



Fort Ord Reuse Authority

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

BOARD OF DIRECTORS MEETING
Wednesday, August 29, 2012 at 5:30 p.m.
910 2nd Avenue, Marina, CA 93933 (Carpenter's Union Hall)

AGENDA

1. CALL TO ORDER AND ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. CLOSED SESSION

Public Comment – Closed Session Items

- a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – Three Cases
 - i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M116438
 - ii. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M114961
 - iii. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M119217

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

6. PUBLIC COMMENT PERIOD

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

7. CONSENT AGENDA

- a. July 13, 2012 FORA Board Meeting Minutes ACTION
- b. July 26, 2012 FORA Board Meeting Minutes ACTION

8. OLD BUSINESS

- a. Capital Improvement Program Review – Phase II Study (2nd Vote) ACTION
 - i. Adopt Resolution to Implement a Formulaic Approach to the FORA Development Fee Schedule and Communities Facilities District Special Tax Rates
 - ii. Approve Amendment #1 to the FORA-Jurisdictions Implementation Agreements to Implement a Formulaic Approach
- b. Ex-Officio Representation on FORA Executive Committee (2nd Vote) ACTION

9. PUBLIC WORKSHOP – TO BEGIN AT 6:30 P.M. (TIME CERTAIN)

- a. Base Reuse Plan Reassessment Draft Scoping Report INFORMATION

10. ITEMS FROM MEMBERS

11. ADJOURNMENT

NEXT REGULAR MEETING SEPTEMBER 14, 2012



Fort Ord Reuse Authority

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BOARD OF DIRECTORS BOARD MEETING

Friday, July 13, 2012 at 3:30 p.m.

910 2nd Ave, Marina (Carpenter's Union Hall)

Minutes

1. CALL TO ORDER AND ROLL CALL

Chair Potter called the Board Meeting to order at 3:30 p.m.

Voting Members Present:

Chair/Supervisor Potter (County of Monterey)
Councilmember Beach (City of Carmel by the Sea)
1st Vice Chair Mayor Edelen (City of Del Rey Oaks)
Mayor ProTem O'Connell (City of Marina)
Councilmember Brown (City of Marina)
Councilmember Selfridge (City of Monterey) @
3:40 p.m.

Supervisor Parker (County of Monterey)
Nick Chiulos (County of Monterey)
Councilmember Kampe (City of Pacific Grove)
Mayor Donahue (City of Salinas)
Mayor Pendergrass (City of Sand City)
Mayor Bachofner (City of Seaside) @ 3:50 p.m.
Councilmember Oglesby (City of Seaside)

Absent:

Supervisor Calcagno (County of Monterey), Mayor Burnett (City of Carmel-by-the-Sea)

Ex-Officio Members Present:

Congressman Farr (17th Congressional District)
@ 4:10 p.m.
Nicole Charles (27th State Assembly District)
Graham Bice (University of California)
Justin Wellner (CSUMB) @ 3:35 p.m.
Vicki Nakamura (MPC) replaced by Dr. Garrison @
3:35 p.m.

Hunter Harvath (Monterey-Salinas Transit) @
3:40 p.m.
Debbie Hale (Transportation Agency of
Monterey County)
COL Clark (US Army) @ 3:40 p.m.
Gail Youngblood (Fort Ord BRAC Office)
Howard Gustafson (Marina Coast Water District)

2. PLEDGE OF ALLEGIANCE

Chair Potter led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Assistant Executive Officer Steve Endsley stated that Item 5c had been pulled from the Agenda and that one of the cases agendized under Item 10b as anticipated litigation was now existing litigation and so would become Item 10.a.iii. City of Marina vs. Fort Ord Reuse Authority, Case Number M118566.

4. PUBLIC COMMENT

LeVonne Stone, Fort Ord Environmental Justice Network, requested the Board agendize discussion of job creation strategies for the Monterey peninsula.

William Nye spoke in support of the Central Coast Veterans Cemetery project.

A member of the public noted that the meeting was not being video recorded and inquired as to the audio recording of the meeting.

A member of the public spoke regarding the need to maintain open space on the former Fort Ord.

Margaret Davis expressed concerns regarding the procedure for the public to contact Board members and the searchability of the minutes posted on the FORA website.

A member of the public expressed concerns regarding General Jim Moore Boulevard.

A member of the public stated that alternate chairs should be available for the public at Board meetings.

Janet Parks, President of the Central Coast Veterans Cemetery Foundation, requested that the Board continue their support of the veterans cemetery project.

A member of the public stated that FORA employees should be held accountable for misused funds and inquired as to the disposition of Preston Park.

5. CONSENT AGENDA

- | | |
|---|-------------------|
| a. June 8, 2012 FORA Board Meeting Minutes | ACTION |
| b. Auditor Contract – Termination/Renewal | ACTION |
| c. Preston Park Broker Advisor Services Contract | ACTION |
| d. June 8, 2012 Tort Claim filed Against FORA by Keep Fort Ord Wild | ACTION |

Supervisor Parker requested removal of Item 5d from the Consent Agenda. Councilmember Brown stated that page 4 of Item 5a should be amended to include his no vote.

MOTION: Mayor Edelen moved, seconded by Councilmember Oglesby, and the motion passed unanimously to approve Item 5a, as amended, and Item 5b.

d. June 8, 2012 Tort Claim filed Against FORA by Keep Fort Ord Wild

Supervisor Parker stated that proof should be provided that the FORA Auditor had cleared the expenses listed in the KFOR claim prior to rejection of the claim. Authority Counsel Jerry Bowden explained the tort claim rejection process. Members of the Board discussed the process for responding to tort claims and Mr. Endsley described the steps already under way to investigate the allegations listed in the claim.

MOTION: Mayor Edelen moved, seconded by Mayor Donahue, and the motion failed to deny the claim.

MOTION FAILED (second vote required): Ayes: Mayor Edelen, Mayor Donahue, Chair Potter, Councilmember Oglesby, Councilmember Brown, Councilmember Beach, Mayor Pro-Tem O'Connell, Mayor Pendergrass, Mayor Bachofner, Nick Chiulos, Councilmember Kampe. Noes: Councilmember Selfridge, Supervisor Parker.

6. OLD BUSINESS

a. Preston Park FY 2012/13 Budget

Senior Planner Jonathan Garcia provided a history of Preston Park and answered questions from the Board. The Board requested clarifications from Alliance staff regarding the calculations provided in the Board packet materials. Alliance staff provided explanations for the figures discussed, but stated that some of the questions would need to be investigated and explanations provided at a later date.

Paula Pelot discussed the current calculations, as well as the corrections made from the June 8, 2012 documents.

Denise Turley inquired as to the existence of a FORA anti-bullying policy, opposed cost of living increases for FORA staff, and discussed grievances against Alliance.

Ms. Stone discussed the need to keep Preston Park affordable for low income families.

A member of the public stated FORA should deed Preston Park to the City of Marina.

MOTION: Mayor Edelen moved, seconded by Councilmember Oglesby, and the motion passed unanimously to approve the Preston Park Operating budget, deferring approval of the Capital Expenditure Budget and any action on a rental increase until all issues were resolved.

b. FORA FY 2012-13 Preliminary Budget – 2nd Vote

Mr. Endsley presented the item, explaining that the current meeting was not being televised due to the fact that the FY 2012-13 Budget, which would provide authority for such expenditures, had not yet been approved.

Supervisor Parker asked whether, given the pending lawsuit from the City of Marina, staff planned to develop an alternative budget, which did not include revenue from the sale of Preston Park. Mr. Endsley replied that if the sale were delayed, staff would likely present an adjustment in the mid-year budget.

MOTION: Mayor Edelen moved, seconded by Mayor Pendergrass, to approve the Fiscal Year 2012/13 budget with a 2% cost-of-living salary increase.

Mayor Bachofner spoke in opposition to a 2% cost-of-living increase for FORA staff.

VOTE: Ayes: Mayor Edelen, Mayor Pendergrass, Chair Potter, Nick Chiulos. Noes: Councilmember Beach, Mayor Pro-Tem O'Connell, Councilmember Brown, Councilmember Selfridge, Supervisor Parker, Mayor Kampe, Mayor Donahue, Mayor Bachofner, Councilmember Oglesby.

MOTION: Mayor Bachofner moved, seconded by Mayor Donahue, and the motion passed unanimously to approve the Fiscal Year 2012/13 budget with no cost-of-living salary increase.

c. Ord Community Water and Wastewater Systems Proposed Budgets and Rates for FY 2012/13

i. Presentation by FORA

Mr. Garcia presented a history of the Ord Community water and wastewater rates and rate increases, and he discussed the procedure for FORA review and approval of Marina Coast Water District (MCWD) budget.

ii. Presentation by Marina Coast Water District

Kelly Cadiante, MCWD, provided an overview of the proposed Ord Community Water and Wastewater Budget and Carl Niizawa, MCWD Deputy General Manager/District Engineer, discussed the CIP Planning Budget.

iii. **Resolution Nos. 12-6 and 12-7 Adopting a Compensation Plan and Setting Rates, Fees and Charges for Base-wide Water and Sewer Services on the former Fort Ord**
MCWD Staff responded to the Board's inquiries regarding MCWD plans for annexation of areas on the former Fort Ord, the process for including rate payers in the FORA Water and Wastewater Oversight Committee (WWOC) review of the Ord Water and Wastewater budgets, past rate increases, current budget calculations, and the nature of \$7.6 million listed as a loan to the Regional Project.

Ms. Pelot, Preston Park Tenants Association, expressed frustration with the delay in annexing areas of the Ord Community, stating that Preston Park residents currently had no political representation on the MCWD Board.

Ms. Stone discussed past legal dealings with the Marina Coast Water District.

A member of the public expressed concerns regarding the amount of money spent by MCWD on lawyers and consultants.

Ms. Turley inquired as to why MCWD offered no program for low income customers and discussed the Proposition 218 process.

Ken Nishi, MCWD Board of Directors, addressed concerns regarding rate increases. Kelly Cadiente, MCWD, stated MCWD could investigate how other public utilities dealt with discounted rates for low income customers during their upcoming rate study. Howard Gustafson, MCWD Chair, discussed the annexation process.

Mayor Bachofner urged MCWD to investigate ways of increasing efficiency.

Councilmember Brown suggested that MCWD move forward with annexation in a timely manner. Councilmember Oglesby agreed and stated FORA need to take a stronger position in favor of annexation.

Supervisor Parker discussed the need for proper scheduling of infrastructure and development projects to avoid reliance on the ratepayers to fund infrastructure in advance of development revenue. She suggested that the FORA WWOC consider this during next year's CIP review. Justin Wellner agreed, noting that CSUMB was concerned about future rate increases.

