavioral Sciences to collect an additional \$10 fee to fund grants to repay educational loans for applicants who commit to practice in specified facilities for at least 24 months, who are marriage and family therapists, associate marriage and family therapists, licensed clinical social workers, or associate clinical social workers, and who were formerly in California's foster youth care system.

- In Assembly. Concurrence in Senate amendments pending

AB 2044: Domestic violence: family court

This bill will clarify the best interests determination for child custody and legislative findings and declarations on child custody and strengthen the presumption against custody to a perpetrator of domestic violence

- In Assembly. Concurrence in Senate amendments pending

AB 2066: EITC Expansion

This bill extends eligibility for the existing California Earned Income Tax Credit to some of the poorest, neediest Californians. It includes all working Californians who file taxes yet are currently excluded from the federal and state EITCs.

- Died

AB 2313: Electronic benefits transfer system

This bill intends to further protect EBT benefit recipients by ensuring stolen cash benefits can be replaced for victims of phishing scams.

- In Senate, eligible for a Floor vote

AB 3006: Child welfare services: recipients who are deaf and hard of hearing

This bill would require each county welfare department and any other county entity that provides child welfare services, to ensure that a recipient of child welfare services who is deaf or hard of hearing has equal access to those services at no cost to the recipient.

- In Senate Human Services Committee

CONSERVATION AND ENVIRONMENT

AB 2308: Cigarettes: single-use filters

AB 2308 would prohibit the sale, gift, or furnishing of cigarettes with single-use filters. Given that anti-litter campaigns and strict penalties have not resulted in the abatement of cigarette butt litter, this bill takes the cigarette butts completely out of the equation.

- Died

AB 2421: Monarch Butterfly Habitat Restoration

AB 2421 would establish the Monarch & Pollinator Rescue Program (MPRP) at the Wildlife Conservation Board. MPRP will provide grants and technical assistance to farmers, ranchers, nonprofits and public agencies to recover and sustain populations of monarchs and other pollinators

- In Senate, eligible for a Floor vote

AB 2549: Tidelands and submerged lands: exchange agreements

The legislation would allow the Commission, in these instances, to provide as part of the exchange agreement that the lands or interests in lands that are acquired and impressed with the protections of the Public Trust Doctrine be conveyed in trust to the local jurisdiction as sovereign land, subject to the Public Trust and terms of the grant. This change will provide authorization to the Commission to convey the new Public Trust land in the exchange agreement, rather than from individual grants from the Legislature.

- In Senate Committee on Natural Resources and Water

AB 2779: Recycling: single-use plastic beverage container caps

This legislation requires that beverage containers offered for sale have a cap that is attached to the container.

- Died

AB 2849: Sierra Nevada Conservancy: watershed improvement: tribal organization

AB 2849 updates three components of Sierra Nevada Conservancy (SNC) operations to help protect the Sierra Nevada Watershed, improve public policymaking decisions, and ensure California tribal recognition for grant funding.

- Engrossing and Enrolling

AB 2934: Residential lead-based paint hazard reduction program: local health departments: certification

This bill would authorize the State Department of Public Health to authorize a local health department to implement and administer the certification program for employees who engage in or supervise lead-related construction work.

- Held in Senate Appropriations Committee

Signed by the Governor

AB 1694: Foster care payments: income

AB 404, a lengthy and complicated piece of legislation that clarified and updated numerous components of the long-running continuum of care reform effort related to foster care placements, inadvertently included during chaptering out amendments one section that potentially changes priority for certain subsidized childcare slots. This change needs to be repealed back to 2017 law. AB 1694 repeals that section of the Welfare and Institutions Code in order to clarify the scope of the continuum of care reforms for foster care placements.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Executive Officer Report

Meeting Date: September 28, 2018

Agenda Number: 7d

INFORMATION/ACTION

RECOMMENDATION:

Receive a report and the Board approved Executive Officer's fiscal year 2018-2019 goals.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority (FORA) Executive Officer's fiscal year 2018-2019 anticipated goals are provided as **Attachment A**. These goals become the basis for the organization's annual anticipated achievements and the Executive Committee and Board of Directors' yearly Executive Officer performance review. The goals are generally derived from current work program elements authorized under the annual budget. This fiscal year's goals have incorporated more precise timing for the delivery of work products and focused attention of FORA transition related staffing and operational tasks.

The Board also unanimously accepted and approved the Executive Officer's self-evaluation in the August 10, 2018 Closed Session.

FISCAL IMPACT:

Reviewed by the FORA Controller 

COORDINATION:

Executive Committee, FORA Board

Prepared by 
Dominique L. Davis

Approved by 
Michael A. Houlemard, Jr.

Executive Officer's Goals - FY 2018-19

The FY 2018-2019 Executive Officer's Goals provide a means to measure performance and to fulfill general direction set forth by the FORA Board and Executive Committee actions. This list is not provided in order of importance or priority.

1. Transition Planning:

- Provide a strategic Transition Plan to the FORA Board by October 2018 and to Local Agency Formation Commission by December 2018.
 - Develop a Staff Transition "Impact" Plan, coordinating with a Professional Human Resources consultant that clearly outlines staff resources needed to complete remaining obligations while right-sizing due to sunset/project conclusion by January 2019.
 - Implement pre-transition and post transition for Capital Improvement Program projects including working with the Administrative Committee to (1) complete all awarded project contracts and (2) to develop a recommendation by 12/1/2018 for developing financially feasible resources to address building removal needs post 2020.
 - Assist Fort Ord entities in creating a Habitat Management Joint Powers Authority while producing feasible alternative(s) to a basewide Habitat Conservation Plan for regulatory habitat management certification by 12/31/2019.*
 - Develop a plan to transfer recycled, reclaimed, or other water resource responsibilities to Marina Coast Water District by 1/1/2020 in order to meet Base Reuse Plan implementation needs and individual project requirements.
 - Coordinate with the Transportation Agency for Monterey County for a plan for them to undertake certain off-base Fort Ord Base Reuse Plan obligations by Spring 2019.*
 - Seek partners to accept veterans' issues, Monterey Bay Defense Alliance and statewide military support obligation responsibilities by 12/31/2019.
2. Complete Environmental Services Cooperative Agreement munitions removal site close-out/review by summer 2019, implement contract amendment for long-term stewardship, negotiate supplemental funding to pay for costs of "post insurance coverage" processing by January 1, 2019, while continuing community outreach/engagement/education programs.*
3. Sustain quality in FORA administrative, personnel, and financial obligations by managing downsizing and retention programs, securing funding from real property and available federal/state resources, business process improvements, work load/assignment efficiency and applying strategic financing approaches with quarterly reports to the Executive Committee.
4. Maintain FORA public and community engagement and education effectiveness through coordination with Board, consultants, jurisdictions, and staff, by continuing to produce high quality Board Reports, identifying ways to engage and educate segments of the public not regularly participating in former Fort Ord recovery, sustaining consistent public information and media responses, conducting Board workshops, sustaining weekly, quarterly, and annual updates, and other effective external relations methods. Provide quarterly reports to the Board on program accomplishments/progress.

**Successful achievement of certain goals is impacted by the authority or control that is substantially under a partner(s) agency's authority. FORA's ability to accomplish these goals (and success measure examples) is also subject to FORA Board support/action and effective staff coordination.*

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Economic Development Report	
Meeting Date:	September 28, 2018	INFORMATION
Agenda Number:	7e	

RECOMMENDATION(S):

Receive an Economic Development ("ED") Report.

ECONOMIC DEVELOPMENT QUARTERLY UPDATE

Background/Discussion:

The primary goal of the Fort Ord Reuse Authority's ("FORA's") current ED effort, as referenced in the 1997 Base Reuse Plan ("BRP") and 2012 Reassessment Report ("RR"), is to assist the three-county (Monterey/Santa Cruz/San Benito) region in general and FORA jurisdictions specifically in economic recovery from the employment, business, and other economic losses resulting from the departure of soldiers, civilians, and families post Fort Ord closure. BRP projections for full recovery include: 37,000 replacement population; 15,000+ jobs to replace military employment and soldiers; 11-12,000 homes (6160 new units); and approximately 3 million sf commercial/office.

Prior to establishing the current ED program in 2015, extensive groundwork was directed by the FORA Board and overseen by FORA staff including:

- securing funding, implementation, and completion of the \$98M Environmental Services Cooperative Agreement ("ESCA");
- reuse and/or removal of 3614 of 4370 military buildings (including reopening 500+ units for affordable workforce housing);
- transfer of 10,013 of 17,652 habitat acres for permanent preservation; construction of \$66.5M worth of new transportation infrastructure (including \$40M in grant funding);
- storm water outfall removal (including securing \$6M in grant funding);
- continued and ongoing support for the veterans community leading to the Central Coast Veterans Cemetery; and
- the first Joint Department of Defense ("DOD")/Veterans Administration ("VA") Veterans Clinic built anew.

Also, in concert with former Fort Ord jurisdictions, progress toward the above noted BRP goals to date includes: *15,717 population; 5652 jobs; 5575 homes (1384 new + 4191 reused); and 691k sf commercial.* These accomplishments provide the strong foundation and equitable basis for realizing new economic development gains.

FORA's ongoing ED strategy is based on the following key components:

- **Build upon regional economic strengths** (Agriculture, Tourism, Higher Education/Research, Military Missions)
- **Pursue new & retain existing businesses/enterprises.**
- **Engage internal & external stakeholders** (i.e. FORA Jurisdictions, California State University Monterey Bay ("CSUMB"), University of California Santa Cruz ("UCSC"), Monterey Bay Economic Partnership ("MBEP"), Monterey County Business Council ("MCBC"), Monterey Peninsula Chamber of Commerce, and others.

- **Develop and maintain information resources.**
- **Report success metrics.**

Per ongoing Board direction and following the strategy outlined above, staff continues to make progress on a number of key projects. The following notes summarize and highlight progress since the June 8, 2018 Economic Development Quarterly Update:

- **UCMBEST West Campus Auction.** University of California (“UC”) opened an auction for its 49.6-acre, UC Monterey Bay Education Science & Technology (“UCMBEST”) West Campus in early May. The property is directly adjacent to the Marina Municipal Airport and other planned commercial development and conservation sites. The auction deadline was July 17, 2018. A successful bidder was secured and they are now working with UCSC, the City of Marina, and FORA awaiting escrow closure expected late September. Questions about the property can be directed to Mahoney & Associates and/or Steve Matarazzo, UCMBEST Planning Director. More information about the auction including links to site background information is available online at <http://ordforward.org/ucmbest-west-campus-auction/>.
- **Opportunity Zones.** 9 Census Blocks in Monterey County were included in the 879 tracts nominated by Governor Brown for inclusion as Federal Opportunity Zones (8 in North County/Peninsula and 1 in South County). Track #14102 on the south/southeast edge of the City of Marina (northern edge of the former Fort Ord) is among them. This tract includes the Marina Airport, UCMBEST, and Dunes on Monterey Bay Specific Plan Area. Downtown Seaside has 2 large tracts, and the City of Salinas has 5. These blocks, now included in the Department of Treasury designated Qualified Opportunity Zones under Internal Revenue Code (IRC) Section 1400Z-1(b)(1)(B). While the nuances of the Federal tax policy on Opportunity Zones are still being finalized we expect these zones to provide new investment incentives to catalyze long desired infrastructure and urban development. Regular updates on this item including links to other resources are maintained online at: <http://ordforward.org/opportunity-zones/>. The State of California recently launched an Opportunity Zone portal accessible here: <https://opzones.ca.gov/>.
- **Monterey Bay Drone, Automation, Robotics, Technology (DART).** FORA staff is working with multiple public and private partners to advance a concept to establish and grow a regional Drone, Automation, and Robotics Technology (“DART”) cluster. This concept provides an organizing principle for entrepreneurship and business attraction efforts aligned with growing regional strengths, broad market opportunity, and global technology trends. The DART concept has emerged from our unsuccessful bid for a Federal Aviation Administration (“FAA”) Unmanned Aerial System Integration Pilot Program (“UASIPP”) designation at the Marina Municipal Airport. The process of responding to the FAA call for proposal resulted in the establishment of healthy public-private partnerships to advance these interconnected fields in the Monterey Bay Region. The coalition is actively working to clarify and advance organizational, fiscal, and operational concepts for consideration at multiple jurisdictional levels. To this end we have initiated conversations about advancing FAA approvals for drone testing and development - leveraging the Marina Airport and UCMBEST campus, and have begun planning a Monterey Bay Drone, Automation, & Robotics (DART) Symposium in March 2019. Find the latest concept diagram here: <http://montereybayuas.com>.
- **Business Recruitment/Retention.** FORA staff responds to and broadly refers inquiries from businesses/contacts interested in location or relocation and reuse of former Fort Ord real estate. These efforts contribute to both recruitment of new and retention of existing

regional businesses. Developer engagement in recent months includes interest in affordable housing, hospitality, and light industrial/commercial projects. Staff continues supporting airport related development interest at Marina Municipal Airport and UCMBEST. Of particular note is the recently announced location of Joby Aviation at the Marina Airport. This cutting-edge company will bring long sought after engineering and advanced manufacturing jobs to the City and region. Staff is also actively engaged with business recruitment efforts through the Central Coast Marketing Team including continued development and management of <https://centralcoastmt.org/>. This new website provides a useful web resource to support business location decisions and integrates OppSites software as an opportunity site marketing resource. Efforts are underway to prepare/package site marketing content, and strategies in collaboration with partners. Staff continues working with relevant jurisdiction staff and elected officials where appropriate to advance new and emerging opportunities.

