



FORT ORD REUSE AUTHORITY

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

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REGULAR MEETING FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS

Friday, December 11, 2015 at 2:00 p.m.

910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CLOSED SESSION

- a. Conference with Legal Counsel-Potential Litigation, Gov. Code Section 54956.9(e)(2): FORA-Marina Coast Water District Dispute Resolution
- b. Conference with Legal Counsel-Potential Litigation, Gov. Code Section 54956.9(e)(2): FORA Prevailing Wage Issues/Exposure

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

5. ROLL CALL

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

7. CONSENT AGENDA

- a. Approve November 2 and November 13, 2015 Board Meeting Minutes (pg. 1-7) ACTION
- b. Approve 2016 Board Meeting Schedule (pg. 8) ACTION
- c. Denise Duffy & Associates Contract Amendment (pg. 9-11) INFORMATION
- d. Surplus II Industrial Hygienist Selection Update (pg. 12-13) INFORMATION
- e. Memorandum of Understanding with Association of Monterey Bay (pg. 14-20) INFORMATION
Area Governments for Orthographic Imagery
- f. Adopt 2016 FORA Legislative Agenda (pg. 21-28) INFORMATION/ACTION

8. BUSINESS ITEMS

- a. Oak Woodland Conservation Planning Update (pg. 29-43) INFORMATION/ACTION
- b. MCWD/FORA Facilities Agreement Dispute Resolution / MOA (pg.44) INFORMATION/ACTION

- c. Water Augmentation Project Planning Process (pg. 45-46) INFORMATION/ACTION
- d. Fort Ord Reuse Authority Prevailing Wage Program Resolution (pg. 47-58) INFORMATION/ACTION

9. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Board on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes. Comments on agenda items are heard under the item.

10. EXECUTIVE OFFICER'S REPORT

INFORMATION

- a. Outstanding Receivables (pg. 59)
- b. Habitat Conservation Plan Update (pg. 60)
- c. Administrative Committee (pg. 61-63)
- d. Finance Committee (pg.64)
- e. Post Reassessment Advisory Committee (pg. 65-67)
- f. Regional Urban Design Guidelines Task Force (pg. 68-70)
- g. Travel Report (pg. 71)
- h. Public Correspondence to the Board (pg. 72)

11. ITEMS FROM MEMBERS

12. ADJOURNMENT

NEXT BOARD MEETING: January 8, 2016

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

FORT ORD REUSE AUTHORITY

BOARD OF DIRECTORS SPECIAL MEETING MINUTES

Monday, November 2, 2015 at 12-2:30 p.m.

910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

1. CALL TO ORDER

Chair O'Connell called the meeting to order at 12:00 p.m.

2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was led by Chair O'Connell.

3. ROLL CALL

Voting Members Present: (**alternates*) (*AR: entered after roll call*)

Mayor Edelen (City of Del Rey Oaks) AR
Mayor Rubio (City of Seaside)
Mayor Pendergrass (City of Sand City)
Mayor Gunter (City of Salinas)
Mayor Pro-Tem Beach (City of Carmel)

Councilmember Haffa (City of Monterey)
Mayor Bill Kampe (City of Pacific Grove)
Councilmember Morton (City of Marina)
Supervisor Parker (County of Monterey)
Supervisor Potter (County of Monterey)
Supervisor Phillips (County of Monterey)

Absent: Councilmember Lucius, Eduardo Ochoa (CSUMB), Andre Lewis, (CSUMB) AR, Col. Fellingner AR (U.S. Army), Hugh Hawkins (Fort Ord BRAC Office), Director Peter Le (Marina Coast Water District).

Ex-officio (Non-Voting) Board Members Present: Erica Parker (CA Assembly member Stone), Nicole Charles (CA Senator Monning), Vicki Nakamura (Monterey Peninsula College), Graham Bice, UCSC, Lisa Rheinheimer (Monterey-Salinas Transit).

4. ANNOUNCEMENTS

None.

5. PUBLIC COMMENT PERIOD

None.

6. BUSINESS ITEMS

a. Water Augmentation Program Planning 3-Party Planning Resolution 2nd Vote

Mr. Houlemard said Board members got a note from counsel for CalAm today and that this is a second vote for item voted on at meeting in October.