MOTION: Mayor Edelen moved, seconded by Chair Potter, to:

1. **Receive presentations from FORA and MCWD staff;**
2. **Approve Resolutions 12-6 and 12-7 adopting a compensation plan and setting rates, fees and charges for former Fort Ord base-wide water and sewer services, with the addition of language stating that "no additional Ord Community resources should be used to further the Regional Desalination Project unless expressly authorized by the FORA Board" and removal of the \$42,000 allocation to the Regional Desalination Project included in the proposed budget;**
3. **Direct the WWOC to look at future CIPs to ensure that expenditures are facilitating new development as it occurs in an appropriate manner;**
4. **Encourage MCWD staff to expedite the annexation process.**

Councilmember Beach suggested the inclusion of timelines in the motion.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF MAKER AND SECONDER: agendize informational item to outline the process for annexation for the August 10, 2012 Board meeting.

Mayor Bachofner asked whether the motion included approval for setting aside 2% of current salaries for potential future salary increases, dependent upon the results of the upcoming salary survey. Mayor Edelen confirmed that it did.

VOTE (second vote required): Ayes: Councilmember Beach, Mayor Edelen, Chair Potter, Supervisor Parker, Nick Chiulos, Councilmember Kampe, Mayor Donahue, Councilmember Oglesby. Noes: Mayor Bachofner, Councilmember Brown, Mayor Pro-Tem O'Connell, Councilmember Selfridge, Mayor Pendergrass.

MOTION: Mayor Bachofner moved, seconded by Councilmember Oglesby, and the motion passed unanimously to continue the meeting past 5:30 pm.

d. Base Reuse Plan Reassessment Contract Amendment #2

Mr. Garcia presented the item, explaining the purpose of the contract amendment.

MOTION: Mayor Edelen moved, seconded by Mayor Bachofner, to authorize the Executive Officer to execute a Base Reuse Plan reassessment contract Amendment #2 with EMC Planning Group, Inc.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND THE SECONDER: reclassify "analysis of potential fiscal health of one or more of the individual jurisdictions" as a mandatory task.

Councilmember Oglesby emphasized the need to ensure all special interest groups the same degree of access and participation in the process. Several Board members stated they had received input that the previously held workshops were too heavy on presentation and did not allow enough time for public comment.

VOTE: unanimously approved

e. Capital Improvement Program Review – Phase II Study

- i. Resolution 12-5 to Adopt a Formulaic Approach to Development Fees**
- ii. Amendment #1 to FORA Jurisdiction's Implementation Agreements**
- iii. EPS Contract Amendment #5**

Mr. Endsley provided an overview of the formulaic approach, noting that the item had been vetted over the previous 3 months by the Administrative Committee. Mr. Garcia explained the staff recommendations.

Jamie Gomes, Economic and Planning Systems (EPS), presented a history of the phase II work by EPS and described the purpose and application of the formulaic approach.

The Board inquired as to FORA's ability to provide funding for the veterans cemetery, FORA's continuing ability to meet its obligations, the timeline for completion of the Phase II Study, and the land sale revenue calculations included in the applied formulaic approach.

Ms. Stone inquired as to the disposition of the regional reuse plan and discussed the urgent needs of the community.

Ralph Rubio requested the Board perform an analysis of the historical tax increment contributions in order to create more equitable distribution among the jurisdictions.

Jan Shriner spoke in opposition to a reduction in development fees.

A member of the public inquired as to whether a reduction in the fees would affect the ability of low/moderate income individuals to purchase homes.

Some Board members expressed concerns regarding the fact that the item had not been previously reviewed by the Board.

Chair Potter noted that the item had been previously reviewed by the Executive Committee. Mayor Bachofner agreed and spoke in support of the formulaic approach. Chair Potter stated the item was somewhat time sensitive, as its approval/rejection could affect the passage of AB 1614.

Supervisor Parker stated that moving too quickly would be disservice to tax payers that could be saddled with costs that should have been covered by developer fees.

MOTION: Mayor Edelen moved, seconded by Councilmember Selfridge, to authorize the Executive Officer to execute contract Amendment #5 with EPS to complete the Phase II Study in FY 2012/13, not to exceed additional budget authority of \$60,000, and direct staff to return all items relating to the implementation of a formulaic approach to establishing developer fees to the Board in 30 days.

Councilmember Kampe inquired as to the relationship between the item and AB 1614. Chair Potter indicated there were some legislators who had been willing to support the legislation on the condition that FORA address the issue of uncertainty with regards to development fees.

VOTE: unanimously approved

7. NEW BUSINESS

a. Ratify Appointment of Reimbursement Expense Ad Hoc Committee

Councilmember Kampe stated that on July 18, 2012, the Pacific Grove City Council was scheduled to consider whether to discontinue its participation in FORA. For this reason, he felt that the Board should appoint an alternate member to the Ad hoc Committee.

Mayor Edelen briefly reviewed the Committee's intended approach, which emphasized inclusion and transparency. They intended to speak with all key players and to present all findings to the Board.

MOTION: Supervisor Parker moved, seconded by Councilmember Brown, to ratify the Executive Committee's appointment of Mayor Edelen and Councilmember Kampe to the Expense Reimbursement Ad hoc Committee with Councilmember Oglesby as alternate and to authorize Committee selection/contract of a special auditor.

Ms. Pelot stated the Committee should include a member of the public. Ms. Stone agreed with Ms. Pelot.

A member of the public expressed concern that the Board did not routinely respond to the public's comments and stated the public should have Board voting rights.

VOTE: unanimously approved

8. EXECUTIVE OFFICER'S REPORT

- a. Administrative Consistency Determination For Entitlement: Marina's Rockrose Gardens Assisted Living Project
- b. Outstanding Receivables
- c. Administrative Committee
- d. Distribution of FY 2012/13 through 2021/22 Capital Improvement Program
- e. Habitat Conservation Plan
- f. Executive Officer's Travel

MOTION: Councilmember Oglesby moved, seconded by Supervisor Parker, and the motion passed unanimously to receive the Executive Officer's report without exception.

9. ITEMS FROM MEMBERS

None

10. CLOSED SESSION

- a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – Two Cases
 - i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M116438
 - ii. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M114961
 - iii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M118566
- b. Conference with Legal Counsel - Anticipated Litigation, Gov Code 54956.9(b) – One Case

A member of the public inquired as to the closed session item regarding the Tort Claim received from Keep Fort Ord Wild. Authority Counsel Bowden stated the item would not be discussed due to time constraints, but would be considered at the July 26, 2012 meeting.

The Board convened into closed session at 7:05 p.m. and reconvened into open session at 7:24 p.m.

11. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Authority Counsel announced that the Board had authorized additional expenditures for each of the three existing litigation cases.

12. ADJOURNMENT

Chair Potter adjourned the meeting at 7:26 p.m.

Minutes prepared by Lena Spilman, Deputy Clerk

Approved by:

Michael A. Houlemard, Jr.



Fort Ord Reuse Authority

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BOARD OF DIRECTORS BOARD MEETING Thursday, July 26, 2012 at 3:30 p.m. 910 2nd Ave, Marina (Carpenter's Union Hall)

Minutes

1. CALL TO ORDER AND ROLL CALL

Chair Potter called the Board Meeting to order at 3:00 p.m.

Voting Members Present:

Chair/Supervisor Potter (County of Monterey)
1st Vice Chair Mayor Edelen (City of Del Rey Oaks)
Mayor ProTem O'Connell (City of Marina)
Councilmember Brown (City of Marina)
Councilmember Selfridge (City of Monterey)

Supervisor Parker (County of Monterey)
Councilmember Kampe (City of Pacific Grove)
Councilmember Lutes (City of Salinas)
Mayor Pendergrass (City of Sand City)
Mayor Bachofner (City of Seaside)
Councilmember Oglesby (City of Seaside)

Absent:

Supervisor Calcagno (Monterey County), Mayor Donahue (City of Salinas)

Ex-Officio Members Present:

Nicole Charles (27th State Assembly District)
Graham Bice (University of California)
Justin Wellner (CSUMB) @ 3:34 p.m.

Todd Muck (Transportation Agency of Monterey County)
COL Clark (US Army) @ 3:20 p.m.
Gail Youngblood (Fort Ord BRAC Office)

2. PLEDGE OF ALLEGIANCE

Chair Potter led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Michael Houlemard discussed letters FORA had recently received from the Department of Toxic Substances Control and the Environmental Protection Agency regarding trespassing on FORA property. Gail Youngblood emphasized the importance of observing all land use restrictions on Fort Ord for the duration of the clean-up efforts.

4. PUBLIC COMMENT

Ralph Rubio asked that FORA perform an economic analysis of jobs creation and eco tourism in the region.

5. OLD BUSINESS

a. Master Resolution/Settlement Agreement – Appeal Fee Proposed Amendment to FORA Master Resolution (Section 8.01.050(a))

Mr. Houlemard explained that staff had received input from the Sierra Club, as well as a number of other entities, and presented alternatives for Board consideration.

Jane Haines, Sierra Club, explained the Sierra Club's position that the current appeal fee was too high and prevented members of the public from having a reasonable opportunity to redress

grievances. She addressed opposition to the proposal and noted that the Sierra Club would not agree to support a tiered appeal fee approach.

Chair Potter spoke in support of the proposal, noting that Board members could also sponsor an appeal for a member of the public at no charge.

Mayor Pro-Tem O'Connell stated he would oppose the motion. Councilmember Brown agreed and stated that rather than requiring members of the public to pay the fee and seek reimbursement, FORA should grant fee waivers. Supervisor Parker agreed with Councilmember Brown's concerns. Councilmember Oglesby stated that the current proposal, which included a reduced appeal fee accompanied by a promise of reimbursement, was reasonable.

MOTION: Councilmember Brown moved, seconded by Mayor Pro-Tem O'Connell, and the motion passed unanimously to amend section 8.01.050 (a) of the FORA Master Resolution to adjust FORA's Consistency determination appeal fee basis from the County of Monterey's land use appeal fee to an average of FORA's jurisdictions' land use appeal fees, as described in attachments A and B, with the addition of the following language: "the appeal fee shall be waived for an appellant who signs a declaration under penalty of perjury that she/he qualifies as very low income under low income standards."

b. Records Retention Policy

Principal Analyst Robert Norris explained that staff had reviewed numerous records retention policies from local, regional, and state agencies in preparation for the item. He discussed staff's request for additional funds to compensate for an unanticipated volume of public records requests.

The Board discussed the need establish a policy as soon as possible and acknowledged that future modifications would likely be necessary.

MOTION: Supervisor Parker moved, seconded by Councilmember Oglesby, and the motion passed unanimously to adopt the proposed Records Retention policy, as presented, and to authorize FORA staff to expend up to \$15,000 for additional resources to respond to an unanticipated volume of public records requests and to bring records into retention policy compliance.

Staff responded to several Board member questions regarding the policy. Councilmember Oglesby stated it was a strong policy and suggested that the retention schedule indicate which records were exempt from public disclosure.