- **Start-up Challenge Monterey Bay/California State University Monterey Bay (“CSUMB”) Collaboration.** FORA continues to support expansion of regional entrepreneurship through collaboration with CSUMB on a broad Start-up Monterey Bay initiative including high quality events throughout the year. A regional entrepreneurship events calendar is now available and maintained regularly for public review/use at <https://startupmontereybay.com/events/>. The annual cycle of entrepreneurship events culminating in the Startup Challenge Monterey Bay kicks-off this year with the Startup Hackathon, Nov 2-4, 2018. Startup Weekend Monterey Bay is scheduled for January 25, 2019 and the Startup Challenge process kicks into gear directly thereafter. The Startup Challenge culminates in the Otter Tank competition at CSUMB Salinas City Center in May 2019. More information about the Startup Challenge can be found online here: <https://startupmontereybay.com/startup-challenge-monterey-bay/>.

Other collaborations with CSUMB faculty and staff include: Contribution toward planning the January 10 & 11 2019 Sustainable Hospitality Development Summit at the Portola Hotel & Spa in Monterey, including development of a new Monterey Bay Eco-recreation and Tourism Region website (<http://mbetr.org/>). Along with sharing event information, this website will provide a hub for the efforts of regional educational, business, and government officials in increasing the viability/profitability of sustainable Monterey Bay region hospitality/eco-recreation tourism; and collaboration with planning and economic development initiatives including R&D, commercial, recreation, and residential resources. The sustained growth in relationships and mutually beneficial projects and initiatives highlights value generated from working relationships with CSUMB faculty/staff.

- **Community Engagement/Jurisdiction Support.**

Community engagement/jurisdiction support remains a focus for ED staff. Staff engaged with the following processes since the June ED Progress Report:

Working with media contractor to produce Economic Development Opportunities video featuring representatives of our developer, education, business and conservation communities. This video is the 2nd in a planned 4 part series to provide easily digestible and shareable content telling the story of education centered reuse, community lead conservation and economic opportunities on the former Fort Ord. The completed video is available online at <https://ordforward.org>.

FORA ED staff continue supporting City of Seaside Campus Town planning in developer/consultant informational meetings, in on-going cross-jurisdictional land use optimization discussions, and in providing affordable housing information and resources to

development teams. Staff continues working closely with the City of Marina Airport Manager and Economic Development team to continue advancing long term development interests in and around the Marina Airport.

- **Housing Starts.** New residential development at the Dunes on Monterey Bay, Sea Haven, and East Garrison continues to gain momentum. A summary of CFD fees collected over the past 3 years and projected for FY 17/18 is provided below:

New Residential	FY 14/15 Full year	FY 15/16 Full year	FY 16/17 Full Year	FY 17/18 Projected
Total Units	89	256	317	258
Total CFD Fees	\$1,982,669	\$5,202,626	\$7,329,706	\$6,149,946

Looking Forward

The following events and initiatives will be the focus for the FORA economic development team in the months ahead: DART Initiative; Business Recruitment/Retention; Jurisdiction Support; Affordable Housing Initiative Support; Monterey Bay Ecotourism Region (MBETR) initiative; Sustainable Hospitality Development Summit; Transition planning; community outreach and engagement.

FISCAL IMPACT:

Reviewed by FORA Controller 

Funding for staff time and ED program activities is included in the approved FORA budget.

COORDINATION:

Administrative and Executive Committees, UCSC, City of Marina, City of Seaside

Prepared by


Josh Metz

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT	
CONSENT AGENDA	
Subject:	Public Correspondence to the Board
Meeting Date:	September 28, 2018
Agenda Number:	7f
	INFORMATION/ACTION

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.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

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Consistency Determination: City of Seaside Zoning Code – 2d Vote	
Meeting Date:	September 28, 2018	INFORMATION/ACTION
Agenda Number:	8a	

RECOMMENDATION(S):

Take a 2nd vote to approve Resolution 18-XX, certifying Seaside Zoning Code consistency with the Fort Ord Base Reuse Plan.

BACKGROUND:

At its August 10, 2018 meeting, the FORA Board voted on a motion to approve Resolution 18-XX (**Attachment A**), certifying Seaside Zoning Code consistency with the Fort Ord Base Reuse Plan (BRP). The vote was not unanimous. According to FORA's rules, the motion must return for a second vote.

The City of Seaside (Seaside) submitted its Zoning Code for consistency determination on Thursday, July 26, 2018. The cover letter is **Attachment B**, with hyperlinks to each of the listed items (1 – 13) in their consistency determination submittal package.

The Seaside Zoning Code is a Legislative Land Use Decision (LLUD) requiring Board certification. With its submittal, Seaside requested a LLUD review of the Seaside Zoning Code in accordance with section 8.02.010 of the FORA Master Resolution. Under state law, (as codified in FORA's Master Resolution) LLUDs (plan level documents such as General Plans, Zoning Codes, General Plans, Redevelopment Plans, etc.) must be scheduled for FORA Board review for consideration of certification under strict timeframes.

The FORA Planners Working Group reviewed this item on July 30, 2018 and the FORA Administrative Committee reviewed this item on August 1, 2018, each recommending that the Board certify the Seaside Zoning Code as consistent with the BRP.

DISCUSSION:

Seaside staff will be available to provide additional information to the FORA Board on August 10, 2018. In all consistency determinations, the following additional considerations are made.

Rationale for consistency determinations. FORA staff finds that there are several defensible rationales for making an affirmative consistency determination. In general, it is noted that the BRP is a framework for development, not a precise plan to be copied verbatim. However, the resource constrained BRP, section 3.11.5 of FORA's Development and Resource Management Plan, sets thresholds that may not be exceeded without other actions, most notably 6,160 new residential housing units and a finite water allocation. A brief summary of staff consistency determination review is **Attachment C**. In keeping with the FORA Master Resolution's particular rationales for consistency analysis, staff has reviewed the Seaside Zoning Code according to the following:

**LEGISLATIVE LAND USE DECISION CONSISTENCY FROM SECTIONS 8.02.010
AND 8.02.020 OF THE FORA MASTER RESOLUTION**

(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 support 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;

The 2004 Seaside General Plan was updated on August 5, 2004 and found to be consistent with the BRP by FORA on December 10, 2004. The FORA Board report identified and discussed differences between the 2004 Seaside General Plan Land Use Map and BRP Land Use Plan Concept. Some of these differences were due to Army and Seaside property exchange negotiations. The FORA Board made findings that the differences on the City's Land Use Map did not, on balance, change the cumulative effects of the BRP, did not result in any site-specific effects, did not result in conflicts with BRP policies and programs, and did not lead to population or water demand in excess of the BRP and Development Resources Management Plan. The Seaside Zoning Code implements the 2004 Seaside General Plan and, likewise, would not allow more intense land uses than the uses permitted in the BRP.

(2) Provides for a development more dense than the density of uses permitted in the Reuse Plan for the affected territory;

The 2004 Seaside General Plan included residential land use designations that did not exactly mirror BRP land use designations. As an example, Seaside's high density residential designation allows up to 25 dwelling units per acre, while the BRP high density residential designation allows up to 20 units per acre. The FORA Board certified the 2004 Seaside General Plan as consistent with the BRP and made findings in support of their action. The Seaside Zoning Code implements the 2004 Seaside General Plan and, in the same way, would not on balance provide for a development denser than permitted in the BRP.

(3) Is not in substantial conformance with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution;

The Seaside Zoning Code is in substantial conformance with applicable programs.

(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;

The Seaside Zoning Code is compatible with open space, recreational, and habitat management areas.

(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;

Seaside development subject to the Seaside Zoning Code will pay its fair share of the basewide costs through the FORA Community Facilities District special tax and property taxes that will accrue to FORA.

(6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan;

The Fort Ord Habitat Management Plan (HMP) designates certain parcels for "Development," in order to allow economic recovery through development while promoting preservation, enhancement, and restoration of special status plant and animal species in designated habitats. The Seaside Zoning Code only affects lands that are located within areas designated for "Development with no Restrictions" under the HMP. Lands designated as "Development" have no management restrictions placed upon them as a result of the HMP. The Seaside Zoning Code would not conflict with implementation of the Fort Ord HMP.

Additional Considerations

(7) Is not consistent with the Highway 1 Design Corridor Design Guidelines and the Regional Urban Design Guidelines;

The Seaside Zoning Code would not modify Highway 1 Design Corridor Design Guidelines. Seaside completed a Regional Urban Design Guidelines (RUDG) checklist that showed, in some instances, how RUDG measures would be implemented through the Seaside Zoning Code. FORA Master Resolution Section 8.01.020(g) provides that the Board can only refuse to certify the Seaside Zoning Code if it demonstrates that the Seaside Zoning Code does not conform with the 2004 Seaside General Plan, certified as consistent with the BRP in 2004.

(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; and

The Seaside Zoning Code implements the 2004 Seaside General Plan which provides for a jobs/housing balance. This is consistent with the jobs/housing balance approved by the FORA Board.

(9) Is not consistent with FORA's prevailing wage policy, section 3.03.090 of the FORA Master Resolution.

The Seaside Zoning Code does not modify prevailing wage requirements for future development entitlements within Seaside's former Fort Ord jurisdiction.

FISCAL IMPACT:

Reviewed by FORA Controller 

This action is regulatory in nature and should have no direct fiscal, administrative, or operational impact. In addition to points already dealt with in this report, it is clarified that the developments expected to be engaged in reuse subject to the Seaside Zoning Code are covered by the Community Facilities District or other agreement that ensure a fair share payment of appropriate future special taxes/fees to mitigate for impacts delineated in the Reuse Plan and accompanying Environmental Impact Report. In the FORA-Seaside Implementation Agreement, Seaside has agreed to provisions for payment of all required fees for future developments in the former Fort Ord under its jurisdiction.

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

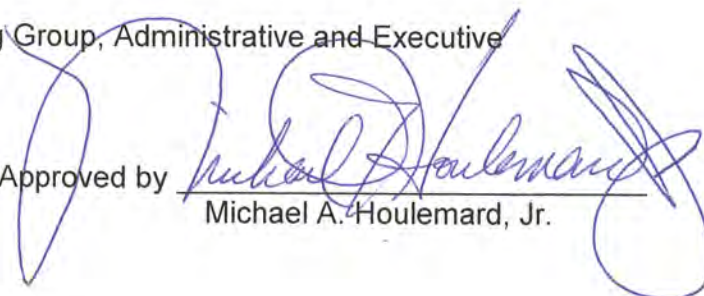
COORDINATION:

Seaside, Authority Counsel, Planners Working Group, Administrative and Executive Committees.

Prepared by


Jonathan Brinkmann

Approved by


Michael A. Houlemard, Jr.

**FORT ORD REUSE AUTHORITY
RESOLUTION NO. 18-xx**

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY
Certifying the City of Seaside Zoning Code

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

- A. On June 13, 1997, the Fort Ord Reuse Authority ("FORA") adopted the Final Base Reuse Plan (Reuse Plan) under Government Code Section 67675, *et seq.*
- B. After FORA adopted the Reuse Plan, Government Code Section 67675, *et seq.* requires each county or city within the former Fort Ord to submit to FORA its general plan or amended general plan and zoning ordinances, and to submit project entitlements, and legislative land use decisions that satisfy the statutory requirements.
- C. By Resolution No. 98-1, the Authority Board of FORA adopted policies and procedures implementing the requirements in Government Code 67675, *et seq.*
- D. The City of Seaside ("Seaside") is a member of FORA. Seaside has land use authority over land situated within the former Fort Ord and subject to FORA's jurisdiction.
- E. After a noticed public meeting on February 6, 2014, Seaside adopted the Seaside Zoning Code ("Zoning Code"), affecting lands on the former Fort Ord. Seaside also found the Zoning Code consistent with the Fort Ord Base Reuse Plan, FORA's plans and policies and the FORA Act and considered the Reuse Plan Environmental Impact Report ("EIR") in their review and deliberations on May 3, 2018.
- F. On May 3, 2018, Seaside recommended that FORA certify the Zoning Code as consistent with FORA's Reuse Plan, certified by the Board on June 13, 1997. Seaside submitted to FORA its Zoning Code together with the accompanying documentation.
- G. Consistent with the Implementation Agreements between FORA and Seaside, on July 26, 2018, Seaside provided FORA with a complete copy of the submittal for the Zoning Code, the resolutions and/or ordinance approving it, a staff report and materials relating to Seaside's action, a copy of the environmental documentation and/or CEQA findings, and findings and evidence supporting its determination that the Zoning Code is consistent with the Reuse Plan and the FORA Act (collectively, "Supporting Material"). Seaside staff requested that FORA certify the Zoning Code as being consistent with the Reuse Plan.
- H. FORA staff, the FORA Planners Working Group, and the FORA Administrative Committee reviewed Seaside's application for consistency evaluation. The Planners Working Group recommended that the FORA Board find that the Zoning Code consistent with the Reuse Plan. The Administrative Committee reviewed the Supporting Material, received additional information, and concurred with the Planners Working Group recommendation. The Executive Officer set the matter for public hearing regarding consistency of the Zoning Code before the FORA Board on August 10, 2018.