Supervisor Parker said at last Board meeting it was suggested that an outline be prepared which would spell out how money was going to be spent and has concerns about money spent. Jonathan Brinkmann said this item provides a budgetary authorization before proceeding with agreement. A discussion among Board members about the spending of the money, whether it was tied to a desal plan, and committing a "not-to-exceed" amount of \$470,000.

Mr. Houlemard said the priorities are conservation, pure water project and to determine if we have a need for desalination. The priority was to look at the alternatives as Board directed and that the 3 parties would agree on the cost distribution. He reiterated that Board vote does not have that

limitation and will make sure it is not there. Mr. Houlemard said a letter was received after the packet was released.

The Board received public comments.

MOTION: Mayor Rubio moved and seconded by Mayor Edelen, to approve the item as presented.

Mayor Kampe pointed out the list of priorities is not shown on the resolution. Mr. Houlemard said the agreement will come back to Board for approval. Steve Endsley added that this budget authority would allow spending of \$157,000 with limitations of priorities and nothing was submitted by outside counsel or its Board for this 3-party process and that a partnership to move forward with recycled water of the project is important.

Mayor Kampe made a Substitute Motion to delete “desalination” from the original motion.

Mayor Rubio stated he would not support the amendment because a regional solution for the water needs for peninsula only must be maintained. He added that the Board has to make decisions on augmenting water at Ft. Ord and also consider recycled water (the pure water project); and, if it does not meet the needs, a future desal plan might be needed. Board should not hamper its fiduciary responsibilities to effectively find sources of water. Mayor Gunter expressed concurrence.

Roll call was made on Substitute motion “to delete word desalination” from original motion.

AYES: BEACH, GUNTER, KAMPE, PHILLIPS, POTTER

NAYS: O’CONNELL, MORTON, PARKER, PENDERGRASS, RUBIO

ABSTENTIONS: NONE

ABSENT: EDELEN, HAFFA, OGLESBY

Motion failed (5-5-0-3).

The vote on substitute motion was not unanimous and the original motion was then voted on.

Roll call made on original motion:

AYES: O’CONNELL, GUNTER, PENDERGRASS, PHILLIPS, POTTER, RUBIO

NAYS: BEACH, LUCIUS, KAMPE, PARKER

ABSTENTIONS: NONE

ABSENT: EDELEN, HAFFA, OGLESBY

Motion PASSES (6-4-0-3).

b. WORKSHOP: Regional Urban Design Guidelines

Josh Metz summarized the RUDG and introduced Jason King (Dover Associates) who then provided a power point presentation and answered Board and public questions. This was an information item before the board. Board members provided additional input on format of document as well as clarification on conflict with Base Reuse Plan and the location/identification of gateways as “shall’s and will’s” might create a conflict with zoning or density and objectives of the jurisdictions. Mr. Houlemard reiterated that specificity with flexibility are key components in these Guidelines as they are then applicable to the focus areas. Chair O’Connell encouraged members of public to submit additional comments directly to FORA.

Board received public comments.

7. ADJOURNMENT

Chair O’Connell adjourned the meeting at 1:29 pm.

FORT ORD REUSE AUTHORITY

BOARD OF DIRECTORS REGULAR MEETING MINUTES

Friday, November 13, 2015 at 2:00 p.m.

910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

1. CALL TO ORDER

Chair O'Connell called the meeting to order at 2:00 p.m.

2. PLEDGE OF ALLEGIANCE

Rochelle Dornatt led the pledge of allegiance. Chair O'Connell wished everyone a nice Thanksgiving.

3. CLOSED SESSION

Chair O'Connell introduced the closed items and added Item 8c (Prevailing wage) would be continued to December meeting due to numerous questions and concerns brought forth by Authority Counsel. He added that if public wishes to speak they may do so, but not until the item appears.

- a. Conference with Legal Counsel-Potential Litigation, Gov. Code Section 54956.9(e)(2): FORA-Marina Coast Water District Dispute Resolution
- b. Conference with Legal Counsel-Potential Litigation, Gov. Code Section 54956.9(e)(2): FORA Prevailing Wage Issues/Exposure

The Board adjourned into closed session at 2:02 p.m.
No public comment was received.

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

The Board reconvened into open session at 2:23 p.m.
Authority Counsel, Jon Giffen, announced there was no reportable action taken by Board.
No public comment was received.