VOTE: unanimously approved.

c. Ord Community Water and Wastewater Systems Proposed Budgets and Rates for FY 2012/13 (2nd Vote)

Assistant Executive Officer Steve Endsley summarized the previous Board consideration of the item.

i. Follow-up Presentation by Marina Coast Water District

Kelly Cadiente, Marina Coast Water District (MCWD), addressed several of the questions raised by the Board at their July 13, 2012 meeting.

ii. Resolution Nos. 12-6 and 12-7 Adopting a Compensation Plan and Setting Rates, Fees and Charges for Base-wide Water and Sewer Services on the former Fort Ord

The Board indicated a desire for a more detailed explanation of MCWD's progress toward Ord Community annexation and customer voting rights. Various Board members also discussed limiting capital and planning future expenditures on the regional desalination project, limiting the financial impact to the ratepayers of future capital expenditures, smoothing debt service for capital improvement projects prior to development in order to protect existing rate payers, the need to release information regarding MCWD contracts with consultants, attorneys, and engineering firms and encourage "in-sourcing," reducing MCWD staffing expenses, exploration of low-income rate options, and the need to provide information to the public regarding the number of votes required to defeat a Proposition 218 noticed rate increase.

Denise Turley inquired as to subsidies/fee waivers for low income individuals and opposed a raise for MCWD staff.

MOTION (2nd Vote): Mayor Edelen moved, seconded by Chair Potter, and the motion failed to:

- a. Receive presentations from FORA and MCWD staff;
- b. Approve Resolutions 12-6 and 12-7 adopting a compensation plan and setting rates, fees and charges for former Fort Ord base-wide water and sewer services, with the addition of language stating that "no additional Ord Community resources should be used to further the Regional Desalination Project unless expressly authorized by the FORA Board" and removal of the \$42,000 allocation to the Regional Desalination Project included in the proposed budget;
- c. Direct the WWOC to look at future CIPs to ensure that expenditures are facilitating new development as it occurs in an appropriate manner;
- d. Encourage MCWD staff to expedite the annexation process;
- e. Agendize an informational item to outline the process for annexation for the August 10, 2012 Board meeting.

INCORPORATION INTO THE MOTION WITH CONSENT OF MAKER AND SECONDER:
remove the 2% allocated in the MCWD Budget for potential wage increases following a compensation study.

VOTE: Ayes: Mayor Edelen, Chair Potter, Councilmember Kampe. Noes: Mayor Pro-Tem O'Connell, Councilmember Brown, Councilmember Selfridge, Supervisor Parker, Councilmember Lutes, Mayor Pendergrass, Mayor Bachofner, Councilmember Oglesby.

d. June 8, 2012 Tort Claim filed Against FORA by Keep Fort Ord Wild (2nd Vote)

Mr. Bowden explained the legal procedure for denying a Tort Claim.

Several Board members expressed discomfort with denying the claim prior to a full investigation of its allegations. Mr. Bowden explained that denial of the claim was a matter of legal procedure and would not limit the Board's ability to investigate the allegations.

MOTION: Mayor Edelen moved, seconded by Councilmember Oglesby, and the motion passed to deny the claim submitted by Keep Fort Ord Wild on June 8, 2012.

VOTE: Ayes: Mayor Edelen, Mayor Pro-Tem O'Connell, Councilmember Brown, Supervisor Potter, Councilmember Kampe, Mayor Pendergrass, Mayor Bachofner, Councilmember Oglesby. Noes: Councilmember Lutes, Supervisor Parker, Councilmember Selfridge.

7. NEW BUSINESS

a. FORA Expense Reimbursement Policy

Mr. Endsley presented the item.

MOTION: Councilmember Kampe moved, seconded by Supervisor Parker, the motion passed unanimously to:

- a. add review of the FORA Expense Reimbursement Policies to forensic and annual audit contracts;**
- b. Direct staff to compile member jurisdiction expense reimbursement practices;**
- c. Request ad hoc subcommittee and Finance Committee review practices with staff to develop a revised Expense Reimbursement Policy;**
- d. Have draft policy reviewed by Forensic and Annual Auditors;**
- e. Present draft policy for Board approval.**

8. EXECUTIVE OFFICER'S REPORT

a. New Procedure for Public Correspondence to FORA Board

Mr. Houlemard announced that in response to public input, staff had created a new email address for the FORA Board. Members of the public could now submit correspondence via email directly to the Board using board@fora.org.

9. ITEMS FROM MEMBERS

None

10. CLOSED SESSION

The Board adjourned into close at 4:55 pm

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

- i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M116438**
- ii. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Number: M114961**
- iii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M118566**

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

The Board readjoined into open session at 5:45 p.m.

11. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Mr. Bowden announced the Board had taken no reportable action.

12. ADJOURNMENT

Chair Potter adjourned the meeting at 5:46 p.m.

Minutes prepared by Lena Spilman, Deputy Clerk

Approved by:

Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Capital Improvement Program Review – Phase II Study (2 nd Vote)	
Meeting Date:	August 29, 2012	INFORMATION/ACTION
Agenda Number:	8a	

RECOMMENDATION(S):

Take a second vote on the August 10, 2012 motion to:

- i. Adopt a Resolution, which would implement a formulaic approach to establishing the Fort Ord Reuse Authority (FORA) Development Fee Schedule and Community Facilities District (CFD) Special Tax rates (**Attachment A under Exhibit A**).
- ii. Authorize the Executive Officer to execute Amendment #1 to the FORA-jurisdictions Implementation Agreements, which would codify the formulaic approach to establish the FORA Development Fee Schedule and CFD Special Tax rates (**Attachment B under Exhibit A**).

After one year, the FORA Board will review the formula to see how well it is working, and, if there are any problems, consider adjustments.

BACKGROUND:

The FORA Board of Directors reviewed the above action at its August 10, 2012 meeting – taking public comment and hearing Board member comments/questions/concerns. The above motion was not unanimous and is before the Board for a second vote at this meeting. The August 10, 2012 staff report and its attachments (**Exhibit A**) along with questions and responses on this item from the meeting (**Exhibit B**) are provided for reference.

DISCUSSION:

At the August 20, 2012 Executive Committee meeting, committee members asked staff to address the following question: What is the meaning of “available” in section 1.1 of the proposed Amendment #1 to the FORA-jurisdictions Implementation Agreements?

Section 1.1 reads:

“1.1 The list of authorized CIP improvements (subject to escalation of costs through the San Francisco Construction Cost Index reported in the Engineering News Record, unless otherwise noted) to be funded by the Policy and CFD Special Taxes, after first applying all available FORA property tax revenues, grant funds, and land sales and lease proceeds, shall be limited to the following CEQA Mitigation Measures and corresponding base-wide obligations in FORA’s CIP:”

Available FORA property tax revenues means 90% of the FORA property tax revenue stream for all new assessed value after July 1, 2012 to the anticipated end date of FORA (See section 2.1.2 of the proposed Amendment #1 to the Implementation Agreements). Staff notes that 10% of the FORA property tax revenue stream for all new assessed value after July 1, 2012 is to be allocated to the underlying jurisdictions for economic development, and FORA’s existing level of property tax revenue (the level

of annual property tax revenue that had been received prior to July 1, 2012) will continue to be reserved for future FORA operations.

Available grant funds means those grant funds that support accomplishment of a FORA CIP obligation, such as the American Reinvestment and Recovery Act grant that FORA received from the Economic Development Administration in 2009 to complete roadwork along Eucalptus Road and General Jim Moore Boulevard.

Available FORA land sales and lease proceeds means those land sales and lease revenues that are in excess of FORA CIP programs for building removal and other obligations (such as caretaker costs).

The practical effect of the language is that all capital and operational obligations (also known as "Basewide Costs" in the FORA-jurisdictions Implementation Agreements) would be met prior to any dollars becoming "available" to the referenced uses.


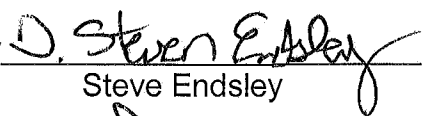
FISCAL IMPACT:

Reviewed by FORA Controller 

The funding for EPS's phase II CIP review study work has been funded through FORA's Fiscal Year 10-11, 11-12, and 12-13 budgets.

COORDINATION:

Administrative Committee, CIP Committee, Executive Committee, Authority Counsel, Assemblymembers Bill Monning and Luis Alejo's offices, State Senator Anthony Cannella's office, development teams, Development Planning & Financing Group, Inc., and EPS.

Prepared by  Jonathan Garcia Reviewed by  Steve Endsley

Approved by  Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD
OLD BUSINESS

Exhibit A to Item 8a
FORA Board Meeting, 8/29/12

Subject: Capital Improvement Program Review – Phase II Study

Meeting Date: August 10, 2012

Agenda Number: 7d

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Adopt a Resolution, which would implement a formulaic approach to establishing the Fort Ord Reuse Authority (FORA) Development Fee Schedule and Community Facilities District (CFD) Special Tax rates (**Attachment A**).
- ii. Authorize the Executive Officer to execute Amendment #1 to the FORA-jurisdictions Implementation Agreements, which would codify the formulaic approach to establish the FORA Development Fee Schedule and CFD Special Tax rates (**Attachment B**).

BACKGROUND:

The July 13, 2012 staff report (**Attachment C**) is provided for additional reference.

DISCUSSION:

At its July 13, 2012 meeting, the Board offered questions about the proposed formula. A listing of questions with responses is provided in **Attachment D**. One question was how the item was referred to the FORA Board for consideration. The Board contracted with Economic & Planning Systems' (EPS) in May 2011 to perform additional review of the FORA Capital Improvement Program and Development Fee/CFD special tax (CIP Review Phase II study) in order to further consider the appropriate fee level. During an Assembly Local Government Committee hearing on AB 1614, state legislators asked FORA to address concerns about FORA's development fee program. Since EPS was already under contract to perform this work, FORA staff directed EPS to advance their work program in Phase II concerning a formula that would provide a higher degree of certainty for FORA's development fee program while ensuring that FORA would maintain its ability to fund all of its required obligations including CEQA mitigation measures, related basewide implementation costs, and FORA operational costs. The FORA Administrative and Executive Committees reviewed the proposed formula in May, June, and July.

Another concern was the complexity of EPS's presentation of the proposed formula (**Attachment E**). An additional area of concern related to Caretaker Costs; please refer to the attached memorandum (**Attachment F**) for a discussion of these costs.

Staff believes there are straightforward answers to these questions and have included the explanations in **Attachment D**. A lot of work has been done to ensure that this policy is fair, even-handed, and treats all jurisdictions and parties in the same way. All FORA obligations to CEQA and TAMC are met by this policy, as well as offering some opportunity to assist the FORA jurisdictions cover their caretaker costs and reuse costs. Without such a formula, there is no opportunity to solve these issues equitably.

FISCAL IMPACT:

Reviewed by FORA Controller _____

The funding for EPS's phase II CIP review study work has been funded through FORA's Fiscal Year 10-11, 11-12, and 12-13 budgets.

COORDINATION:

Administrative Committee, CIP Committee, Executive Committee, Authority Counsel, Assemblymembers Bill Monning and Luis Alejo's offices, State Senator Anthony Cannella's office, development teams, Development Planning & Financing Group, Inc., and EPS.

Prepared by _____ Reviewed by _____
Jonathan Garcia Steve Endsley

Approved by _____
Michael A. Houlemard, Jr.