- I. Master Resolution, Chapter 8, Section 8.01.020(e) reads in part: “(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...”
- J. FORA’s review, evaluation, and determination of consistency is based on six criteria identified in section 8.02.010. Evaluation of these six criteria form a basis for the Board’s decision to certify or to refuse to certify the legislative land use decision.
- K. The term “consistency” is defined in the General Plan Guidelines adopted by the State Office of Planning and Research as follows: "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." This includes compliance with required procedures such as section 8.02.010 of the FORA Master Resolution.
- L. Master Resolution, Chapter 8, Section 8.02.010(a)(1-6) reads: "(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 use 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."

NOW THEREFORE the Board hereby resolves that:

1. The FORA Board acknowledges Seaside’s recommendations and actions of May 3, 2018 requesting that the FORA Board certify that the Zoning Code and the Reuse Plan are consistent.
2. The FORA Board has reviewed and considered the Zoning Code Initial Study/Negative Declaration as Seaside’s environmental documentation and general law ordinances and finds that these documents provide substantial additional information for purposes of FORA’s determination that the Zoning Code and the Reuse Plan are consistent.
3. The FORA Board has considered all the Supporting Materials submitted with this application for a consistency determination, the recommendations of the Planners

Working Group and the Administrative Committee, and the oral and written testimony presented at the hearings, all of which are hereby incorporated by reference.

4. The FORA Board certifies that the Zoning Code is consistent with the Reuse Plan. The FORA Board further finds that its legislative decision is based in part upon the substantial evidence submitted and a weighing of the Reuse Plan's emphasis on a resource constrained sustainable reuse that evidences a balance between jobs created and housing provided.
5. The Zoning Code will, considering all its aspects, further the objectives and policies of the Reuse Plan. The Seaside application is hereby determined to satisfy the requirements of Title 7.85 of the Government Code and the Reuse Plan.

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

AYES:
NOES:
ABSTENTIONS:
ABSENT:

ATTEST:

Michael A. Houlemard, Jr., Clerk

Ralph Rubio, Chair



Community Development Department

440 Harcourt Avenue
Seaside, CA 93955

Telephone (831) 899-6737
FAX (831) 899-6211
TDD (831) 899-6207

July 26, 2018

Fort Ord Reuse Agency
Attn: Mary Israel
Marina, CA

RE: Seaside Zoning Code Consistency Determination Request

The City of Seaside requests that the Fort Ord Reuse Authority (FOR A) adopt a finding that the City's Zoning Code is consistent with the Base Reuse Plan.

Below is the submittal package that has been prepared in accordance with the instructions for a Legislative Consistency Determination:

1. Legislative Land Use Decision Consistency Checklist from Section 8.02.010 and 8.20.020 of the FORA Master Resolution.
2. FOR A Land Use Matrix
3. City Council Staff Report May 3, 2018
4. City Council Resolution No. 18-33, Reaffirming Consistency Determination for Zoning Code with Base Reuse Plan
5. City Council Resolution No. 14-06, adopting Negative Declaration for Zoning Code Update
6. Notice of Determination for adoption of Negative Declaration
7. Ordinance No. 955 adopting 2006 Zoning Code
8. Ordinance No. 1012
9. Ordinance No. 1022
10. Ordinance No. 1025
11. Seaside Zoning Code, June 2018
12. Official Zoning Map
13. Response to RUDG Checklist

You can contact me at (831) 899-6726 or rmedna@ci.seaside.ca.us if you have any questions or need additional information.

Sincerely

A handwritten signature in blue ink that reads "Rick Medina".

Rick Medina
Senior Planner

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Building Removal Program – 2 nd Vote	
Meeting Date:	September 28, 2018	INFORMATION/ACTION
Agenda Number:	8b	

RECOMMENDATION:

Take a 2nd vote to complete remaining base wide building removal.

BACKGROUND/DISCUSSION:

At its August 10, 2018 meeting, the FORA Board voted on a motion to seek every effort to obtain a response from the Department of Finance as to the feasibility of bonding FORA property tax and to authorize the Executive Officer to solicit and execute service contracts for a financial advisor and bond counsel to explore the feasibility of bonding FORA property tax to complete remaining base-wide building removal, not to exceed \$75,000.

During six meetings, the Administrative Committee analyzed and discussed a potential program to remove the remaining abandoned Army buildings left after FORA completes its CIP building removal obligations. Staff presented information, including a preliminary cost estimate for building removal, a potential financing plan, and a draft cost-benefit analysis. Below is a table showing the preliminary building removal cost estimate.

Preliminary Building Removal Cost Estimate:

DESCRIPTION	PRELIMINARY COST ESTIMATE
Seaside Surplus II (10 Buildings)	(\$10 M)
Marina Cypress Knolls	(\$14 M)
TAMC, MST	(\$6 M)
Marina City Park in Dunes Specific Plan	(\$10 M)
County Ammo Supply Point (bunkers remain)	(\$2 M)
Overhead (operations, oversight) (5 years)	<u>(\$4.8 M)</u>
TOTAL COST ESTIMATE	(\$46.8 M)

Potential Financing Plan:

DESCRIPTION	COSTS & REVENUE SOURCES
Building Removal Cost Estimate	(\$46.8 M)
FORA Property Tax Bond FY 18/19	<u>\$31 M</u>
Remaining Building Removal Cost Estimate	(\$15.8 M)
FORA Land Sales Proceeds in FY 19/20	<u>\$21.2 M</u>
LAND SALES REMAINING TO FUND CIP	\$5.4 M

Discussions with the FORA Administrative Committee have enhanced general understanding of the building removal issue and sparked ideas for creating financing solutions. The abandoned buildings have been an eye-sore to residents, students, workers, and visitors in our community since the early 1990's. The buildings have inhibited development of the urbanized Army footprint because of the high costs and hazardous substances liabilities to remove the structures. They also pose a constant public health risk and require continued maintenance to bar entry. As the Administrative Committee explored a potential financing plan, it became clear that more questions have arisen that would require special expertise. FORA's property tax appears to be a potential revenue source that could spring-board action to take down buildings. However, staff needs financial and legal expertise to explore whether FORA could feasibly issue debt on its existing property tax revenue stream. For these reasons, staff and Administrative Committee members recommend that the Board authorize the Executive Officer to solicit and execute contracts for a financial advisor and bond counsel to explore the feasibility of bonding FORA property tax to complete remaining base-wide building removal, not to exceed \$75,000.

FISCAL IMPACT:

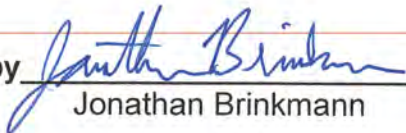
Reviewed by the FORA Controller 

Staff time for the Administrative Committee is included in the approved annual budget. This action would result in an increase in consultant services by \$75,000, which would be incorporated into the FORA mid-year budget update.

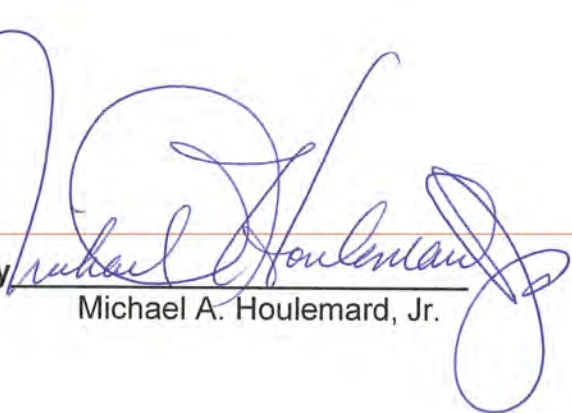
COORDINATION:

Administrative Committee

Prepared by


Jonathan Brinkmann

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	University of California ("UC") Monterey Bay Education, Science, and Technology ("UCMBEST") Center Update	
Meeting Date:	September 28, 2018	INFORMATION/ACTION
Agenda Number:	8c	

RECOMMENDATION: Receive a UCMBEST update from UC Santa Cruz ("UCSC") Chancellor George Blumenthal.

BACKGROUND:

In 1994 the University of California (UC) received 1,036 acres of former Fort Ord land. 609 acres of the property was set aside for habitat conservation and became the Fort Ord natural Reserve ("FONR"). The remaining 427 acres established a research and development real estate opportunity associated with the UCMBEST Center, which was to be managed by the UCSC campus. Despite high aspirations and early success with Federal funding, market demand for the Center has failed to meet expectations. Over the course of the last fifteen years, UC engaged in two unsuccessful attempts to partner with a master developer.

Chancellor Blumenthal announced (in March 2010) that UC was considering shrinking the UCMBEST footprint and might seek alternative uses for peripheral lands. In response to a request from Congressman Sam Farr, a group of stakeholders was assembled to discuss and make recommendations regarding a future vision for UCMBEST Center lands. UCSC and the Fort Ord Reuse Authority ("FORA") funded and hosted a series of facilitated stakeholder meetings and the preparation of a Vision Report for UCMBEST's future. Stakeholder recommendations from that effort are summarized in the 2011 UCMBEST Center Visioning Process Report (<http://bit.ly/1SBPITt>), and memorialized in a letter executed by stakeholders. Stakeholders agreed on the following intended outcomes:

- UC's presence continues to be valued. Stakeholders recommend that UC retain control of the UCMBEST Center;
- The local institutions of higher education (and potentially others) should be invited to join an advisory group to help guide the UCMBEST Center;
- UC to actively seek new UCMBEST Center tenants and work to streamline the approval process;
- UC peripheral lands may be used in the near term for economic development opportunities; and
- UC may be expected to retain and utilize reasonable revenues for development.

Next steps outlined in the 2011 Report include:

- 1) Convene a special Working Group meeting to explore potential federal initiatives;
- 2) Convene a meeting between UCSC and CSUMB to explore Eighth Street parcel uses;

- 3) Invite local higher education institutions to collaborate in supporting UCSC development of the UCMBEST Center and to establish a process for expanding the range of potential research uses;
- 4) Seek funding for entitlements and additional water resources; and
- 5) Complete entitlements.

While many of the recommendations above remain valid, continued program delays in securing property entitlements at the UCMBEST project area have repeatedly raised Board and community concerns. Beginning in 2015 UCSC, FORA, and Monterey County began regular executive and staff level coordination to catalyze new action at UCMBEST. A formal Memorandum of Agreement on continued coordination efforts was completed in summer 2016. Since then, UCSC leadership have presented status updated at numerous Board meetings and regular coordination calls have continued with the MOA collaboration and new development interests as the main focus.


DISCUSSION:

Vice Chancellor Scott Brandt provided a UCSC-UCMBEST Status Report at the November 17, 2018 Board meeting. Since then coordination has continued. Major UC Santa Cruz UCMBEST advances include:

- 1) Conclusion of the UCSC public auction of 49.5-acre West Campus parcel leading to a real property use to compliment Airport and UC MBEST work.
- 2) Coordination on establishment of a Drone, Automation, Robotics Technology (“DART”) Consortium at the Marina Airport and UCMBEST.
- 3) Cooperating with the effort to identify sites that could accommodate a replacement courthouse.
- 4) Coordination to move forward with final environmental review of the City of Marina Airport Specific Plan, which was approved for funding by the City Council of Marina in April 2018 and by FORA on August 14.
- 5) Joint funding with Marina to complete the Central Campus subdivision map (key to UC MBEST success).

UC Santa Cruz Chancellor George Blumenthal will provide a project status update.

FISCAL IMPACT:


Reviewed by FORA Controller 

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

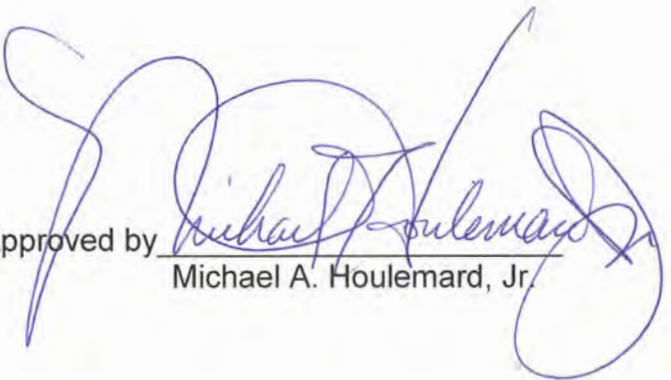
COORDINATION:

UCSC and Administrative Committee

Prepared by


Josh Metz

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Regional Urban Water Augmentation Project	
Meeting Date:	September 28, 2018	ACTION
Agenda Number:	8d	

RECOMMENDATION(S):

Authorize the Executive Officer to execute a Reimbursement Agreement (**Attachment A**) with Monterey One Water (M1W) for the shared pipeline facilities not to exceed \$2,300,000 in Fiscal Year 2018-2019 for the M1W share of the New Pipeline Facilities.

BACKGROUND/DISCUSSION:

In September 2016, The FORA Board approved a \$6M Reimbursement Agreement with Marina Coast Water District (MCWD) for construction of Advanced Treated Water and Pipeline Facilities (Pipeline). The agreement was based on an M1W and MCWD agreement and relied on California State Water Resource Control Board's (SWRCB) funding approval with a State Revolving Fund (SRF) loan.