Resolution 12-__

Resolution of the Fort Ord Reuse)
 Authority (FORA) Board establishing a)
 formula to determine FORA’s annual)
 basewide development fee schedule and)
 Community Facilities District (CFD))
 Special Tax rates)

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

- A. FORA has adopted a Basewide Community Facilities District (“CFD” or “CFD Special Tax”) to fund, together with other revenues, the FORA CIP. Section 7 (ii) of the Implementation Agreement provides that the FORA development fee and CFD Special Tax to fund CEQA Mitigation Measures (“FORA CIP”) are limited to the difference between the revenues needed for such purposes and the revenues otherwise reasonably available to achieve those purposes; and
- B. FORA and its member Jurisdictions have twelve years of experience with the Basewide Development Fee Policy (“Policy”) and CFD Special Tax; and
- C. FORA and the Army have executed an Environmental Services Cooperation Agreement (“ESCA”) providing for FORA to manage base-wide environmental remediation (including ordnance removal) funded by the Army; and
- D. The Policy and CFD Special Tax provide resources to fund CEQA Mitigation Measures (FORA CIP) identified in the 1997 FORA Base Reuse Plan and CEQA Documents; and
- E. FORA and its member Jurisdictions agree that land sales and lease proceeds, FORA property tax revenues, grant funds and the Policy and CFD Special Tax continue to be the appropriate sources to fund CEQA Mitigation Measures and Board-determined base-wide obligations in FORA’s CIP as identified in Section 1.1; and
- F. FORA recognizes the importance of calibrating the Policy and CFD Special Tax by incorporating all available resources to fund CEQA Mitigation Measures and Board-determined basewide obligations in FORA’s CIP identified in Section 1.1; and
- G. FORA and its member Jurisdictions acknowledge the Policy and CFD Special Tax must be fair and equitable; and
- H. FORA has: 1) achieved cost savings; 2) secured grants and other contributions to the base-wide mitigation measures from federal and state sources; and 3) loaned

monies to fund required projects that have reduced or deferred the demand for the original Policy and CFD Special Taxes; and

- I. The Base Reuse Plan emphasized the importance of job-creation and build-out of a balanced mix of community uses including commercial, residential and public facilities to achieve a desired jobs-housing balance; and
- J. FORA and its member Jurisdictions seek refinement to the list of authorized facilities that must be funded by proceeds from land sales and lease proceeds, grants, FORA property tax revenues, the Policy and CFD Special Tax; and
- K. Stakeholders recognize, given inherent uncertainties prevalent in Base Reuse Projects, that appropriate and reasonable cost contingencies are necessary and fiscally responsible; and
- L. FORA and its member Jurisdictions acknowledge the importance of adopting a formula to establish the Policy and CFD Special Tax rates. These revenue sources will fund, or partially fund, the CIP Program. That formula must account for all potential revenue sources and costs; and
- M. FORA and its member Jurisdictions agree that such a formula would reduce uncertainty to developers, increase efficiency in the FORA CIP process, and provide flexibility for FORA's fee program.

NOW THEREFORE the Board hereby resolves as follows:

1. Adjustment to the Policy and CFD special taxes.

1.1 The list of authorized CIP improvements (subject to escalation of costs through the San Francisco Construction Cost Index reported in the Engineering News Record, unless otherwise noted) to be funded by the Policy and CFD Special Taxes, after first applying all available FORA property tax revenues, grant funds, and land sales and lease proceeds, shall be limited to the following CEQA Mitigation Measures and corresponding base-wide obligations in FORA's CIP:

1.1.1 Transportation/Transit improvements, including regional improvements, off-site improvements, on-site improvements, and transit capital improvements identified in the Transportation Agency of Monterey County ("TAMC") FORA Fee Reallocation Study, dated April 8, 2005, or as subsequently updated by TAMC consistent with the FORA Fee Reallocation Study, in an amount not to exceed \$112,698,595 (as escalated) unless the obligation is otherwise reduced by TAMC and FORA.

1.1.2 Water Augmentation, which includes FORA's CEQA obligation for the approved water augmentation project and FORA's voluntary contribution to help offset water capacity charge increases. FORA's CEQA obligation is subject to annual escalation, while the voluntary contribution is not.

1.1.3 Habitat Management endowment requirements anticipated in the future Fort Ord Habitat Conservation Plan excluding costs related to an open space management plan or costs related to a regional trails system program.

1.1.4 Fire Fighting equipment (“Rolling Stock”) lease-purchase of four fire engines and one water tender.

1.1.5 Other Costs and Contingencies shall be evaluated on a periodic basis in the same manner as other CIP costs and revenues. Other Costs and Contingencies are currently limited to the following:

A contingency amount not to exceed 15% of the costs of Transportation/Transit improvements for MEC construction support, soil management plans, right of way acquisition, CEQA/CESA/NEPA mitigations, unknown subsurface conditions, self insurance retention amounts and transportation/transit improvement phasing.

Additional Utility and Storm Drainage Costs which provide for restoration of storm drainage sites in State Parks land and relocation of utilities.

Other Costs for PLL insurance costs.

CFD Administration Expenses (including staff and consultant costs).

1.2 FORA will periodically adopt a formula to monitor and update the Policy and CFD Special Tax, as follows

1.2.1 The Policy and CFD Special Tax were originally designed to fund specific CIP improvements serving the overall base and local jurisdictions based upon mitigation measures required by the California Environmental Quality Act (CEQA). These mitigation measures are described in the Base Reuse Plan Environmental Impact Report (EIR) as well as the 1998 Settlement Agreement with the Ventana Chapter of the Sierra Club. This Resolution does not limit FORA’s right or duty, or that of its member jurisdictions to raise sufficient funds to construct those CEQA Mitigation Measures.

1.2.2 The FORA Board will consider adjustments to the Policy and CFD Special Tax after a comprehensive review of all potential costs and revenues. The process to consider such adjustments will be defined, predictable and transparent to all stakeholders. Adjustments to the Policy and CFD Special Tax will be approved only if they are demonstrated to be fiscally prudent and do not expose FORA or its member jurisdictions to unreasonable risk.

1.2.3 In accordance with the process set forth in part II of this resolution, commencing with Section 2.1, the FORA Board will update anticipated construction costs and revenues available to fund the facilities identified in section 1.1 above, which are eligible to be funded by the Policy and CFD Special Taxes, and corresponding

adjustments to the Policy and CFD Special Taxes within 90 days of the effective date of FORA and its member Jurisdictions adopting Implementation Agreement Amendment #1, Spring 2014 as the second evaluation period, and periodically thereafter every two years, or when an economic or other event causes a material change to a CIP cost or revenue assumption, in coordination with FORA CIP updates.

1.2.4 Adjustments to the Policy and CFD Special Tax shall be made upon receipt by the FORA Board of satisfactory, factual documentation describing the basis for the adjustment.

1.2.5 To expedite this review procedure, adjustments to the Policy and CFD Special Tax shall maintain the same relationship among land uses as the maximum annual special taxes originally documented in the CFD.

II. PROCESS

2.1 FORA shall review and update the CIP periodically to apply the formula described in this Resolution and proposed Implementation Agreement Amendment #1 and any resulting Policy and CFD Special Tax adjustments. That procedure must ensure that FORA's revenue sources, including the Policy and CFD Special Tax revenues, are adequate to carry out the Base Reuse Plan and complete required CEQA Mitigation Measures and Board-determined base-wide obligations in FORA's CIP identified in Section 1.1 above. The periodic process will include the following steps:

2.1.1 Determine total remaining CIP costs (including required contingencies) consistent with section 1.1 above.

2.1.2 Determine the source and amount of funds, including, without limitation: a) Fund balances; b) Grant money; c) CSU Mitigation fees; d) Loan proceeds; e) Land sales revenues/proceeds net of a required credit/offset equal to the amount of monies advanced to construct CIP improvements (this amount shall ultimately be reduced to zero once the full credit/offset has been recognized) in excess of remaining building removal program estimated costs, and lease revenues (not required for other obligations); and f) FORA property tax revenue as calculated below. The following assumptions and formula shall be used to calculate the FORA property tax revenues, if available:

Assumptions:

- a. Current FORA CIP build-out assumptions as shown to estimate CFD special tax revenue
- b. Current market data assumptions to estimate assessed values for each land use type.

Formula:

- a. Calculate the net present value (NPV) of 90% of the FORA property tax revenue stream for all new assessed value after July 1, 2012.

- b. The term on the FORA property tax stream shall be from the date of the current CIP (e.g., upcoming fiscal year) through the anticipated end date of FORA (or the proposed FORA extension end date if applicable).
- c. The NPV calculation shall assume a discount rate equal to the annual average Bond Buyer Revenue Bond Index plus 50 basis points using the prior fiscal year end date (e.g., use 2012 year to date annual average at the end of FY 2011-12 for the FY 2012-13 calculation) as published in The Bond Buyer.
- d. Allocate the NPV as calculated above to reduce/offset costs of CIP.
- e. Allocate 10% of the actual property tax revenues collected by FORA from all new assessed value after July 1, 2012 and generated from parcels in the Fort Ord area of the member jurisdiction to the City or County for economic development to support the reuse of Fort Ord land within the relevant City or County.

2.1.3 Subtract sources of funds available under Section 2.1.2 from CIP costs to determine net cost to be funded by the Policy and CFD Special Tax.

2.1.4 Calculate Policy and CFD Special Tax revenues using the prior year Policy and CFD Special Tax Rates and the same land use assumptions used to estimate FORA property tax revenues shown above in Section 2.1.2.

2.1.5 Compare 2.1.4 with 2.1.3 and determine the amount of adjustment, if any, to the Policy and CFD Special Tax rates. In no event shall the adjusted CFD Special Tax rates exceed the Maximum CFD Special Tax rates (as escalated annually per the special tax formula).

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this 13th day of May, 2011, by the following vote:

AYES:
 NOES:
 ABSTENTIONS:
 ABSENT:

I, Supervisor Dave Potter, Chair of the Board of Directors of the Fort Ord Reuse Authority in the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered under Item ___, Page ___, of the Board meeting minutes of _____, 2012 thereof, which are kept in the Minute Book resident in the offices of the Fort Ord Reuse Authority.