In June 2017, the SRF loan was provided, however the SWRCB determined a split of the funds altering the previous structure such that M1W will receive a portion and MCWD will receive a portion. This financing method has altered assumptions supporting the underlying agreement between M1W and MCWD. In recent meetings between M1W and MCWD, FORA staff was asked to consider ways FORA may play a part to further the regional benefits of Pure Water Monterey (PWM) and the Regional Urban Water Augmentation Project (RUWAP).

MCWD and M1W staff and board committees met several times seeking solutions to move the project forward. In December 2017, a resolution was reached and a new agreement was ratified by each of the Boards of Directors restructuring the split of funds. Regarding grant sharing, both parties agreed monies received by each agency would be kept respectively by each agency. Regarding FORA cash contributions, MCWD agreed it would not object to M1W working directly with FORA to work out an agreement whereby a \$2.3 million investment of the FORA cash contribution would help offset M1W's costs thereby keeping unit costs for finished water at an acceptable level.

In the interest of advancing the pipeline completion, M1W, MCWD, and FORA executive staff met and defined adjustments to the payment structure, designed to leave all three parties whole, but necessary to respond to State regulatory actions and financial needs of the project. In essence, FORA would enter into a new agreement with M1W, providing \$2.3 million of reimbursement funding to project components benefiting the Ord Community, such as the New Pipeline Facilities, Existing Pipeline Facilities, or the Blackhorse Reservoir.

Staff prepared a draft Reimbursement Agreement allocating funds to the M1W share of the New Pipeline Facilities and the Blackhorse Reservoir infrastructure which will ultimately

provide finished water to the Ord Community. M1W staff presented it to the M1W Board for consideration and it was approved September 5, 2018.

After consideration by all parties, staff recommends the FORA Board authorize the Executive Officer to execute a Reimbursement Agreement with M1W for the shared pipeline facilities not to exceed \$2,300,000 in FY 2019-2020 for the M1W share of the New Pipeline Facilities.

FISCAL IMPACT:

Reviewed by FORA Controller 

Funding for the staff effort is included in the approved FY 18-19 Budget. The Board Approved the FY 2018-2019 budget allocating \$5.6M towards Water Augmentation which is sufficient to reimburse MCWD and provide \$2.3M to M1W.

COORDINATION:

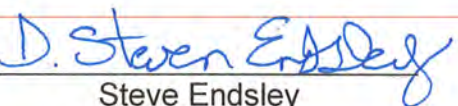
Administrative Committee, Executive Committee, MCWD, M1W

Prepared by



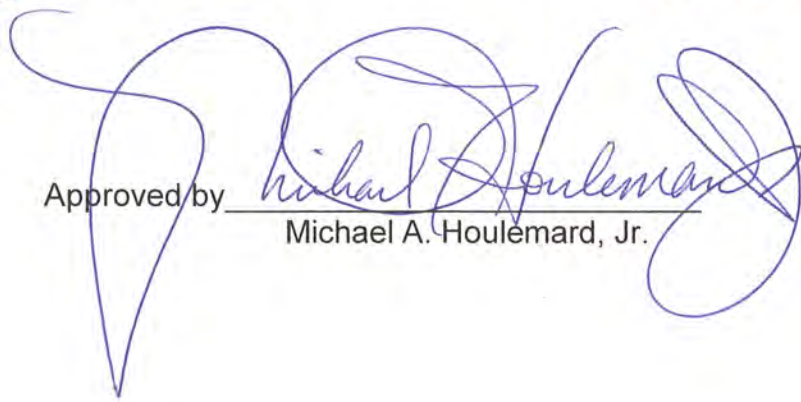
Peter Said

Reviewed by



Steve Endsley

Approved by



Michael A. Houlemard, Jr.

**REIMBURSEMENT AGREEMENT
FOR ADVANCED WATER TREATMENT PHASE 1 AND PRODUCT WATER
CONVEYANCE FACILITIES OF
THE PURE WATER MONTEREY PROJECT**

This Reimbursement Agreement for Advanced Water Treatment (“AWT”) Phase 1 of the Regional Urban Water Augmentation Project (“RUWAP”) Recycled Water Component (this “Agreement”) is made effective August 27, 2018 (the “Effective Date”) by and between Fort Ord Reuse Authority (“FORA”), a public corporation of the State of California and Monterey One Water (“M1W”) with reference to the following facts and objectives.

RECITALS

A. The 1997 Fort Ord Base Reuse Plan (the “BRP”) identifies the availability of water as a resource constraint, estimating that an additional 2,400 acre-feet per year (“AFY”) of water is needed to augment the existing groundwater supply to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7).

B. On January 18, 2002, FORA’s Board of Directors adopted Resolution No. 02-1 establishing the Fort Ord Reuse Authority Basewide Community Facilities District (the “CFD”) to collect fees for, among other impacts caused by development, 2,400 AFY of water augmentation to support the BRP.

C. In 2002, Marina Coast Water District (“MCWD”), in cooperation with FORA, initiated the RUWAP to explore water supply alternatives to provide the additional 2,400 AFY of water supply needed under the BRP.

D. After environmental review, FORA and MCWD agreed to adopt a hybrid alternative (the RUWAP project composed of a Recycled Water Component and Desalinated Water Component), which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage via a RUWAP Product Water Conveyance Pipeline.

E. On October 8, 2015, M1W’s Board of Directors unanimously certified the Environmental Impact Report (“EIR”) for the Pure Water Monterey Project and thereafter approved the Pure Water Monterey Project filing a Notice of Determination with the Monterey County Clerk. The M1W Board selected the alignment established under the RUWAP for the Product Water Conveyance Pipeline.

F. On October 9, 2015, the FORA Board unanimously adopted Resolution 15-07, endorsing the Pure Water Monterey Project as the recycled water component of the RUWAP.

G. On December 2, 2015, MCWD and M1W each applied for separate State Revolving Fund loans to finance their RUWAP and Pure Water Monterey Projects respectively, which are anticipated to share the use of a single pipeline for the conveyance of the water processed/produced by the projects (the “Product Water Conveyance Pipeline”). MCWD commenced further CEQA

review for shared use of a single Product Water Conveyance Pipeline for both M1W's Pure Water Monterey Project and MCWD's RUWAP.

H. On April 8, 2016, M1W and MCWD entered into the 2016 Pure Water Delivery and Supply Project Agreement ("2016 Pure Water Agreement") between M1W and MCWD which defined how water would be supplied, delivered and infrastructure built, and costs shared as a part of the RUWAP Recycled Water Component. At that time, each party to the 2016 Pure Water Agreement was to obtain certain grant funding and other funding in order to implement their proportionate share of the project.

I. Over the course of 2017, the state changed how it was funding the 2016 Pure Water Agreement which led to the need for clarification between the parties as to how to address grants and capital contributions from third parties and how to allocate costs between the parties for the RUWAP Recycled Water Component. On or about November 20, 2017, M1W and MCWD entered into a First Amendment to the 2016 Pure Water Agreement, specifically addressing FORA's Capital Contribution toward the RUWAP. The November 20, 2017 Amendment #1 to the Pure Water Delivery and Supply Project Agreement Between M1W and MCWD, states "If the FORA Board of Directors independently determines to provide \$2.3 million to M1W for M1W's share of costs for the Project, then MCWD agrees to not object. M1W agrees to enter into a separate reimbursement agreement with FORA."

J. FORA anticipated additional Water Augmentation funding in its 2018-2019 Capital Improvement Program.

NOW, THEREFORE, based on the foregoing and in consideration of the mutual terms, covenants, and conditions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. PURPOSE. The purpose of this Agreement is to establish the extent to and manner in which FORA will reimburse or contribute payment toward M1W's costs of implementing AWT Phase 1 and its share of the Blackhorse Reservoir under Amendment #1 of the 2016 M1W-MCWD Agreement. This Agreement does not obligate FORA to reimburse or contribute toward any costs of implementing AWT Phase 2 or the Injection Well Facilities. **Exhibit A** to this agreement includes definitions for "AWT Phase 1" and "AWT Phase 2"

2. DEFINITIONS. For the purposes of this Agreement, the terms used in this Agreement shall be defined expressly within this Agreement and **Exhibit A**. As used in this Agreement, references to M1W or FORA (or a Party and/or the Parties) shall be deemed to include their respective Boards of Directors.

3. OBLIGATIONS.

3.01 FORA Financial Obligation

(a) FORA shall provide up to and including \$2,300,000 toward reimbursement or payment toward eligible capital costs of implementing AWT Phase 1 and the Blackhorse Reservoir. Implementation costs eligible for reimbursement pursuant to this Section 3.01(c) consist of the direct and indirect, short term and long term costs of the New Pipeline Facilities, AWT Phase 1, and the Blackhorse Reservoir incurred by M1W, including consultants, and the costs of administration and operational overhead.

(b) FORA shall make available up to \$2,300,000 in its Fiscal Year 2018-19 Budget.

(c) FORA elects to apply monies in Fiscal Year 2018-19 towards M1W cost share as follows:

Estimated Capital Costs	FORA Contribution to M1W Cost Share
New Pipeline Facilities	
RUWAP Distribution Facilities	
Blackhorse Reservoir	\$980,000
AWT Phase 1	\$1,320,000
Diversion Facilities	
Existing Pipeline Facilities	
Injection Well Facilities	

(d) Subject to the limit stated in Subsection 3.01(c) above, FORA shall honor and pay invoices for eligible costs incurred and submitted by M1W as set forth in Section 3.02 below.

(e) FORA shall have sole discretion as to the source of funds for use in satisfying its monetary obligations under this Agreement.

(f) At the times and subject to the limitations set forth in Section 3.03 below, FORA shall reimburse to M1W up to and including the amount set forth in Subsection 3.01(c) above.

(g) Monies not used by one line item in 3.01(c) may be shifted to another line item. Total reimbursement shall not exceed the amount identified in Section 3.01(a)

3.02 M1W Obligation to FORA

(a) M1W shall invoice FORA up to \$2,300,000 for reimbursement of the AWT Phase 1 and the Blackhorse Reservoir in Fiscal Year 2018-2019.

(b) M1W will apply FORA's financial contributions only toward the types of costs listed in Subsections 3.02(a).

(c) M1W shall provide quarterly project status updates to FORA staff which will include current and cumulative information on the project plans, milestones, objectives, budget, and support invoicing.

(d) M1W shall provide FORA the right to inspect the New Pipeline Facilities, AWT Phase 1, and the Blackhorse Reservoir facilities while under construction upon the giving of three (3) days' advance notice to M1W and the party administering the construction contract. FORA's right to inspect is for the purpose of processing reimbursement requests in accordance with Sections 3.01, 3.02 and 3.03 and for observation only and not for the purpose of supervision or direction of the work observed.

(e) M1W shall submit requests for reimbursement(s) quarterly, and no later than June 30, 2019 to:

Fort Ord Reuse Authority
Attn: Accounting Services
920 2nd Ave., Suite A
Marina, CA 93933

(f) Upon completion of New Pipeline Facilities, AWT Phase 1, and Blackhorse Reservoir Facilities, M1W shall provide FORA a copy of a Notice of Completion filed with the County Recorder's office for the project.

3.03 Invoice Approval and Dispute Resolution

(a) FORA shall review invoices for the project submitted by M1W and shall within thirty (30) business days following receipt, either approve such invoices or notify M1W as to why such invoices are not approved.

(b) FORA shall disburse payments within thirty (30) business days after approving the invoices. FORA reserves the right to exclude disputed elements of any invoice from payment until any such dispute is resolved.

(c) In the event of a dispute regarding the approval of invoices as described in Subsection 3.03(a) above, the Contract Administrators (identified in Section 5.04 below) shall work to resolve the dispute within fifteen (15) business days. If no resolution can be achieved by the Contract Administrators, the Parties shall mediate the dispute at the earliest possible date with a mutually-agreed upon, neutral third party serving as mediator. The cost of the mediator and for the use of facilities during the mediation shall be borne equally by the Parties. Each Party shall be responsible for its own costs to participate in any mediation, including any legal fees and costs. The mediator may not serve as the arbitrator. If the dispute is not resolved in mediation, the dispute shall be submitted for binding arbitration by a single arbitrator to the Judicial Arbitration and Mediation Services ("JAMS") in San Jose, California, with the hearing

to be held in Monterey, California or at such other location(s) mutually agreed upon by the Parties. The costs of the arbitration, including all arbitration fees, and costs for the use of facilities during the hearings, shall be advanced equally by the parties to the arbitration. All such fees and costs together with attorneys' fees and costs, including expert witness costs of the Parties and attorneys' fees and costs incurred in enforcing any judgment, shall be awarded to the prevailing Party (or most prevailing Party, as decided by the arbitrator). The provisions of Sections 1282.6, 1283, and 1283.05 of the California Code of Civil Procedure shall apply to the arbitration. The arbitrator shall issue a final decision within thirty (30) days of the conclusion of testimony unless otherwise agreed to by the Parties.

4. INDEMNIFICATION. M1W agrees to indemnify, defend and hold FORA harmless from and against any loss, cost, claim, or damages directly related to M1W's actions or inactions under this Agreement. FORA agrees to indemnify, defend and hold M1W harmless from and against any loss, cost, claim, or damage directly related to FORA's actions or inactions under this Agreement.

5. GENERAL PROVISIONS.

5.01 Governing Law. This Agreement shall be governed by and interpreted by and in accordance with the laws of the State of California.

5.02 Attorneys' Fees. If either Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorneys' fees and costs.

5.03 Entire Agreement; Amendments. This Agreement, along with any exhibits and attachments hereto, constitutes the entire agreement between the Parties concerning the specific subject matter hereof. No amendment or modification shall be made to this Agreement, except in writing, approved by the respective Boards and duly signed by both Parties.

5.04 Contract Administrators.

(a) M1W hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of M1W shall be under the direction of or shall be submitted to the General Manager or such other M1W employee in M1W as the General Manager may appoint. M1W may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to FORA of any such change.

(b) FORA hereby designates its Executive Officer as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of FORA shall be under the direction of or shall be submitted to the Executive Officer or such other FORA employee in FORA as the Executive Officer may appoint. FORA may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to M1W of any such change.

5.05 Inurement. Each and all of the rights, benefits, duties, liabilities, and obligations of the Parties under this Agreement shall inure to the benefit of, and be binding upon, their respective successors. Without limiting the generality of the foregoing, upon the termination of the existence of FORA (scheduled for June 30, 2020), any then unfulfilled duties, liabilities or obligations of M1W under this Agreement shall survive such termination. If FORA has not fully complied before its termination with its obligations under this Agreement, FORA agrees to recommend that its successor in interest appointed by the Monterey County Local Agency Formation Commission, or the State of California, fulfill FORA's obligations under this Agreement, shall be liable for failing to perform all such obligations, and shall have standing to enforce this Agreement.

5.06 Negotiated Agreement. This Agreement has been arrived at through negotiation between the Parties. Neither Party is to be deemed the Party which prepared this Agreement within the meaning of Civil Code Section 1654.

5.07 Time is of Essence. Time is of the essence of this Agreement.

5.08 Headings. The article and paragraph headings are for convenience only and shall not be used to limit or interpret the terms of this Agreement.

5.09 Notices. All notices and demands required under this Agreement shall be deemed given by one Party when delivered personally to the principal office of the other Party; when faxed to the other Party, to the fax number provided by the receiving Party; or five (5) days after the document is placed in the US mail, certified mail and return receipt requested, addressed to the other Party as follows:

To FORA:

Executive Officer
FORA
920 2nd Ave., Suite A
Marina, CA 93933

To M1W:

General Manager
M1W
5 Harris Ct. Bldg D
Monterey, CA 93940

5.10 Cooperation. Each of the Parties agrees to use reasonable and good faith efforts to take, or cause to be taken, all action to do, or cause to be done, and to assist and cooperate with the other Party in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement including signing, acknowledging, and delivering any instruments and documents as may be necessary, expedient, or proper, to carry out the intent and purpose of this Agreement. Each Party agrees to exercise good faith and fair dealing in the performance of its obligations under this Agreement.

5.11 Waiver. No waiver of any right or obligation of any of the Parties shall be effective unless in writing, specifying such waiver, executed by the Party against whom such waiver is sought to be enforced. A waiver by any of the Parties of any of its rights under this Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

5.12 Written Authorization. For any action by any Party which requires written authorization from the other Party, the written authorization shall be signed by authorizing Party's General Manager/Executive Director, or the written designee.

5.13 Severability. If any one or more of the terms, provisions, covenants or conditions of this Agreement are to any extent declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, the Parties agree to amend the terms in a reasonable manner to achieve the intention of the Parties without invalidity. If the terms cannot be amended thusly, the invalidity of one or several terms will not affect the validity of the Agreement as a whole, unless the invalid terms are of such essential importance to this Agreement that it can be reasonably assumed that the Parties would not have contracted to this Agreement without the invalid terms. In such case, the Party affected may terminate this Agreement by written notice to the other Party without prejudice to the affected Party's rights in law or equity.

5.14 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same complete instrument. The signature page of each counterpart may be detached from such counterpart and attached to a single document which shall for all purposes be treated as an original. Faxed, photocopied or e-mailed signatures shall be deemed originals for all purposes.

5.15 Survival and Benefit. FORA may not transfer or assign its rights and interests under this Agreement, without the written consent of the Local Area Formation Commission of Monterey County (LAFCO). All representations, warranties, agreements, obligations and indemnities of the Parties shall, notwithstanding any investigation made by any Party hereto, survive the legislated closing of the Fort Ord Reuse Authority and the same shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties. Nothing in this Agreement otherwise shall be construed as creating any rights of enforcement by any person or entity that is not a Party hereto, nor any rights, interest, or third party beneficiary status for any entity or person other than the Parties hereto.

IN WITNESS WHEREOF, the Parties have signed this Agreement effective on the date first above written.

FORA

Dated: _____

Executive Officer

Approved as to form:

Dated: _____

Counsel, FORA

M1W

Dated: 9/5/18

Rudy Forster

President, Board of Directors

Dated: 9/7/18

Robert C. Wellings

Counsel, M1W

EXHIBIT A - DEFINITIONS

For the purposes of this Agreement, the following definitions are provided:

- A. The term “AWT Capacity Entitlement” shall mean the entitlement to the plant treatment capacity of the AWT which a Party has the right to use under the 2016 M1W-MCWD Agreement.
- B. The term “AWT-PCA” shall mean construction and operation of an advanced water treatment plant sized to produce 3,700 AFY of purified recycled water to deliver to the Seaside Groundwater Basin for the Pure Water Monterey Project as approved by the M1W’s Board of Directors in its Resolution Number 2015-24 on October 8, 2015 as part of the Pure Water Monterey Project.
- C. The term “AWT Phase 1” shall mean construction and operation of an expansion to the AWT-PCA to produce an additional 600 AFY of purified recycled water to deliver to the FORA land use jurisdiction members in addition to the 3,700 AFY of purified recycled water from the AWT-PCA to deliver to the Seaside Groundwater Basin for a total production of purified recycled water from the AWT Phase 1 of 4,300 AFY.
- D. The term “AWT Phase 2” shall mean construction and operation of an expansion to the AWT-PCA to produce an additional 827 AFY for a total of 1,427 AFY of purified recycled water to deliver to the FORA land use jurisdiction members in addition to the 3,700 AFY of purified recycled water from the AWT-PCA to deliver to the Seaside Groundwater Basin, for a total production of purified recycled water from the AWT Phase 2 of 5,127 AFY.
- E. The term “Existing Pipeline Facilities” shall be the existing recycled water pipeline (and appurtenances) constructed by MCWD and rights-of-ways, which will become part of the Product Water Conveyance Facilities as shown in Exhibit C to the 2016 M1W-MCWD Agreement.
- F. The term “New Pipeline Facilities” shall mean the new recycled water pipeline sections (and appurtenances), booster plant, and rights-of-ways to convey purified recycled water as shown in Exhibit C to the 2016 M1W-MCWD Agreement and which will become a part of the Product Water Conveyance Facilities. The beginning and ending points of the New Pipeline Facilities are shown in Exhibits A and C to the 2016 M1W-MCWD Agreement.
- G. The term “Notice to Proceed” shall mean a document which fixes the time for the commencement of the work and also, if appropriate, will fix the time for the completion of the work together with the acceptance of the contractor. The notice to proceed shall identify the awarding body, include the contract number, and notify the contractor that the lead agency has completed CEQA reviews and the project has been adopted by the awarding body.
- H. The term “Pipeline Facilities Entitlement” shall mean the entitlement to the capacity of the Pipeline Facilities which a Party has the right to use under the 2016 M1W-MCWD Agreement.
- I. The term “Product Water Conveyance Facilities”, shall mean collectively the New Pipeline Facilities and the Existing Pipeline Facilities as shown in Exhibit C to the 2016 M1W-MCWD Agreement.
- J. The terms "reclaimed water", "reclaimed wastewater", and "recycled water" shall mean purified recycled water.

- K. The term “RUWAP Distribution Facilities” shall mean those facilities connected to the Product Water Conveyance Facilities, which will be used to distribute MCWD’s recycled water to MCWD’s customers.
- L. The term “RUWAP Recycled Project” shall mean the urban recycled water portion of the Regional Urban Water Augmentation Project (RUWAP) approved by the MCWD and FORA Boards. In 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (RUWAP) to explore water supply alternatives to provide an additional 2,400 AFY of water supply needed under the Base Reuse Plan. As a result of an extensive environmental review, FORA and MCWD agreed to adopt a modified Hybrid Alternative, which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage, and this in turn resulted in the FORA Board adopting Resolution 07-10 (May 2007), which allocated that 1,427 AFY to its member agencies having land use jurisdiction. As a result of the Pure Water Monterey Project, the RUWAP Recycled Project includes MCWD’s Pipeline Facilities Entitlement, the RUWAP Distribution Facilities, and MCWD’s AWT Capacity Entitlement under the 2016 M1W-MCWD Agreement.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject: Transition Planning Process Update

Meeting Date: September 28, 2018

Agenda Number: 8e

INFORMATION/ACTION

RECOMMENDATION:

1. Review Transition Plan Resolution (**Attachment A**);
2. Provide direction to staff on Local Agency Formation Commission (LAFCO) jurisdiction issue to either:
 - a) Reach Agreements on all matters of assignment and succession prior to December 1, 2018 and well in advance of the June 30, 2020 statutory sunset; and/or
 - b) Secure any needed legislative amendment/clarification; and/or
 - c) Seek Court interpretation (i.e. declaratory relief) of authority/jurisdiction question.
3. Provide direction to staff about Community Facilities District/Capital Improvement Program financing issue and any related legislative action requests needed to implement an approved transition plan.
4. Provide direction to staff on the likely successor (either the City of Seaside or the County of Monterey) to the Environmental Services Cooperative Agreement (ESCA) contract and its associated contractual obligations and assets.
5. Provide direction to staff on policy and/or other revisions to the Transition Plan and/or consider adoption;
6. Take other actions as may be required to comply with state law requiring submitting a Transition Plan (based on the approved resolution) to LAFCO by December 2018.
 - a) Authorize the Executive Officer to prepare and execute the LAFCO Indemnification Agreement;
 - b) Authorize the Executive Officer to submit an approved Transition Plan to LAFCO;
 - c) Direct staff to begin working with all the jurisdictions on approved Transition Plan Implementation Agreements and return to report in January 2019 with status on Implementation Agreements;
 - d) Direct staff to work with Senator Monning to implement components or alternatives to items as approved in the Transition Plan.

BACKGROUND/DISCUSSION:

FORA is slated to sunset **June 30, 2020**. FORA must submit a Transition Plan to the Local Agency Formation Commission no later than **December 30, 2018** to be in compliance with state law. FORA has been engaged in transition planning activities over the past three years, empaneling two Transition Task Force Committees, and one Transition Ad Hoc Committee. Reports and contract lists have been rolling out since January 2018. The FORA Board of Directors received a compiled report outlining the first draft of the Transition Plan and background materials on June 8, 2018 during a several hour Board Study Session. On July 13, 2018, a second Board study session was held to allow the Board to deliberate policy and programmatic issues to aid staff in preparing a Transition Plan for assignment of liabilities, obligations and assets. Senator Monning attended the July 13, 2018 session and was engaged in the discussion, with particular interest in how the Transition Plan would be implemented, how specific policies would be enforced, and how building removal might be addressed. At the August 13, 2018 Board meeting a draft Transition Plan Resolution was presented which covered the background, the legislative intent and findings, the assignment of assets, liabilities, obligations and schedule. In

this report, we provide an update on the various meetings and Transition Planning process and a revised draft Transition Plan Resolution.

Since the August 13, 2018 Board meeting, FORA staff has been engaged and busy. On August 23 and 24, FORA staff attended the County's Fort Ord subcommittee. On August 27, 2018, FORA staff attended the LAFCO presentation to its Board. On August 31, 2018, FORA staff made a workshop presentation to the City of Monterey. The City of Monterey will hold another session on September 19, 2018 to formalize its comments. On August 15, 2018, FORA staff met with the City Manager from the City of Marina who requested that FORA prepare and share a map which identifies where in the City of Marina (and all other locations on the FORA lands), CFD fees have been collected. In addition, FORA staff has fielded numerous phone calls from consultants and staff from the various jurisdictions. The County Board of Supervisors held a workshop on September 11, 2018 and plans subsequent subcommittee and Board meetings on September 24 and 25, respectively. The City of Seaside will consider Transition Plan issues on September 20, 2018. The City of Marina will consider a Resolution on Transition Plan/Dissolution issues on September 25, 2018. A table which compiles jurisdictional reports and materials can be accessed through this link: <https://www.fora.org/Transitiontaskforce.html>. Although, there have been multiple meetings to review Transition Plan issues, those reviews have focused on the bigger policy, funding and risk issues rather than a technical review and correction of the draft Transition Plan Resolution.