DATED _____

BY _____
 Dave Potter
 Chair, Board of Directors
 Fort Ord Reuse Authority

Amendment #1 to the Implementation Agreement between the Fort Ord Reuse Authority and its Member Jurisdictions

RECITALS

- A. The Fort Ord Reuse Authority ("FORA") and the *member jurisdiction* have entered into an Implementation Agreement dated as of May 1, 2001 ("Implementation Agreement") to, among other purposes, identify and provide for distribution of land sale and lease revenues, FORA property tax revenues (formerly tax increment revenues), and basewide assessments or development fees as the primary sources of funding to implement the Basewide Mitigation Measure (as defined) and to pay Basewide Costs (as defined), collectively referred to as the FORA Capital Improvement Program ("CIP"); and
- B. FORA has adopted a Base-wide Community Facilities District ("CFD" or "CFD Special Tax") to fund, together with other revenues, the FORA CIP. Section 7 (ii) of the Implementation Agreement provides that the FORA development fee and CFD Special Tax to fund CEQA Mitigation Measures ("FORA CIP") are limited to the difference between the revenues needed for such purposes and the revenues otherwise reasonably available to achieve those purposes; and
- C. FORA and the *member jurisdiction* have twelve years of experience with the Basewide Development Fee Policy ("Policy") and CFD Special Tax; and
- D. FORA and the Army have executed an Environmental Services Cooperation Agreement ("ESCA") providing for FORA to manage base-wide environmental remediation (including ordnance removal) funded by the Army; and
- E. The Policy and CFD Special Tax provide resources to fund CEQA Mitigation Measures (FORA CIP) identified in the 1997 FORA Base Reuse Plan and CEQA Documents; and
- F. FORA and the *member jurisdiction* recognize that land sales and lease proceeds, FORA property tax revenues, grant funds and the Policy and CFD Special Tax continue to be the appropriate sources to fund CEQA Mitigation Measures and Board-determined base-wide obligations in FORA's CIP as identified in Section 1.1; and
- G. FORA and the *member jurisdiction* recognize the importance of calibrating the Policy and CFD Special Tax by incorporating all available resources to fund CEQA Mitigation Measures and Board-determined basewide obligations in FORA's CIP identified in Section 1.1.; and

- H. FORA and the *member jurisdiction* acknowledge the Policy and CFD Special Tax must be fair and equitable; and
- I. FORA has: 1) achieved cost savings; 2) secured grants and other contributions to the base-wide mitigation measures from federal and state sources; and 3) loaned monies to fund required projects that have reduced or deferred the demand for the original Policy and CFD Special Taxes; and
- J. The Base Reuse Plan emphasized the importance of job-creation and build-out of a balanced mix of community uses including commercial, residential and public facilities to achieve a desired jobs-housing balance; and
- K. FORA and the *member jurisdiction* seek refinement to the list of authorized facilities that must be funded by proceeds from land sales and lease proceeds, grants, FORA property tax revenues, the Policy and CFD Special Tax; and
- L. Stakeholders recognize, given inherent uncertainties prevalent in Base Reuse Projects, that appropriate and reasonable cost contingencies are necessary and fiscally responsible; and
- M. FORA and the *member jurisdiction* acknowledge the importance of adopting a formula to establish the Policy and CFD Special Tax rates. These revenue sources will fund, or partially fund, the CIP Program. That formula must account for all potential revenue sources and costs; and
- N. FORA and the *member jurisdiction* agree that such a formula would reduce uncertainty to developers, increase efficiency in the FORA CIP process, and provide flexibility for FORA's fee program.

AGREEMENTS

Now therefore, FORA and the *member jurisdiction* hereby agree as follows:

I. ADJUSTMENT TO THE POLICY AND CFD SPECIAL TAXES.

1.1 The list of authorized CIP improvements (subject to escalation of costs through the San Francisco Construction Cost Index reported in the Engineering News Record, unless otherwise noted) to be funded by the Policy and CFD Special Taxes, after first applying all available FORA property tax revenues, grant funds, and land sales and lease proceeds, shall be limited to the following CEQA Mitigation Measures and corresponding base-wide obligations in FORA's CIP:

1.1.1 Transportation/Transit improvements, including regional improvements, off-site improvements, on-site improvements, and transit capital improvements identified in the Transportation Agency of Monterey County ("TAMC") FORA Fee Reallocation Study, dated April 8, 2005, or as subsequently updated by TAMC consistent with the FORA Fee Reallocation Study, in an amount not to

exceed \$112,698,595 (as escalated) unless the obligation is otherwise reduced by TAMC and FORA.

1.1.2 Water Augmentation, which includes FORA's CEQA obligation for the approved water augmentation project and FORA's voluntary contribution to help offset water capacity charge increases. FORA's CEQA obligation is subject to annual escalation, while the voluntary contribution is not.

1.1.3 Habitat Management endowment requirements anticipated in the future Fort Ord Habitat Conservation Plan excluding costs related to an open space management plan or costs related to a regional trails system program.

1.1.4 Fire Fighting equipment ("Rolling Stock") lease-purchase of four fire engines and one water tender.

1.1.5 Other Costs and Contingencies shall be evaluated on a periodic basis in the same manner as other CIP costs and revenues. Other Costs and Contingencies are currently limited to the following:

A contingency amount not to exceed 15% of the costs of Transportation/Transit improvements for MEC construction support, soil management plans, right of way acquisition, CEQA/CESA/NEPA mitigations, unknown subsurface conditions, self insurance retention amounts and transportation/transit improvement phasing.

Additional Utility and Storm Drainage Costs which provide for restoration of storm drainage sites in State Parks land and relocation of utilities.

Other Costs for PLL insurance costs.

CFD Administration Expenses (including staff and consultant costs).

1.2 FORA will periodically adopt a formula to monitor and update the Policy and CFD Special Tax, as follows

1.2.1 The Policy and CFD Special Tax were originally designed to fund specific CIP improvements serving the overall base and local jurisdictions based upon mitigation measures required by the California Environmental Quality Act (CEQA). These mitigation measures are described in the Base Reuse Plan Environmental Impact Report (EIR) as well as the 1998 Settlement Agreement with the Ventana Chapter of the Sierra Club. This agreement does not limit FORA's right or duty, or that of its member jurisdictions to raise sufficient funds to construct those CEQA Mitigation Measures.

1.2.2 The FORA Board will consider adjustments to the Policy and CFD Special Tax after a comprehensive review of all potential costs and revenues. The process to consider such adjustments will be defined, predictable and

transparent to all stakeholders. Adjustments to the Policy and CFD Special Tax will be approved only if they are demonstrated to be fiscally prudent and do not expose FORA or its member jurisdictions to unreasonable risk.

1.2.3 In accordance with the process set forth in part II of this Agreement, commencing with Section 2.1, the FORA Board will update anticipated construction costs and revenues available to fund the facilities identified in Section 1.1, above, which are eligible to be funded by the Policy and CFD Special Taxes, and corresponding adjustments to the Policy and CFD Special Taxes within 90 days of the effective date of this Agreement, Spring 2014 as the second evaluation period, and periodically thereafter every two years, or when an economic or other event causes material change to a CIP cost or revenue assumption, in coordination with FORA CIP updates.

1.2.4 Adjustments to the Policy and CFD Special Tax shall be made upon receipt by the FORA Board of satisfactory, factual documentation describing the basis for the adjustment.

1.2.5 To expedite this review procedure, adjustments to the Policy and CFD Special Tax shall maintain the same relationship among land uses as the maximum annual special taxes originally documented in the CFD.

II. PROCESS

2.1 FORA shall review and update the CIP periodically to apply the formula described in this Implementation Agreement amendment and any resulting Policy and CFD Special Tax adjustments. That procedure must ensure that FORA's revenue sources, including the Policy and CFD Special Tax revenues, are adequate to carry out the Base Reuse Plan and complete required CEQA Mitigation Measures and Board-determined base-wide obligations in FORA's CIP identified in Section 1.1 above. The periodic process will include the following steps:

2.1.1 Determine total remaining CIP costs (including required contingencies) consistent with Section 1.1 above.

2.1.2 Determine the source and amount of funds, including, without limitation: a) Fund balances; b) Grant money; c) CSU Mitigation fees; d) Loan proceeds; e) Land sales revenues/proceeds net of a required credit/offset equal to the amount of monies advanced to construct CIP improvements (this amount shall ultimately be reduced to zero once the full credit/offset has been recognized) in excess of remaining building removal program estimated costs, and lease revenues (not required for other obligations); and f) FORA property tax revenue as calculated below. The following assumptions and formula shall be used to calculate the FORA property tax revenues, if available:

Assumptions:

- a. Current FORA CIP build-out assumptions as shown to estimate CFD special tax revenue.
- b. Current market data assumptions to estimate assessed values for each land use type.

Formula:

- a. Calculate the net present value (NPV) of 90% of the FORA property tax revenue stream for all new assessed value after July 1, 2012.
- b. The term on the FORA property tax stream shall be from the date of the current CIP (e.g., upcoming fiscal year) through the anticipated end date of FORA (or the proposed FORA extension end date if applicable).
- c. The NPV calculation shall assume a discount rate equal to the annual average Bond Buyer Revenue Bond Index plus 50 basis points using the prior fiscal year end date (e.g., use 2012 year to date annual average at the end of FY 2011-12 for the FY 2012-13 calculation) as published in The Bond Buyer.
- d. Allocate the NPV as calculated above to reduce/offset costs of CIP.
- e. Allocate 10% of the actual property tax revenues collected by FORA from all new assessed value after July 1, 2012 and generated from parcels in the Fort Ord area of the *member jurisdiction* to the City or County for economic development to support the reuse of Fort Ord land within the relevant City or County.

2.1.3 Subtract sources of funds available under Section 2.1.2 from CIP costs to determine net cost to be funded by the Policy and CFD Special Tax.

2.1.4 Calculate Policy and CFD Special Tax revenues using the prior year Policy and CFD Special Tax Rates and the same land use assumptions used to estimate FORA property tax revenues shown above in Section 2.1.2.

2.1.5 Compare 2.1.4 with 2.1.3 and determine the amount of adjustment, if any, to the Policy and CFD Special Tax rates. In no event shall the adjusted CFD Special Tax rates exceed the Maximum CFD Special Tax rates (as escalated annually per the special tax formula).

III. ENFORCEMENT

3.1 This agreement is entered into for the benefit of FORA and the *member jurisdiction* subject to the Policy and CFD Special Tax, and may be subject to dispute resolution and enforced by FORA or the *member jurisdiction* subject to the Policy and CFD Special Taxes in the same manner and process set forth for dispute resolution and under Section 17 of the Implementation Agreement.

3.2 The original Implementation Agreement will prevail when this Amendment #1 conflicts with the Implementation Agreement.

[Add signature pages]

[Add acknowledgments for recordation]

DRAFT

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject: Capital Improvement Program Review – Phase II Study

Meeting Date: July 13, 2012

Agenda Number: 6e

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Adopt Resolution 12-05, which would implement a formulaic approach to establishing the Fort Ord Reuse Authority (FORA) development fee schedule and Community Facilities District (CFD) Special Tax rates (**Attachment A**).
- ii. Authorize the Executive Officer to execute Amendment #1 to the FORA-jurisdictions Implementation Agreements, which would codify the formulaic approach to establish the FORA development fee schedule and CFD Special Tax rates (**Attachment B**).
- iii. Authorize the Executive Officer to execute contract amendment #5 with Economic and Planning Systems (EPS) to complete the Phase II Study in FY 12/13 (**Attachment C**), not to exceed additional budget authority of \$60,000.

BACKGROUND:

In 1997, the FORA Board adopted the Base Reuse Plan which contained a number of environmental mitigations. The Board also adopted a series of findings that include funding those environmental mitigation measures (habitat, traffic, transit, fire protection, storm drainage, etc.). In 1999, the FORA Board adopted a Development Fee Schedule that collects fees from Fort Ord reuse projects to finance the Base Reuse Plan mitigations and Board-determined base-wide obligations in FORA's Capital Improvement Program (CIP). The Board and five jurisdictions adopted Implementation Agreements in 2001 to ensure (among other items) funding of environmental mitigations and basewide obligations. The FORA Board confirmed its CIP financing program with adoption of the FORA Community Facilities District in May 2002.

FORA's successful implementation of CIP projects through Development Fee payments, CFD special tax collections, and State and Federal grant proceeds resulted in a need to review FORA's CIP in fiscal year (FY) 2010/2011. At the end of the process, the FORA Board determined that:

- 1) A reduction in the FORA Development Fee and CFD special tax rates was appropriate and reduced these rates by 27 percent.
- 2) Several important factors would impact fees in the FY 2012/2013 timeframe warranting a phase II study, which the Board subsequently authorized.

This recommendation for adopting a formula is a follow up to the FORA Development Fee and CFD special tax program and offers to FORA, its jurisdictions, developers, and the community a consistent and predictable approach to costs and revenues to meet all FORA CIP obligations.

Since redevelopment agencies were eliminated by State Law, FORA's land use jurisdictions have been looking for ways to fund their reuse programs. This formula would provide for diverting 10% of future FORA property tax revenues generated within FORA's land use

jurisdictions to the underlying jurisdictions for this purpose. In order for this mechanism to have enforceability, time is of the essence. FORA's jurisdictions are seeking to confirm resources for annual budgets and adoption of this formula would help provide the community with a clear and predictable cost and revenue program.

Additional background: On July 9, 2010, the FORA Board directed staff to:

- 1) propose a 6-month Capital Improvement Program (CIP) work plan timeline;
- 2) review FORA's CIP obligations and resources; and
- 3) provide monthly updates.

That assignment was completed by the January 2011 target. At the January, February, and March 2011 meetings however, the Board requested additional information and received answers to specific questions about the CIP. The Board increased the consultant's scope and budget in January and April 2011 to generate supplemental information. At the April 8, 2011 meeting, the Board:

- 1) received a presentation from the Transportation Agency for Monterey County (TAMC) regarding their analysis of FORA's Transportation and Transit phasing,
- 2) received an EPS presentation responding to questions raised at the March 2011 Board meeting,
- 3) received information regarding benefits and impacts of a fee reduction,
- 4) directed staff to prepare documents and/or policy revisions necessary to a) approve an across the board 27% fee reduction (\$33,700 for new residential units, etc.) for the May 2011 Board meeting and b) implement accompanying policy adjustments, and
- 5) directed staff to work with EPS on a contract amendment for consideration at the May 2011 Board meeting, which would commence a Phase II CIP review to be completed during the following 2 fiscal years.

EPS has been the principal consultant from the inception of the project. David Zehnder is the Managing Principal and Jamie Gomes is the Principal. Each have experience with California municipalities and county organizations reviewing CIP obligations and fee structures. During their initial CIP review, EPS completed updated development forecasts, a preliminary CIP analysis, a cost-burden analysis, a draft summary report on the CIP, a draft final report, four powerpoint presentations to the Board, and three additional reports in response to Board member questions.

Concurrent with EPS's work in 2011, FORA staff reviewed its CIP funding sources to ensure accuracy and TAMC reviewed phasing of FORA's CIP transportation project expenditures to coordinate regional transportation planning efforts. FORA is committed to continued consultation with TAMC in this manner.

DISCUSSION:

In May 2011, the Board adopted resolution 11-02 to reduce the developer fee approximately 27% across all fee categories (from \$46,205 to \$33,700 [also referred to as Option 2C] for new residential units). At the same meeting, the Board authorized FORA to enter into a contract with EPS to complete a Phase II CIP review study to ascertain whether further reductions in contingencies or costs would be feasible while ensuring FORA's CEQA and operational obligations are met. Due to the uncertainty related to the effects of the State of

California's dissolution of redevelopment and endowment holder requirements for the future Habitat Conservation Plan, it was deemed prudent to have EPS study those elements of Phase II first. However, during legislative hearings on FORA's extension (AB1614), the issue of a change in FORA's approach to both the development fee and CFD Special Tax rates was proposed to reduce uncertainty for all parties. This is a uniquely FORA issue. It is not one that can be resolved by state legislation.

EPS, working with FORA staff, developed a standardized formula for establishing the development fee. That formula was reviewed by the FORA Administrative Committee at five meetings in May and June 2012. At its May 30, 2012 meeting, the committee considered the proposed formula as it might be implemented through a draft FORA Board resolution and an amendment to the FORA-jurisdictions Implementation Agreements. The proposed formula would match FORA revenue sources to FORA obligations and set an appropriate fee level consistent with obligations. Staff would apply any adjustments to FORA's development fee and CFD Special Tax resulting from the formula within 90 days of finalizing Implementation Agreement Amendment #1 with the five Jurisdictions and, thereafter, staff would integrate the formula into the FORA Board's consideration of the FORA Capital Improvement Program on a periodic basis. At its May 30, 2012 meeting, the Administrative Committee passed a motion recommending that a draft resolution and draft amendment to the Implementation Agreements be presented to the FORA Board after several edits were made. At its June 13, 2012 meeting, the Administrative Committee asked staff/EPS to return to its June 27, 2012 meeting with a model illustration (**Attachment D**) and calculation of the formula (**Attachment E**) so that every component of the proposed formulaic approach is easily understood and end-result modeled.

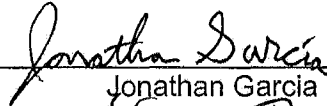
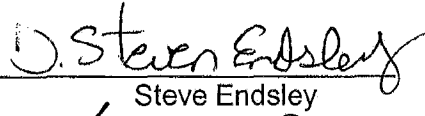
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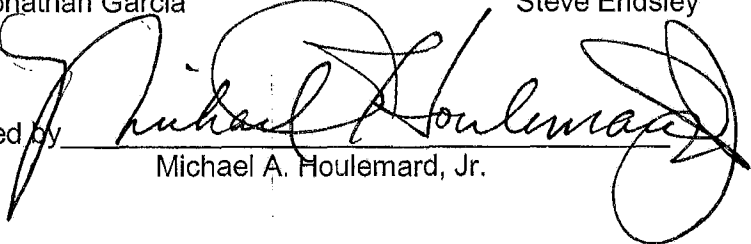
Reviewed by FORA Controller 

The funding for EPS's phase II CIP review study work has been funded through FORA's FY 10-11 and 11-12 budgets. The FY 12-13 budget includes \$60,000 for this proposed amendment.

COORDINATION:

Administrative Committee, CIP Committee, Executive Committee, Authority Counsel, Assemblymember Bill Monning and Luis Alejo's offices, development teams, Development Planning & Financing Group, Inc., and EPS.

Prepared by  Jonathan Garcia Reviewed by  Steve Endsley

Approved by  Michael A. Houlemard, Jr.

**Questions from the July 13, 2012 FORA Board meeting
concerning the Phase II study formulaic approach**

1. Where did this item come from?

Further consideration of the appropriate level of developer fees has been included in the Phase II work plan from the outset. In addition, several concerns about FORA's development fee program surfaced at the Assembly Local Government Committee hearing on AB 1614, legislation proposing an extension to FORA. State legislators asked FORA to address these concerns in the short-term while AB 1614 was under consideration by the State legislature. Since EPS was already under contract to perform this work, FORA staff directed EPS to advance their work program in Phase II concerning a formula that would provide a higher degree of certainty for FORA's development fee program while ensuring that FORA would maintain its ability to fund all of its required obligations including CEQA mitigation measures, related basewide implementation costs (e.g., building removal, property management/caretaker costs), and FORA operational costs. The FORA Administrative and Executive Committees reviewed this proposed formula in May, June, and July.

2. Why should we adopt this formula at the current time? The proposed change in fee is less than 5%.

It is important to consider that adopting the formula at this time does not immediately adjust the Developer Fee or CFD Special Tax. The "change in fee" described at the July 13 Board hearing was based upon preliminary calculations completed at the request of the FORA Administrative Committee. The preliminary calculations were intended to provide an order of magnitude look at how the Developer Fee and CFD Special Tax might adjust if the formulaic approach were adopted as proposed. The response to question #3 below provides some additional context.

3. Why shouldn't we wait until the Phase II study and/or BRP Reassessment are complete?

FORA's development fee program was reviewed in Phase I through a process that looked at program assumptions, fee calculations, and results. In the end, the FORA Board reviewed the results and concluded that the fee could be reduced by 27%, keeping the program whole.

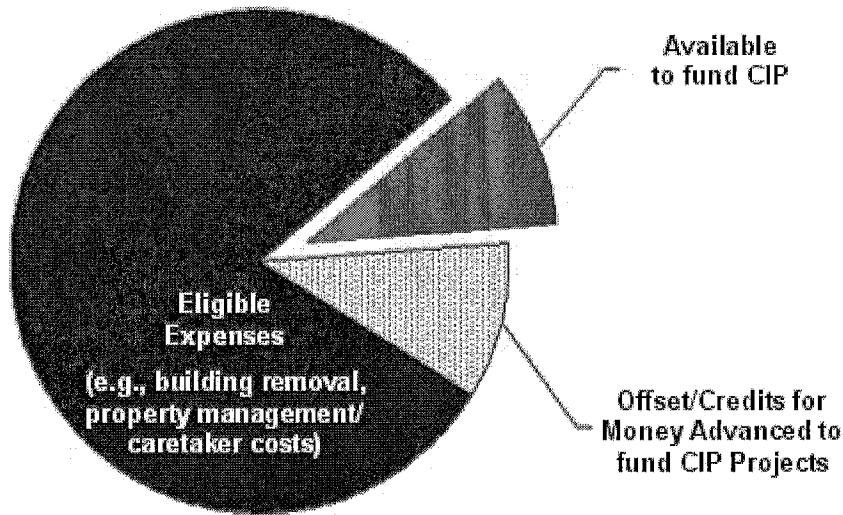
The FORA Board determined at that time that it also needed to conduct a Phase II CIP study because several factors warranted review. EPS is reviewing program assumptions, fee calculations, and results. EPS's work on the formulaic approach pertains to the fee calculations portion of their work program. EPS will still complete its review of assumptions and calculate results. Adopting a formula at this time does not prejudge future results. Implementing the formula in any given year may result in a fee decrease or a fee increase.

Waiting until completion of Phase II to adopt the formula would not provide any additional information about the applicability of the formula, its fairness, technical soundness, and so on. Likewise, waiting until completion of the BRP Reassessment provides no additional technical information about the soundness of the formula. The BRP Reassessment document is an informational report. The Board has discretion on whether or not to act on any items identified in the report. In both cases, once the formula is in place, all issues of policy remain ripe for further discussion.

4. If we adopt this formula, how are FORA’s operational costs covered?

FORA’s operational costs will continue to be funded through the variety of existing funding mechanisms presently received.¹ As an example, the formulaic approach maintains that FORA would continue to receive the present level of property tax allocated to FORA. In the formulaic approach, only future property tax revenues, based upon growth after July 1, 2012, would be included as a potential offset to CIP costs.