LOCAL AGENCY FORMATION COMMISSION (LAFCO) JURISDICTION Since January 2018, FORA staff has been meeting with LAFCO staff regularly. Although LAFCO staff expressed concern about LAFCO's ability to exercise its jurisdiction pursuant to the Cortese Knox Hertzberg (CKH) Act, FORA staff had not received a legal opinion from LAFCO opining limited jurisdiction. On the other hand, FORA staff have received information from its Authority counsel that the CKH Act does apply. On August 27, 2018, LAFCO presented its formal written interpretation that it does not have power to impose the dissolution and Transition Plan obligations pursuant to the Cortese Knox Hertzberg Act in a staff report and that the only "Transition Plan" was one made of assignment agreements. There was not a formal written legal opinion supporting the staff report offered. However, in recent meetings to discuss this issue with LAFCO's legal counsel and staff, LAFCO's legal counsel provided his oral opinion supporting the LAFCO report concluding that if LAFCO was to exercise its powers under Section 6 of the CKH Act, it would have so stated in the FORA Act. In addition, it was discovered, that even if LAFCO were to exercise jurisdiction pursuant to the CKH Act, it would not have jurisdiction over some of the key participants and recipients of successor obligations and liabilities. For example, LAFCO staff and counsel opined on September 10, 2018 that they do not have CKH Act power over the Transportation Agency of Monterey County (TAMC), the County of Monterey, or other entities such as CSUMB, UC, MPC. LAFCO Counsel further opined LAFCO would not have CKH Act jurisdiction over a joint powers agency (JPA), which may make designation of a HCP/HMP JPA successor to FORA habitat obligations problematic. Also, LAFCO Counsel opined that if all of the CKH Act were to apply, there could be protest hearings and other dissolution issues that clearly were not made applicable to the FORA statutory dissolution and transition plan process. Finally, LAFCO Counsel and County Counsel have suggested that the FORA Act does not empower the FORA Board to make assignments in the absence of agreements. These new interpretations, pose multiple issues that will need to be addressed for a successful transition plan.

FORA staff and Authority Counsel believe FORA's interpretation and harmonization of the FORA Act and the CKH Act to be correct, that LAFCO is authorized to impose the transition plan assignments and successors in order to ensure that the plan is fulfilled. Nonetheless, there are limited ways to address this issue: 1) Reach Agreements on all matters of assignment and

succession prior to December 1, 2018 and in any event well in advance of the June 30, 2020 statutory sunset; 2) Legislative amendment/clarification and/or 3) Court interpretation (i.e.declaratory relief). In the absence of agreements, one entity, either FORA or LAFCO needs to have the power to impose and allocate the assets, liabilities, assign obligations and timelines to ensure compliance with the Transition Plan which is ultimately approved by a majority of the FORA Board. The draft Transition Plan now includes a requirement to execute Transition Plan Implementation Agreements with all the jurisdictions by March 2019.

REVENUE GENERATION/SHARING ISSUES

Revenue generation and revenue sharing is one of the biggest issues facing a successful Transition Plan which completes the Basewide Costs and Mitigation measures as identified in the FORA Capital Improvement Plan. FORA's community facilities district special tax (CFD) is the primary generator of revenues, funding habitat protection, roads, and water augmentation. City of Marina, is by far the largest generator of CFD revenues given its numerous entitled and underway projects, although the County of Monterey also is projected to generate a substantial amount of CFD revenue. Marina has been very proactive in negotiating with at least one developer to continue to pay the FORA CFD or its equivalent post-2020. Although, it has been represented multiple times that Marina has agreements with all their developers and will share that revenue with successor entities that revenue, FORA staff was only provided one unsigned Agreement in response to a Public Records Act request. As requested by the FORA Board previously, attached please find the relevant portions of the agreement which Marina approved (**Attachment B**). In general the language for generating replacement FORA CFD revenue seems to be appropriate (but as compared to extension of the CFD may lead to a shortfall over time), but the revenue sharing is qualified to be shared with only a regional agency designated as a FORA successor. That language qualification begs the question: Who is/qualifies as a **regional agency**? Is the County a regional agency? Is a habitat joint powers agency a regional agency? Is the City of Seaside or other City that receives successor obligations? Does the fact that LAFCO has no jurisdiction to impose or designate a successor given their lack of jurisdiction under the CKH Act an issue, that effects implementation of this language? Simple written clarification by Marina and its developer can address this issue.

Marina's City Manager clarified (by phone) on September 7 that while Marina has "oral commitments" from its other developers, it is still "in process" of negotiating language modifications to its other development agreements.

FORA staff has revised the Transition Plan resolution language to seek legislative extension of the FORA CFD and in the alternative to require jurisdictional establishment of replacement revenue mechanisms no less than six months prior to FORA sunset. Upon majority approval of the Transition Plan Revenue replacement requirements, FORA staff will produce a schedule of implementing actions to include a review of each jurisdiction's replacement revenue generating mechanisms. FORA to verify the mechanisms have been formed and are ready to be enacted upon a FORA dissolution, in any event such replacement mechanisms should be formed and ready no less than six months prior to FORA sunset.

HABITAT CONSERVATION Since the August Board meeting, the draft Habitat Conservation Plan (HCP) and Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) were submitted to the Solicitor General for USFWS to begin the review process in order to meet the timelines associated with the 2018 directives from the Deputy Secretary of Interior for NEPA Document clearance. Under the new guidance all environmental review documents and the Record of Decision documents must be finalized by April 2019. The notice of intent to prepare an environmental document for issuance of the incidental take permit (ITP) was issued on or about September 29, 2004. The CEQA Notice of Preparation for the 2081 permit was issued on

June 21, 2005. The County's Fort Ord subcommittee recommended a "wait and see" approach to formation of a joint powers agency, until the HCP proceeds further in the process. A Habitat Conservation Plan workshop was held on September 24, 2018 outlining the process and the options. In the absence of issuance of an ITP pursuant to a HCP, habitat will be required to be managed in accordance with the Habitat Management Plan (HMP). In the absence of a basewide consolidated approach, management of Habitat Management Areas (HMAs) covered by the HMP will require ITP coverage pursuant to either Section 9 or Section 10 of the Endangered Species Act and will disproportionately affect the County who has three HMA's within its jurisdictional boundaries totaling approximately 1,800 acres. Other jurisdictions will be affected as well as future development projects who will be required to acquire individual take permits (both state and federal) if their project area has any protected species.

TRANSPORTATION NETWORK FORA staff has met with the Transportation Agency of Monterey County (TAMC) staff, Todd Muck and Mike Zeller, to discuss approaches to transfer funding obligations to TAMC for regional roads identified in FORA's CIP. TAMC's 2018 update to its Regional Development Impact Fee (RDIF) includes a FORA zone analysis utilizing a cost per trip fee calculation. TAMC's 2018 RDIF study does not include all of the road projects in FORA's Capital Improvement Program. The RDIF study does include most regional and "off-site" projects, but does not include "on-site" roads.

TAMC's FORA zone analysis was unable to identify what portion of FORA's fee comes from (existing) entitled developments and would only apply to future unentitled development. Several issues were identified during the meeting. For example, TAMC staff is concerned with the transition of regional road fees in the absence of a "catch-up" or "pay back" provision being addressed for development fees already collected. As a part of the collaboration between TAMC and FORA staff, FORA staff are identifying an allocation of the amounts in the FORA program between entitled and future development as the basis for an agreement on how to effectively transition from a special tax program to the RDIP nexus program while maximizing the best of both funding programs. An additional issue of how to ensure that FORA funds are applied to the projects within the FORA CIP was also identified, as well as the nomenclature utilized while discussing each program. As characterized by TAMC staff, the primary issue is FORA's policy to focus on "on-site" transportation projects has resulted in minimal contributions to "regional" road obligations. Yet, even with the on-site policy direction, FORA has already contributed for example, almost \$1M towards Davis Road which is labeled in the FORA CIP as an "off-site" project but considered a "Regional Road" in the RDIF program.

There will be policy implications as the TAMC regional transportation fee program relies upon a CEQA/nexus analysis, this shift will cause new developments to pay fees differently than under the FORA program as retail, commercial, and industrial will pay more because of trip generation. RDIP project costs for regional roads are substantially increased over the amounts currently in the FORA CIP. Another issue specific to the RDIF program is that LAFCO contends they do not have jurisdiction to impose obligations on TAMC because they are a joint powers agency.

It is not likely that an agreement with TAMC, regarding the transfer of funding and implementation of regional obligations, can be reached prior to December of 2018. Such agreement may take the better part of a year to negotiate and finalize. As the Transition Plan is currently drafted, all funding obligations under the FORA program for regional roads will revert to TAMC to collect. Other on-site and off-site roads will be assigned to the underlying lead agency jurisdictions to replace the funding and finally, those on-site roads which FORA has not completed will be assigned, together with any capital improvement funds collected and assigned to those projects, to the underlying jurisdiction in which the majority of the road is located.

WATER/WASTEWATER

FORA relies on its ongoing Facilities Agreement for water and wastewater services with the Marina Coast Water District (MCWD). FORA also is currently working with MCWD on its efforts to annex former Fort Ord lands not within its current boundaries. FORA staff recommends that the Board review how water/wastewater services can be provided to all former Fort Ord jurisdictions in order to complete the commitments in the 1997 Base Reuse Plan.

ENVIRONMENTAL SERVICES

At the current time, the ESCA obligations on behalf of the United States Army include property clean-up, regulatory coordination between the state and federal agencies, and future land use covenant monitoring and regulatory required reporting. There is a current ESCA Amendment that will reimburse up to \$6.8M to pay for the future services with limited staff and consultants. The staff services provided pursuant to this contract are specialized and require certification and pertinent knowledge. Under the terms of the ESCA there are a limited number of successors: the County, the City of Seaside, City of Marina and/or a JPA. Currently, the recommendation is for the City of Seaside, which has the most potential reuse projects moving forward, to be designated. The Army clean up contract assumes a LAFCO-designated successor to the contractual obligations, so lack of LAFCO jurisdiction may be problematic in the absence of an agreement. We request Board consensus on identifying either the County of Monterey or the City of Seaside as the likely successor entities to the contractual obligations and assets of ESCA.

IMPLEMENTATION

As revised, the Transition Plan Resolution now requires that the underlying jurisdictions enter into Transition Plan Implementation Agreements no later than March 2019 outlining their compliance with the Transition Plan elements, including replacement funding, construction of roadway improvements, revenue sharing, and other obligations. The FORA Board will review and approve that any Transition Plan Implementation Agreement complies with the Transition Plan approved by the board. Other assignments of Agreements with outside entities will continue throughout 2019 until FORA sunset. In the absence of legislative clarity or legal certainty that either LAFCO or FORA have the ability to identify and impose obligations on the member agencies, implementation will require multiple agreements and actions. Once the Board comes to a majority approval of the elements of the Transition Plan, staff will prepare a finalized resolution and schedule of additional implementing actions.

FISCAL IMPACT:


Reviewed by FORA Controller 

COORDINATION:

County of Monterey, LAFCO, TAMC, Cities of Seaside, Monterey, Del Rey Oaks, Marina and Salinas.

ATTACHMENTS:

- Attachment A: Transition Plan Resolution
- Attachment B: Marina Replacement Fee Language
- [Exhibit A to Attachment A: Contract Summaries](#)

Prepared by 
Sheri L. Damon

Reviewed by 
Steve Endsley

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY RESOLUTION NO. 18-xx

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY Adopting a Transition Plan

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

- A. In 1991, the Secretary of Defense announced the proposed downsizing of the United States Army Fort Ord Military Reservation under the Base Realignment and Closure Act. The US Army moved the 7th Light Infantry to Fort Lewis Washington over the coming two years. Regional communities lost significant economic, social, and cultural contributions that had been associated with the military presence.
- B. At the time the closure was made public, the regional political leadership formed a Fort Ord Community Task Force ("Task Force") prior to the downsizing/closure. After closure was announced, that Task Force was asked to form recommendations for moving forward with a recovery effort.
- C. In October 1992, the Fort Ord Reuse Group ("FORG") was formed/organized by local governments and potential property recipients to initiate former Fort Ord recovery planning - predicated upon the June 1992 Fort Ord Task Force Strategy Report. An initial and revised plan were considered and adopted by FORG in 1993. Those initial planning efforts recognized the significant costs associated with the implementation of any plan and sustained the regional and basewide approaches that were inherent in the Task Force conclusions.
- D. The Fort Ord Reuse Authority ("FORA") was established in 1994 by state legislation and when each Jurisdiction voted to create the Fort Ord Reuse Authority in accordance with Government Code section 67700 and following (the "FORA Act"). FORA, as a regional agency, is authorized with a primary legislative directive to plan, facilitate, and manage the transfer of former Fort Ord property from the United States Army (the "Army") to the governing local jurisdictions or their designee(s).
- E. FORA, under FORA Act authority, adopted a Fort Ord Base Reuse Plan (the "Reuse Plan") on June 13, 1997, which identified (1) environmental actions required to mitigate development and redevelopment of the former Fort Ord (the "Basewide Mitigation Measures"), and (2) infrastructure and related costs necessary to accommodate development and redevelopment of the former Fort Ord (the "Basewide Costs"). As a part of that approval, the Board certified an Environmental Impact Report and adopted a Statement of Overriding Considerations making the follow findings:
 - The Reuse Plan will provide for an improved and diversified retail and industrial economy and market that will generate employment and create financial stability;

- The Reuse Plan will provide moderate and upscale housing which will provide more affluent residents to the Cities of Seaside (“Seaside”) and Marina (“Marina”), thereby creating a housing stock with higher income families in these communities with larger disposable incomes;
- The Reuse Plan will provide additional tourist support facilities in Seaside and Marina, thereby contributing additional employment opportunities;
- The Reuse Plan will encourage and prioritize the development of projects that are regional in scale, thereby creating additional destination points on the Monterey Peninsula, and thereby enhancing the local economy;
- The Reuse Plan provides for the creation of various additional recreational facilities and open space that will enhance the quality of life for not only the residents of Seaside and Marina but all of the residents of the Peninsula;
- The Reuse Plan will attract and assist in retaining a pool of professional workers for the Peninsula;
- The Reuse Plan will assist in ensuring that the overall economic recovery of the Peninsula benefits the Cities of Del Rey Oaks (“DRO”), Monterey (“Monterey”), Seaside, Marina, and the unincorporated areas of the County of Monterey (“County”) in the vicinity of Fort Ord;
- The Reuse Plan will provide for additional and needed senior housing opportunities;
- The Reuse Plan will assist the communities of Seaside and Marina in the transition of their respective community images from dependent, military base extensions with transient military personnel to vital, independent, and self-actuated communities populated with permanent residents with long-term interests in the well-being of their respective communities.
- The Reuse Plan will encourage development that will enhance the continued viability of California State University at Monterey Bay and the open space areas retained by the federal government through the Bureau of Land Management and conveyed to the California Department of Parks and Recreation.