Furthermore, the Implementation Agreement Amendment #1 language describing revenue available to offset CIP costs is specific to ensure that it would only include revenue “not required for other obligations.” The pie chart included below illustrates this concept as it relates to land sales and lease revenues. The first priority use for land sale/lease revenue is for existing obligations, which have been previously identified by the Board as building removal, followed by property management/caretaker costs and FORA operational costs. Future land sale/lease revenue calculations will also account for the recapture of previously advanced monies used to help fund CIP projects. The net remaining land sale/lease revenue proceeds would be available to offset CIP costs. This approach recognizes FORA’s need to maintain adequate funding for ongoing operational costs and to meet existing and ongoing obligations.



5. Can you simplify the formula?

From the outset of this effort, every attempt has been made to maintain simplicity in the formulaic approach. The formula relies upon existing financing mechanisms and proposes a well defined, transparent and predictable process that is to be periodically applied. At its most basic level, the formula

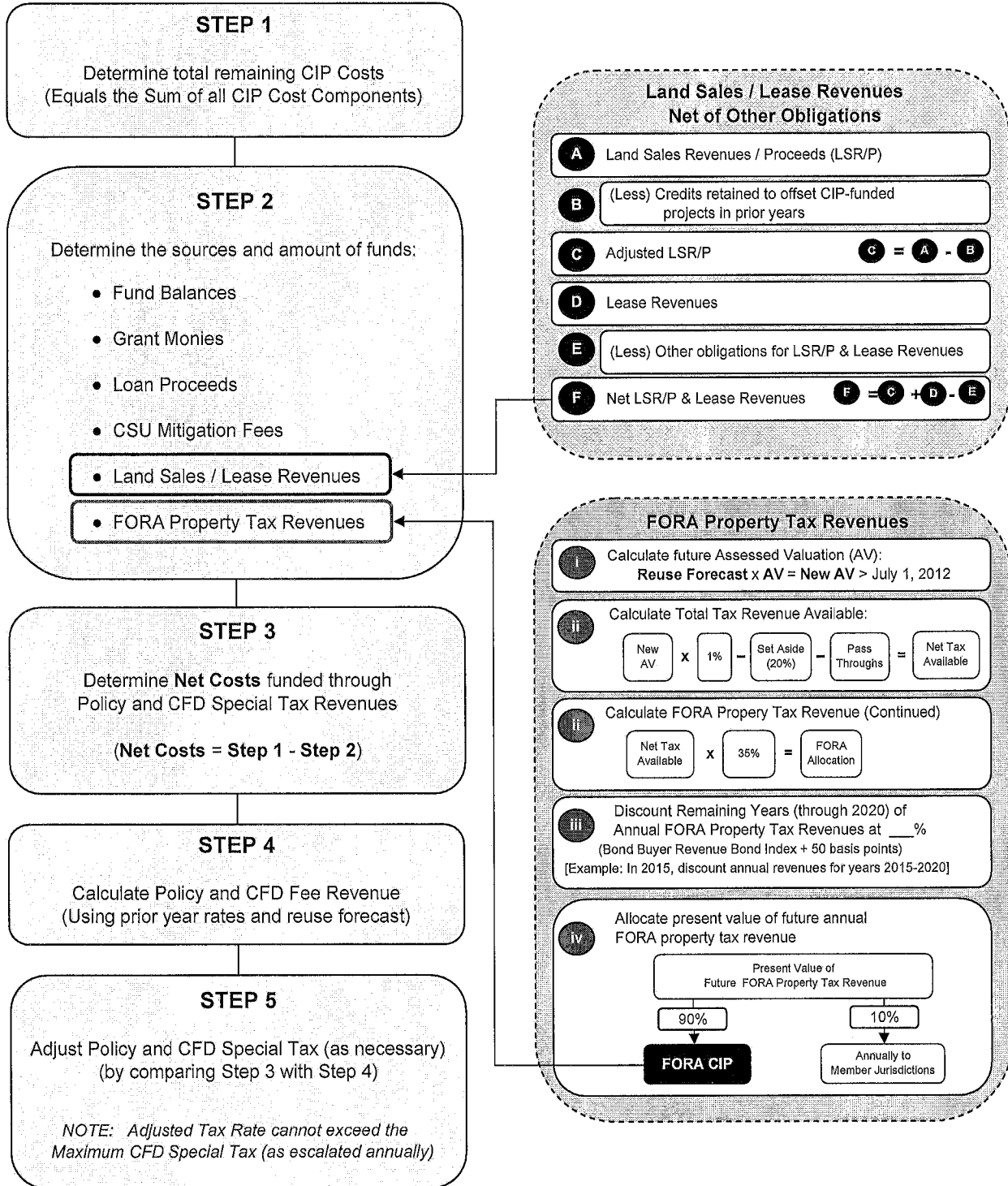
¹ The question of FORA property tax revenue receipt remains an open question at this time, but only affects the land sale / other revenues total available for non-CEQA-related reuse.

follows the original language from Section 7 of the Implementation Agreement(s) wherein identified revenues are subtracted from CIP costs to derive a remaining amount to be funded through the Developer Fee Policy and CFD Special Tax. With ten years experience in preparing the annual CIP updates and in administering the Fees and CFD Special Taxes, application of the formula can be routinized into the annual capital improvement program planning process the Board is familiar with.

DRAFT

Attachment E Annual Process to Update Basewide Development Fee Policy and CFD Special Tax

Attachment E to Item 7d
FORA Board Meeting, 8/10/2012





Fort Ord Reuse Authority

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

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Attachment F to Item 7d
FORA Board Meeting, 8/10/12

MEMORANDUM

Date: July 26, 2012

To: Fort Ord Reuse Authority ("FORA") Administrative Committee

CC: Michael A. Houlemard, Jr., Executive Officer
Steve Endsley, Assistant Executive Officer

From: Jonathan Garcia, Senior Planner

Re: **Caretaker Costs, item 7b**

The purpose of this memo is to provide information on Caretaker/Property Management Costs on former Fort Ord. Over the last few months, Caretaker Costs have been discussed in conjunction with the FORA Capital Improvement Program ("CIP") Review - Phase II study/formulaic approach. It was suggested that FORA staff provide additional background on Caretaker costs for future discussion. In preparation of this memo, FORA staff reviewed background material on caretaker costs from the late 1990's to present.

Caretaker status has been defined by U.S. Army regulation as "the minimum required staffing to maintain an installation in a state of repair that maintains safety, security, and health standards." This Army term may have generated the context of FORA's analysis of Caretaker costs in the late 1990's. Caretaker costs were first described in the FORA CIP in FY 2001/2002 as a \$14 million dollar cost with footnote reading: "Costs associated with potential delays in redevelopment and represent interim capital costs associated with property maintenance prior to transfer for development (as per Keyser-Marston truthing of caretaker and other costs)."

FORA has maintained Caretaker costs in its annual CIPs since the initial FY 2001/2002 CIP. Within the last five years, FORA and County of Monterey Office of Housing and Redevelopment staff discussed property management costs associated with the County's habitat property described in the draft Fort Ord Habitat Conservation Plan ("HCP"). FORA and its HCP consultant note that trails planning/maintenance costs for public access on these properties are costs that the U.S. Fish and Wildlife Service/California Department of Fish and Game do not allow to be funded by the HCP, but should be funded by other jurisdictional resources.

During FORA's CIP review – Phase I Study, concluded in May 2011, FORA's financial consultant recommended that Caretaker/Property Management costs be removed from FORA's CIP Contingencies because no costs had been defined. FORA jurisdictions requested that Caretaker costs be added back in order to cover basewide property management costs, should they be demonstrated.

FORA expended \$20,000 in the previous fiscal year toward Monterey County's Fort Ord Recreational Habitat Area ("FORHA") Master Plan preparation process, in which the County has undertaken planning for a proposed trail system. The Caretaker/Property Management costs line item is wholly dependent on whether sufficient revenue is received during the fiscal year. FORA Assessment District Counsel opined that FORA Community Facilities District Special Tax payments cannot fund caretaker costs. For this reason, funding for Caretaker costs would have to come from FORA's 50% share of lease and land sales proceeds on former Fort Ord, any reimbursements to those fund balances, or other designated resources should they materialize.

From approximately 2000 to 2004, the U.S. Army entered into Cooperative/Caretaker Agreements with FORA's land use jurisdictions. On average, the Cooperative/Caretaker Agreements provided each jurisdiction with approximately \$132,000 per year. Whether it is FORA or the U.S. Army funding the caretaker costs, the premise is the same. Caretaker costs are a short-term bridge program to assist jurisdictions with property holding costs while lands transition to active reuse. Staff notes that there is a direct relationship between building removal and Caretaker Costs. As building removal occurs, fewer liability issues associated with property management remain. This provides a strong rationale for FORA to proceed with building removal as a high priority program.

A framework for FORA's Caretaker costs might be to set FORA's obligation to \$132,000 per jurisdiction annually (a total of \$660,000 per year). If FORA's land use jurisdictions can demonstrate caretaker costs during the first year of implementation, they can each receive up to \$132,000 as long as funding is available from FORA. Below is a hypothetical example of a table showing caretaker line items for \$132,000.

Hypothetical description of caretaker costs

Task #	Description	Budget
1	Tree Trimming	\$ 16,200
2	Mowing	\$ 26,000
3	Pavement Patching	\$ 8,900
4	Centerline/Stenciling	\$ 14,500
5	Barricades	\$ 8,100
6	Traffic Signs	\$ 5,400
7	Catch Basin/Storm Drain Maintenance	\$ 4,100
8	Vacant Buildings	\$ 18,500
9	Vegetation Control/Spraying	\$ 5,300
13	Paving/Slurry Seal	\$ 13,000
	Subtotal	\$120,000
14	Administration (10% of total)	\$ 12,000
	Totals	\$132,000

(end)

**Questions from the August 10, 2012 FORA Board meeting
concerning the Phase II study formulaic approach**

1. Should FORA be in a position to fund Caretaker Costs, would FORA use its General Fund to reimburse jurisdictions for these costs?

At the August 10, 2012 Board meeting, staff responded that FORA Assessment District Counsel opined that the FORA CFD Special Tax is not an eligible funding source for Caretaker Costs. Therefore, funding for Caretaker Costs would need to come from land sale proceeds or other FORA revenue sources.

2. Would FORA only be able to fund Caretaker Costs in the first year?

At the August 10, 2012 Board meeting, staff responded that this policy could be reviewed every two years or so, but FORA wouldn't have to lock itself into a particular trigger year for caretaker expenses. Also, as covered in a memorandum for Item 7b (August 10, 2012 meeting), jurisdictions will be expected to identify and document ongoing caretaker costs that are anticipated and the Board would approve expenditures at the time the CIP is adopted (usually May-June). The memorandum describes that as each jurisdiction documents the incidence of caretaker costs that jurisdiction could continue to request FORA funding for caretaker costs to the extent that funding is available.

3. Would adopting this policy lock FORA in, preventing FORA from increasing its contributions to the Water Augmentation Program?

At the August 10, 2012 Board meeting, staff responded that this issue dates back to a prior decision that this Board made to make a capped dollar amount contribution to the augmentation program. So, the matter is looking at what the cost of that water augmentation program might be, and the item dates back to the previous discussion where FORA is going to have to sit down with MCWD and discuss what exactly those costs are. It is possible that the costs could go down. Maybe the program will only need \$10 million, but that will need confirmation. What this process does is it allows us to be constantly working through those numbers so that we do it in a more formalized way rather than doing it on the fly so that FORA can work through some of the kinds of contingencies that are being suggested (such as a hypothetical situation of needing to increase FORA's contributions to the Fort Ord Water Augmentation Program).

The policy established by the Board was to provide an equitable way to distribute the cost of improvements across the augmentation system rather than having those that access the existing water pay less while future folks pay more, or vice versa. What is the proper balance between a rate-based system and the cost to connect (hook-up fees, etc.). There was a need to be equitable because the reuse is considered to be basewide. And that's been the policy that has been carried forward since the Board made that decision. It would be a policy change to change the cap. The other side was, the FORA Board said that the developers need to pay a fair share of this cost and there would be a future capital charge for developers. So the Board figured the identified amount was their equitable share.

4. When will the Phase II Capital Improvement Program (CIP) Study be completed? Can the study be brought forward in the near-term to inform the Board? Is the analysis from the Phase II study required to decide about the formulaic approach?

At the August 10, 2012 Board meeting, Economic and Planning Systems (EPS) responded that it anticipates 6-8 weeks for draft recommendations and draft conclusions for the Phase II study to be brought forward for discussion. EPS suggested that it was not necessary to tie the formula together with the mechanical calculation. As previously noted, waiting until completion of the Phase II study to adopt the formula would not provide any additional information about the applicability of the formula, its fairness or technical soundness. Information and data from the Phase II study would inform future calculation of the CFD Special Tax if the formulaic approach is adopted. If adopted as of today, the formula might result in a \$5,000 change in the developer fee, up or down, but the nature of the process is subject to periodic review.

5. Is there accountability concerning how the FORA development fee will be fairly applied? What if fees change dramatically from one year to the next?

At the August 10, 2012 Board meeting, staff responded that each entity pays the same fee rate. FORA Assessment District Counsel reviewed the issue of fee changes from one year to the next and recommended a periodic process, such as every two-years as opposed to an annual process so the fee doesn't fluctuate. The fee would be set during the CIP approval process (May-June).

6. What are the jurisdictional resources for trail connections and maintenance?

At the August 10, 2012 Board meeting, staff responded that, if the jurisdictions want trail connections, the jurisdictions will be responsible for funding them. The Habitat Conservation Plan (HCP) cannot include such connections as the HCP's purpose is restricted to habitat management, not recreation. In this case, Monterey County would be on the hook in the event that they wished to install trail connections. If FORA wished to fund all or a portion of future trail connections, the FORA Board would have to take its own action to fund those costs with available funds should it decide to do so. However, this formulaic approach does make 10% of future property tax revenues available to the jurisdictions, so that is one potential source.

7. Does this policy have the potential to lock us in to the current FORA CIP, and thereby ties the hands of this board and future boards to possibly change that if needed?

This question was not specifically addressed during the August 10, 2012 Board meeting. This policy would implement a formula that utilizes the current FORA CIP to determine the cost of FORA CIP and related basewide obligations. The CIP obligations listed in the policy are limited to eligible expenses under the FORA Development Fee and Community Facilities District (CFD) Special Tax. Building removal is not an eligible expense of the FORA Development Fee and CFD Special Tax. However, it is an eligible expense to be paid for with land sale and lease revenues. It is important to recall that most of FORA's CIP obligations are subject to cost indexing. So, in general, this board and future boards would be able to make cost escalation adjustments on the expense side of the equation as needed in the future.

8. Does this formulaic approach commit FORA funds upfront, including fund balances, loan proceeds, and grant monies?

The formulaic approach identifies all sources of revenue and funding that can be used to fund FORA's CIP and related Board-determined basewide obligations. Existing fund balances, loan proceeds and grant monies are examples of revenue sources that would be quantified as the formulaic approach is periodically updated. While the formulaic approach identifies funding from all available sources, it does not specify or commit FORA to any specific costs or timing within which certain funding sources would be used. Obviously, grant funds, fund balances, and loan proceeds will be used for the original intended purpose, unless unrestricted. The timing of revenues and expenditures would continue to be reviewed and approved by the FORA Board through its annual CIP update process.

9. By voting for this policy, can we look at fees and caretaker issues as needed, or are we saying that we are locked in for an indefinite period of time?

At the August 10, 2012 Board meeting, staff responded that, if the motion that was made calls for a decision that will be reviewed in a year, then, in fact, you are making a decision today that will be reviewed with the CIP next year (9 months from now). If the formulaic approach is adopted today, it is likely that the Phase II Study to apply the new formula could return to the Board in two to three months. This means the Board has an opportunity to proceed in a stepwise process with frequent opportunity to test assumptions. Staff thinks the Board's hands are not tied by voting for the motion. The idea is to give more definition and to give more reliability, and at the same time provide sufficient flexibility for the FORA Board to make future decisions. It's a delicate balance. Depending on how you read it, you might see flexibility or restriction.

FORT ORD REUSE AUTHORITY BOARD REPORT**NEW BUSINESS**

Subject:	Ex-Officio Representation on FORA Executive Committee (2 nd Vote)	
Meeting Date:	August 29, 2012	ACTION
Agenda Number:	8b	

RECOMMENDATION:

Amend Chapter 2, Article 2.03.020 of the FORA Master Resolution to add an ex-officio non-voting member to the FORA Executive Committee, to be appointed from among the ex-officio Board members by the Board Chair on an annual basis.

BACKGROUND/DISCUSSION:

In early May, staff presented the Executive Committee with a letter received from California State University, Monterey Bay (CSUMB), which requested a seat on the Executive Committee as an ex-officio, non-voting member. The Committee directed staff to confer with the other ex-officio Board members and return the item for consideration. FORA received no objections from any of the ex-officio Board members and both Senator Blakeslee and Assemblymember Monning voiced their support for the inclusion of CSUMB. Dr. Garrison at Monterey Peninsula College and Associate Chancellor Bruce Margon of UC Santa Cruz submitted letters of support for the creation of a rotating ex-officio Board member position on the Executive Committee.

This item returned to the Executive Committee for consideration on June 27, 2012, at which time the Committee voted 4-1 to amend Chapter 2, Article 2.03.020 of the FORA Master Resolution to add "In addition, the Executive Committee shall include an ex-officio non-voting member appointed from among the ex-officio Board members by the Board Chair on an annual basis." This proposed amendment is demonstrated in **Attachment A**. In keeping with the principles of the Base Reuse Plan and other reuse concepts that emphasize education as a central reuse element, there was considerable thought about the added position focus to be from educational members. However, the Executive Committee action did not limit participation to educational members but acknowledged the importance of the educational partners in considering appointments.

In order to become effective, the decision of the Executive Committee to amend the FORA Mater Resolution must be ratified by the FORA Board. At the August 10, 2012 Board meeting, the Board voted 11-1 in favor of amending the Master Resolution to include a rotating non-voting ex-officio member to the FORA Executive Committee. As the vote was not unanimous, the item returns for a second vote.

FISCAL IMPACT:

Reviewed by the FORA Controller 

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

COORDINATION:

Executive Committee

Prepared by 

Lena Spilman

Approved by 

Michael A. Houlemard, Jr.

Draft Excerpt from FORA Master Resolution Chapter 2

Article 2.03. COMMITTEES

2.03.010. PURPOSE.

Committees and subcommittees may be established, as the Authority may deem appropriate to provide the Board with options, critique, analysis, and other information as the Board may request from time to time.

2.03.020. EXECUTIVE COMMITTEE.

The Executive Committee is comprised of not more than five (5) members of the Board. The Committee is comprised of the Chair, First Vice-Chair, Second Vice-Chair, a Past Chair, and one representative member appointed by the Board. If the Past Chair position is vacant, the Board may appoint another representative. In addition, the Executive Committee shall include an ex-officio non-voting member appointed from among the ex-officio Board members by the Board Chair on an annual basis. The Executive Committee will provide such duties as the Board may assign. If any designated representative is unable to serve on the Executive Committee, the Board may fill such vacancy with another member of the Board.

2.03.021. EXECUTIVE COMMITTEE DUTIES.

The Executive Committee meets on a date and time the Committee determines is convenient or necessary. The Executive Officer and Authority Counsel attends the meetings of the Executive Committee. The duties of the Executive Committee are:

- (a) Review and approve all agendas of all regular and special meetings of the Board of Directors;
- (b) Provide initial performance evaluation of the Executive Officer and make recommendations to the Board of Directors regarding employment and personnel matters relating to the Authority staff; and
- (c) Perform such other duties as the Board of Directors may direct.

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Base Reuse Plan Reassessment – Draft Scoping Report (Public Workshop)	
Meeting Date:	August 29, 2012	INFORMATION
Agenda Number:	9a	

RECOMMENDATION:

Receive public comments and questions regarding the draft scoping report that was circulated on August 15, 2012 as part of the Base Reuse Plan reassessment process.

BACKGROUND/DISCUSSION:

The scoping report represents the culmination of the currently ongoing information-gathering phase of the reassessment process. The document includes three main components:

- A discussion of public input obtained in the community workshops and through written correspondence (the full text of comments received is attached as an appendix);
- A market/economic report analyzing regional trends, forecasts, opportunities, and constraints; and
- A detailed status report describing progress of implementation of the Base Reuse Plan.

The scoping report provides a foundation for the analysis and recommendations that will take place in the final Reassessment Document at the conclusion of the reassessment process in late 2012.

The draft scoping report was completed and made available for public review and comment beginning on Wednesday, August 15. On that date, the full document was posted on FORA's web site, CD copies were distributed to FORA member agencies via their Administrative Committee representatives, and printed copies were hand-delivered for review at three public libraries (in Marina, Seaside, and Monterey). A printed copy of the document has also been available for review at the FORA office, as well as CD copies for distribution to members of the public at no cost. Several timely e-mail comments that were inadvertently left out of the draft scoping report's appendix were posted to the FORA web site on Tuesday, August 21, and subsequently inserted into the printed copies.

The purpose of the present community workshop is to receive public comments and provide a venue for dialogue regarding the contents of the draft scoping report. Representatives from the EMC Planning Group consultant team, who prepared the report, will be available to answer questions. The final scoping report, revised in response to public workshop input, is scheduled to be presented at the regular FORA Board meeting on Friday, September 14.

FISCAL IMPACT:

Reviewed by FORA Controller 

Staff/consultant time and costs associated with producing the scoping report were included in the FY11-12 and 12-13 budgets for the reassessment.

COORDINATION:

Administrative Committee, Executive Committee.

Prepared by 

Darren McBain

Reviewed by 

Steve Endsley

Approved by 

Michael A. Houlemard, Jr.