F. FORA is obligated either by the California Environmental Quality Act, the Reuse Plan and/or the Authority Act (Government Code Section 67670 and following) to implement the Basewide Mitigation Measures and incur the Basewide Costs. To carry out such obligations, FORA arranged for a public financing mechanism to apply to all former Fort Ord properties.

G. In the Reuse Plan, FORA identified land sale and lease (or “property based”) revenues, FORA share of Fort Ord property taxes, and basewide assessments or development fees, as the primary sources of funding to implement the Basewide Mitigation Measures and to pay the Basewide Costs.

H. To implement its obligations under the Authority Act and transition the base as quickly as possible, FORA sought funding, entered into multiple agreements with local, state, and federal entities, established a community facilities district (“CFD”) fee and a Capital Improvement Program (“CIP”). The BRP carries a series of mitigative project obligations which were defined in Appendix B of the Public Facilities Implementation Plan (“PFIP”).

The PFIP served as the baseline CIP for the reuse plan. The FORA CIP was adopted in 2001 and is reviewed on an annual basis. The CIP expenses are estimated in the 2018-19 CIP to be approximately \$194.5M post-2020.

- I. On or about June 7, 2000, FORA entered into a Memorandum of Agreement (MOA) for the No-Cost Economic Development Conveyance (“EDC”) of former Fort Ord Lands. This document was recorded on June 23, 2000 at Series No. 2000040124 in Monterey County records. The MOA provided the vehicle for the Army to transfer property to FORA without monetary consideration. Under the Federal legislation any Sale or Lease Proceeds are to be applied to the economic development of the former Fort Ord.
- J. In 2001, each underlying Land Use Jurisdiction and FORA entered into an Implementation Agreement or other Agreement to provide for orderly transfer of EDC property and the allocation of a fair and equitable share of Basewide Costs and Mitigation Measures. The Army required that water be allocated in a fair and equitable manner amongst all property recipients and the Implementation Agreement requires compliance with FORA water allocations. It is intended that these contracts be addressed through this Transition Plan Agreement for the mutual benefit of the Monterey Bay region and to the mutual benefit of all other successors in interest to FORA.
- K. On or about 2001, FORA established a Community Facilities District (“CFD”), which collects a special tax on all properties to be developed. The tax is due and payable on issuance of a building permit for the property. That tax adjusts annually and cannot be legally challenged. The CFD is structured to promote business/job generating uses on the base. When the FORA legislation sunsets that CFD may no longer be collected. If the CFD is replaced with a nexus fee, it is likely the underlying taxation will be shifted to job generating uses paying more and housing paying less. Replacement fees may be imposed on future development.
- L. The Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) applies to the entire Fort Ord base closure. The Army is obligated to remediate the former Fort Ord by state and Federal law, including the removal of munitions and explosives. The timeline for the Army cleanup was based in part upon the contingent nature of funding and Department of Defense priorities for funds. Accordingly, in order to receive the properties early and facilitate an orderly and timely remediation of former Fort Ord lands, the Army and FORA entered into an early transfer agreement. Through a series of agreements between Army, FORA, Environmental Protection Agency, and Department of Toxic Substance Control, FORA has proceeded pursuant to an Army contract for services to remediate munitions and explosives on the former Fort Ord. The remediation obligations will be ongoing post dissolution of FORA.
- M. The Board wishes to continue orderly reuse, and to provide for the orderly transition of FORA’s assets, liabilities, pledges, obligations and a schedule of those obligations to complete the FORA basewide costs and mitigation measures.
- N. Government Code section 67700 requires that FORA sunset when eighty percent (80%) of the base has been reused or on June 30, 2020 and that FORA Board approve and

submit a Transition Plan to the Local Agency Formation Commission (“LAFCO”) on December 31, 2018 or eighteen months prior to expiration of FORA. The Transition Plan shall assign assets and liabilities, designate responsible successor agencies and provide a schedule of remaining obligations.

WITH REFERENCE TO THE FACTS RECITED ABOVE, the Board hereby makes the following findings:

Section 1. Basewide Costs and Basewide Mitigation Measures:

The Board hereby finds that all the projects contained in the CIP are basewide costs and/or basewide mitigation measures and required to be addressed as assets, liabilities or obligations pursuant to Government Code section 67700 by this Transition Plan.

The Board further finds that the FORA Community Facilities District (“CFD”) funding mechanism provides the best vehicle to ensure long term revenue generation and revenue sharing to complete the projects contained in the Capital Improvement Program and should be extended at a minimum, until all CFD have been collected from already entitled development. The CFD will expire by its own provision when FORA sunsets. The Board makes this finding knowing that imposing new financing mechanisms on already entitled development creates risk of loss to the Monterey County region of approximately \$72 million dollars towards completing the remaining Basewide Mitigation measures. The Board further finds that shifting revenue generation from a Mello Roos special tax to a nexus based system will shift costs to economic job generating land uses, such as retail, industrial and commercial uses.

The Board further finds that the Implementation Agreements with Marina, Seaside, City of Monterey, City of Del Rey Oaks and the County all require that they continue to fund the base reuse until all basewide costs and mitigation measures have been retired. Accordingly, the Board assigns all its rights in each Implementation Agreement to its successor who is responsible to complete the projects in the CIP. Each Implementation Agreement requires each jurisdiction to generate revenues according to the following formula as its fair and equitable share of Basewide Costs and Basewide Mitigation Measures: 50% land sales or lease revenues, plus the CFD or development fee, plus the property tax revenues to be received by FORA.

Pursuant to the authority granted by the legislature in Government Code 67700(b), the Board hereby designates all projects identified in the Capital Improvement Program as obligations required to be assigned by this Transition Plan in accordance with the formulas set forth in the Implementation Agreements and as the schedule of implementing those obligations.

The Board further finds that this Transition Plan may be implemented through Transition Plan Implementation Agreements (TPIA) with all agencies affected by this Transition Plan. All TPIA shall address how each underlying jurisdiction will generate revenues to meet its obligations as assigned herein, revenue sharing provisions between those that will generate revenues and those implementing CIP projects and such other matters as required to implement this Transition Plan and a schedule of when the receiving jurisdiction will complete said actions.

The Board strongly encourages all underlying jurisdictions with future prospective development to form Community Facilities Districts (or other replacement mechanisms) to replace the revenues which would have been raised by the FORA CFD. Additionally, the Board encourages member jurisdictions to include in documents about future projects, language which will obligate future development projects to pay a FORA CFD fee, as escalated (or equivalent replacement fees).

In the absence of fully executed TPIA, all revenues required to be contributed pursuant to the Implementation Agreements shall be paid into a fund/escrow account established for the purpose of sharing revenues. A TPIA may identify a jurisdiction or entity who will manage said account, which shall be done on a reimbursement basis pursuant to the 2020 CIP adopted by FORA.

Section 2. Assignment of assets/liabilities/obligations:

FORA has two types of assets/liabilities/obligations: **administrative** assets, liabilities and obligations (E.g. CalPERS, Administrative, costs not flowing from the ownership, control, management or transfer of real property) and **real property related** assets, liabilities and obligations (Basewide Mitigation Measures, Basewide Costs, Contractual, and ESCA obligations). Each type of obligation will have a unique assignment as a part of transitioning to successor entities.

In general, administrative liabilities and obligations will be assigned based upon FORA Board voting percentage as outlined herein below. For administrative liabilities, each voting member shall be deemed a successor to FORA in the percentages as outlined below. Unless otherwise specified, Real property related assets, liabilities and obligations shall be assigned to the underlying jurisdiction, unless there are agreements changing that allocation. For real property related assets, liabilities and obligations, unless otherwise specified each identified underlying jurisdiction shall be deemed FORA’s successor entity for that obligation.

Administrative

	VOTING (13)
City of Monterey 1/13	7.69%
City of Marina 2/13	15.38%
City of Del Rey Oaks 1/13	7.69%
City of Monterey 1/13	7.69%
County of Monterey 3/13	23.1%
City of Pacific Grove 1/13	7.69%
City of Carmel-by-the-Sea 1/13	7.69%
City of Sand City 1/13	7.69%
City of Seaside 2/13	15.38%
	100%

Contractual Obligations.

The Board hereby finds that FORA contractual obligations have been collected and reflected on the attached Exhibit A and hereby makes assignments in accordance with Exhibit A. The TPIA shall address how each agency intends to comply with such assignments.

Assets. FORA has multiple assets. The following is the identification of main assets and proposed to be transferred to the corresponding entity, in proportion to the obligation.

Section 115 Trust: To be used only for retirement purposes. Currently the Section 115 Trust is returning over 2%. The fund will be transferred to Cal PERS upon FORA sunset or as otherwise identified by TPIA to minimize future jurisdictional liability and maximizes the Trust benefits.

Reserve Funds. FORA currently has funds identified for retirement and other purposes. Those funds shall be reviewed in 2020, allocations made and distributed in accordance with the approved FORA budget.

Habitat Conservation Funds. Estimated to be approximately \$21M on June 30, 2020, any amounts accumulated by June 30, 2020 to be transferred to the HCP Cooperative, if it has been established; and if no HCP Cooperative or alternative JPA for basewide habitat management issues, then to be transferred to Monterey County in trust for individual basewide habitat management and future development take permits, as more fully developed in the 2020 Capital Improvement Program.

Indemnification/Litigation Funds. To the extent required, Indemnification Funds shall be managed pursuant to the contract with LAFCO. In the instance that there is no need for the indemnification funds, said funds shall "roll over" into a Litigation Fund for any post-FORA sunset litigation costs. Upon conclusion of any litigation in which FORA is either the named Petitioner or Respondent, any funds remaining in the Indemnification/Litigation Fund shall be refunded to all the underlying jurisdictions in proportion to their voting percentages outlined above in this section.

Capital Improvement Funds. All CFD funds collected prior to June 30, 2020 or sunset, shall first be directed to completing in progress construction projects, such as South Boundary Road as identified in the 2019-2020 or final year Capital Improvement Program. Funds shall be transferred to the jurisdiction completing construction, which in general shall be completed by the jurisdiction in which the majority of the project lies.

ESCA Reimbursement Agreement. Estimated to be \$6.8M in potential reimbursement. Said Reimbursement Agreement shall be transferred to either the County or Seaside, who shall be deemed the FORA successor agency and accepted by the U.S. Army as successor to the ESCA contract. The County and/or Seaside TPIA shall address which entity and how they will succeed FORA.

Miscellaneous Plant/Facilities. FORA has a myriad of office furniture and equipment which shall be disposed of within two months of FORA sunset in accordance with the rules of California for disposal of state property. Any proceeds shall first be directed to any shortfall in administrative liabilities, if no administrative liabilities all funds shall be directed into the Capital Improvement Program toward any project in which FORA is the lead and is under construction first, then to other projects in the Capital Improvement Program.

After Discovered Items:

To the extent that any contractual obligation is discovered during the LAFCO review and/or enforcement of this Transition Plan or a TPIA, those contractual obligations shall be assigned as follows:

- If the obligation is related to underlying use of property, it shall be assigned to the underlying land use jurisdiction;
- If the obligation is an administrative liability/obligation it shall be assigned/addressed jointly and severally in conformance with the voting percentage obligation;

Section 3. Transition Plan Subject matters:

A. **Habitat.** The Board hereby finds that integrated basewide habitat protection is best funded by the FORA CFD. By Board policy the Board has identified and set aside approximately 30.2% of collected CFD fees to be put towards a basewide habitat management and conservation plan. It is the Board's intent that if/once a joint powers agency/authority is formed for the purposes of basewide habitat management and conservation, that the habitat management and conservation obligations shall be assigned/transferred to that entity. If the FORA CFD is continued, it shall continue to keep basewide habitat conservation as one of the funding requirements and shall transfer funds to the JPA for purposes of management of habitat in perpetuity. The attendant funds on hand at FORA sunset shall be provided to that entity to be held in trust solely for the purposes of long term management of habitat management areas and assistance for other projects requiring site specific habitat conservation plan and take permits. If no JPA is formed, then long term habitat management shall be borne by the underlying land use jurisdictions. Prior to FORA Board sunset, the Board shall review the basewide habitat funding policies to determine whether those funds shall be transferred/provided to underlying jurisdictions at FORA sunset or allocated to other basewide costs and mitigation measures. FORA's 2018-19 Capital Improvement Program (CIP) projects that \$45,161,654 will remain to be funded for the Fort Ord Habitat Conservation Plan (HCP) after June 30, 2020. As part of this Transition Plan, FORA assigns this cost in the following manner based on projected CFD special taxes to be collected on former Fort Ord: \$20,142,098 (44.6% of the cost) to the City of Marina, \$9,890,402 (21.9%) to City of Seaside, \$7,587,158 (16.8%) to City of Del Rey Oaks, \$4,516,165 (10%) to County of Monterey, \$2,935,508 (6.5%) to University of California, and \$90,323 (0.2%) to City of Monterey. These assignments shall be addressed in the TPIA to be executed by all member and/or ex officio member affected by this Transition Plan.

B. **Transportation.** The Board hereby finds that completion of the on-base Fort Ord Transportation Network projects that have been identified in the CIP are essential to the long term success of the economic recovery of the reuse. The Board further finds that extension of the FORA CFD for the purpose of revenue generation and revenue sharing would be the best long term way to collect and share revenues to fund the transportation network for the on-site and off-site projects and the regional projects to the extent that a replacement regional transportation fee may not be imposed on already approved development projects. For all those projects in which FORA is not the designated lead

agency and have not been completed, the responsibility to generate and/or collect revenues from the other member agencies and construct will rest with the lead agency. For those projects in which FORA is the lead agency and have not yet been completed, the Board assigns those projects to the underlying jurisdiction where the project is mostly located, to be FORA's successor, to generate and/or collect revenues and construct in accordance with the schedule set forth in the 2020 CIP, unless otherwise addressed in a TPIA. FORA's 2018-19 Capital Improvement Program (CIP) projects that \$132,346,818 will remain to be funded for FORA's share of the transportation network for on-site, off-site, regional, and transit improvements after June 30, 2020. As part of its Transition Plan, FORA assigns this cost in the following manner based on projected CFD special taxes to be collected on former Fort Ord: \$59,026,681 (44.6% of the cost) to the City of Marina, \$28,983,953 (21.9%) to City of Seaside, \$22,234,265 (16.8%) to City of Del Rey Oaks, \$13,234,682 (10%) to County of Monterey, \$8,602,543 (6.5%) to University of California, and \$264,694 (0.2%) to City of Monterey.

- C. **Environmental Services**. The Board hereby finds that the long term stewardship obligations and related monitoring activities identified by the United States Army for its munitions removal obligations are crucial to the future success of the recovery program. The Board further finds that the current full time staffing of the Environmental Services Cooperative Agreement ("ESCA") be continued and sustained either through an extension of a modified FORA through ESCA contract terminus in 2028 or assignment to County or Seaside upon the dissolution of FORA. The Board also finds that the funding associated with the performance of the terms of the contract be negotiated for assignment at the point of dissolution.
- D. **Building Removal**. The Board hereby finds that former Fort Ord remnant, non-historic, and abandoned US Army structures, not obligated to be removed under the FORA CIP, are a barrier to the recovery and reuse overall program and a nuisance to quiet enjoyment of the region assets. The Board also finds that an extension of the FORA Act to sustain resources that can be applied to this significant barrier to recovery is an important transition component. The Board, therefore, further requests legislative consideration of an extension to meet this blight eradication need as well as other resource demands noted in A & B herein.
- E. **Establishment of a Basewide Funding Escrow Account**. The Board hereby finds that a unified funding mechanism for handling Indemnification, Litigation and other expenses related to Basewide Mitigation Measures and Basewide Costs is necessary and appropriate. The unified fund may be either managed by a successor Jurisdiction willing and able to hold these funds in a special account solely for the purpose of administering the Basewide Mitigation Measures and Basewide Costs or an escrow account established for the sole purpose of holding and administering Basewide Mitigation Measures and Basewide Costs. The administrative overhead for holding and managing either of these mechanisms shall be treated as a real property related cost. Litigation management shall be pursuant to unanimous agreement of all affected parties, unless otherwise agreed to in writing. Any additional funds required for administrative type liabilities/obligations shall be funded in accordance with the voting percentages of the FORA Board member jurisdictions. Any additional funds required for real property type

liabilities/obligations shall be borne jointly and severally by the underlying land use jurisdictions, unless such basewide mitigation measure or costs is a project in which an underlying jurisdiction is the lead agency.

- F. **Water/Wastewater.** The Board hereby finds that it has made water allocations in accordance with its obligation under the Memorandum of Agreement with the U.S. Army to ensure a fair and equitable water supply to all property recipients and imposed those requirements in the Implementation Agreements. The Board further finds the Implementation Agreements may need to be enforced should any jurisdiction's approved developments exceed their water allocations. In such a case, the remedy shall be that no water connection permits shall be issued until that jurisdiction brings its water allocation into compliance **or** MCWD develops an augmented water supply in excess of the water allocations to all jurisdictions.

The Board further finds that transferring the obligation to finance water augmentation, water, and wastewater infrastructure to Marina Coast Water District to implement the Reuse Plan is appropriate at FORA sunset. To the extent that Marina Coast is unable to impose and/or collect revenues to replace the revenues generated by FORA's CFD, the Board finds that continuation of the CFD (or jurisdictional replacement) allows for funds to reduce connection and other costs imposed by MCWD. FORA's 2018-19 Capital Improvement Program (CIP) projects that \$17,098,686 will remain to be funded for basewide water augmentation improvements after June 30, 2020. As part of its Transition Plan, FORA assigns this cost in the following manner based on projected CFD special taxes to be collected on former Fort Ord: \$7,626,014 (44.6% of the cost) to the City of Marina, \$3,744,612 (21.9%) to City of Seaside, \$2,872,579 (16.8%) to City of Del Rey Oaks, \$1,709,869 (10%) to County of Monterey, \$1,111,415 (6.5%) to University of California, and \$34,197 (0.2%) to City of Monterey.

The Board's intent is that jurisdictions may alter their water allocations as identified in the Implementation Agreements, only by written agreement with other jurisdictions. Upon submission of such revised written agreement as to water allocation, MCWD shall honor that revision as though it was the allocation set forth in the Implementation Agreement.

- G. **Policy Issues.** The FORA Board hereby finds that the policies contained in the Master Resolution (Chapter 3 & 8 in particular) should be continued and enforced upon FORA dissolution and hereby direct staff to record the Master Resolution in its entirety one month prior to the dissolution. In particular, the Board finds that the prevailing wage policy established in 1996 to promote an equitability and fairness to all workers on the former Fort Ord shall be sustained in the completion of the former Fort Ord recovery program. The Board further finds that the State of California should provide legislative clarity regarding the authority of the Department of Industrial Relations, underlying land use jurisdictions or the Fort Ord Reuse Authority to monitor and establish a procedure for compliance with this policy.

Section 4. California Environmental Quality Act

The Board hereby finds that it adopting this Transition Plan in response to Government Code section 67700 and solely allocates assets, liabilities and obligations of the Fort Ord Reuse Authority in advance of its ultimate dissolution. Nothing herein approves any change in land use or underlying land use jurisdiction, or makes any changes to project-specific review by lead agencies for those projects located within their respective boundaries, including but not limited to those projects contained in the Capital Improvement Program. As such, the Board hereby finds that this Transition Plan is not a project under CEQA and/or is exempt as an organizational reorganization.

Section 5. LAFCO Review and Enforcement

If LAFCO finds that this Transition Plan does not fully address the requirements of Government Code section 67700 to identify and assign all assets, liabilities, obligations, the Board requests that LAFCO return the Transition Plan with LAFCO's identified deficiencies at the earliest possible time for FORA Board action.

This Transition Plan includes the opportunity for all affected jurisdictions to enter into a TPIA, subject to Board approval, to implement this Transition Plan. In the instance there are no executed TPIA, the Board hereby makes the above assignments pursuant to Government Code 67700 and requests that LAFCO ensure such Transition Plan assignments as though they were conditions of special district dissolution imposed pursuant to Government Code section 56886 and use all LAFCO's powers to enforce said Transition Plan assignments utilizing Government Code section 56122 or the enforcement powers of Government Code section 67700 as to the member jurisdictions.

THE BOARD HEREBY RESOLVES AS FOLLOWS:

1. As outlined above, this Resolution and its provisions constitute the Transition Plan required by Government Code section 67700(b); and
2. The Board hereby makes all assignments in accordance with Government Code section 67700(b) by approving this Transition Plan and intends that those assignments be implemented through Transition Plan Implementation Agreements in the first instance, but if no agreements, then as assignment and conditions of dissolution, as though they were imposed pursuant to Government Code section 56886 and 67700(b).
3. The Board hereby directs the Executive Officer to submit this Transition Plan to LAFCO and execute all LAFCO required documents and fees, including an Indemnification Agreement; and
4. The Board further directs the Executive Officer, or his designee, to begin **Transition Plan Implementation Agreements** with each jurisdiction implementing the terms and conditions assigned in this Transition Plan. The Executive Officer is directed to report progress on January 1, 2019 and to complete all negotiations and documents not later than March 2019. The Executive Officer shall compile a list of such additional actions necessary to implement this Transition Plan.

Upon motion by Board member ---- seconded by Board member ---- the foregoing Resolution was passed on this _____ day of September, 2018, by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Mayor Ralph Rubio, Chair

ATTEST:

Michael A. Houlemard, Jr., Clerk

DRAFT

6. **Fees.** Section 2.7.1 is hereby deleted in its entirety and replaced with the following:

2.7.1.1 During the Original Term, Developer shall be obligated to pay only the Original City Impact Fees as set forth in Exhibit B attached hereto and incorporated herein by this reference, and the City shall not impose or exact any additional fees, whether through the exercise of the police power, the taxing power, or any other means. During the Extended Term, Developer shall be obligated to pay the Updated City Impact Fees. Notwithstanding anything set forth in this Section 2.7.1.1 or in Section 2.3, during the Extended Term the Developer shall be obligated to pay any lawful and lawfully imposed fees, taxes or assessments adopted by the City subsequent to the Effective Date applicable to residential development projects within the City, including new development impact fees that were not previously included in the Original City Impact Fees.

2.7.1.2 FORA Fee. (a) City and Developer acknowledge that (i) Developer is currently obligated to pay at time of issuance of building permit a one-time special assessment per residential unit levied by the Fort Ord Reuse Authority (“FORA”) Basewide Community Facilities District in the amount of \$23,837, which may be adjusted (the “FORA Fee”); (ii) FORA may be dissolved in 2020 and some or all of its obligations may be transferred to local agencies. In the event that FORA is dissolved Developer acknowledges that it will no longer be obligated to pay the FORA Fee to FORA. Developer further acknowledges that City may assume certain obligations of FORA currently paid by FORA with the FORA Fee or assume obligations to collect fees or assessments from property owners and developers to pay for obligations currently covered by the FORA Fee and assumed by other public entities and that City will need to collect a fee comparable to the FORA Fee to cover such obligations.

(b) Developer agrees to cooperate with the City in addressing the replacement of the FORA Fee, including the following:

- (i) Developer shall vote for inclusion of any property owned by Developer for which the FORA Fee has not already been paid within assessment districts or community facilities districts formed by the City or another regional entity, and shall pay such fees as may be imposed by such assessment districts or community facilities districts, provided such fees are lawful and lawfully imposed, and such fees do not exceed the FORA Fee in effect at the time of FORA’s dissolution subject to annual adjustments 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 Marina area ("FORA Fee Adjuster").

- (ii) As part of the consideration for City's agreement to extend the term of this Agreement as set forth above, Developer agrees in the event that FORA is dissolved with respect to any property owned by Developer for which the FORA Fee has not already been paid, to pay to the City a new fee to replace the FORA Fee (the "New Fee"), provided that such New Fee:
 - (A) is required to be paid upon issuance of a building permit and not before,
 - (B) is a one-time fee or assessment; and
 - (C) the City shall be responsible for distributing such applicable portions of the New Fee to other regional agencies, if any, that assume obligations that were previously funded by the FORA Fee.

(c) Whether the New Fee is a single fee and/or assessment or multiple fees and/or assessments, it shall not in the aggregate exceed the lesser of (1) the amount of the FORA Fee at the time of FORA's dissolution as increased by the FORA Fee Adjuster; or (2) the amount that when added to any FORA related development impact fee adopted by the City or other local entities or any special assessment or special tax imposed pursuant to subsection (b)(i) above does not exceed the FORA Fee at the of FORA's dissolution as adjusted by the FORA Fee Adjuster.

Notwithstanding anything set forth in this paragraph or the provisions of Sections 6.2 and 6.3, the provisions of this Section shall not be applicable to individual homeowners or assignees who took title to portions of the Property prior to the Effective Date of this Amendment and provided further, in no event shall the New Fee pursuant to subsection (b)(ii) and any assessment or special tax pursuant to subsection (b)(i) exceed the FORA Fee at the time of FORA's dissolution increased by the FORA Fee Adjuster. The limitations set forth herein on the amount of any fee imposed by the City or adopted by the City to replace the FORA Fee shall not in any way limit the City's ability to adopt and impose other development impact fees, special taxes, or assessments unrelated to the replacement of the FORA Fee.

7. **Park Fees.** Section 2.8.2 is hereby deleted in its entirety and replaced with the following:

During the Original Term, Developer shall pay Park Development Fees ("Park Fees") set forth in Exhibit B to this Agreement as part of the City