5. ROLL CALL

Mayor Edelen (City of Del Rey Oaks)	Supervisor Parker (County of Monterey)
Mayor Rubio (City of Seaside)	Council member Beach (City of Carmel)
Mayor Pendergrass (City of Sand City)	Council member Haffa (City of Monterey)
Mayor Gunter (City of Salinas)	Council member Lucius (City of Pacific Grove) AR
Mayor Pro-Tem Oglesby (City of Seaside)	Council member Morton (City of Marina)
Supervisor Phillips (County of Monterey)	Council member O'Connell (City of Marina)
Supervisor Potter (County of Monterey)	

Ex-officio (Non-Voting) Board Members Present: Congressman Sam Farr (AR), Dr. Eduardo Ochoa (CSUMB) AR, Col Fellingner *(U.S. Army), Director Peter Le, (MCWD) AR, Walter Tribbley (MPC), Erica Parker (29th Assembly District), Lisa Rheinheimer* (MST).

Absent: Nicole Charles (CA Senator Monning); Vicki Nakamura (Monterey Peninsula College), Debbie Hale (TAMC), Donna Blitzer (UCSC), Andre Lewis, (CSUMB) AR, Bill Collins (Fort Ord BRAC Office), Erica Parker (CA Assembly member Stone), and PK Diffenbaugh (MPUSD).

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Mr. Houlemard acknowledged Chief of Staff, Rochelle Dornatt, from Congressman Farr’s office and introduced new staff member, Peter Said, Project Specialist to the Board.

7. CONSENT AGENDA

Chair O’Connell stated Item 7d was pulled from Consent agenda and that Items 7a and 7c. A member of public requested 7b be pulled.

- a. Approve October 9, 2015 Minutes
- c. Ad-Hoc Committee Policy Regarding Authority Counsel Requests

MOTION: Mayor Rubio moved, seconded by Mayor Edelen, to approve the October 9, 2015 minutes, as presented with a minor correction and Item 7c as presented.

MOTION PASSED UNANIMOUSLY

b. Base Reuse Plan Reassessment Report: Category III Status

Mr. Houlemard provided a brief summary of staff report. Jonathan Brinkmann introduced the item and answered board member questions. He referenced that moving forward with Regional Design Guidelines is a main component of FORA’s Category III workplan.

The Board received questions from public. Jonathan Brinkmann responded to a question about affordable housing and stated Category III and the Master Resolution a 20% of housing must be affordable and 10% workforce and median income requirements.

MOTION: Mayor Rubio moved, seconded by Council member Oglesby, to approve Item 7b.

MOTION PASSED UNANIMOUSLY

d. Oak Woodland Conservation Planning

Chair O’Connell said this item was pulled due to inquiries received by Board and that Executive Officer recommended that it be presented for discussion.

Mr. Houlemard introduced this item and Ted Lopez, Assistant Planner. Mr. Lopez provided a historic background and said it’s based on Base Reuse Plan policy and that a working group was formed to look at process of conservation area, management and mitigation plan. The component looks at Monterey County and Seaside only. A working group was represented by staff members from Monterey County, Seaside, Marina CSUMB, MPC, UCMBEST and other agencies who were invited to participate such as Chartwell School. Two meetings were held on September and October of 2014. An RFP is being prepared which will be brought back to Board for public review/approval.

The Board received comments from Board members ranging from coordination of a Plan, concerns over stopping the process of an RFP, public be given ability to participate, that perhaps only a Scope of Work portion is what Board needs to review/approve, and that FORA may not have authority to include Marina.

The Board received public comments.

MOTION: Mayor Edelen moved, seconded by Council member Lucius to accept presentation since it was pulled from Consent Agenda.

A substitute motion was made by Mayor Gunter, seconded by Councilmember Morton to NOT accept this report until more information can be provided as an information/action at next meeting.

ROLL CALL WAS TAKEN:

AYES	Beach, O’Connell, Haffa, Gunter, Lucius, Morton, Parker
NOES	Edelen, Oglesby, Pendergrass, Phillips, Potter, Rubio
ABSTENTIONS	None
ABSENT	None

7-6-0-0-Substitute motion passes; item returns to Board at next meeting or January as an information/action item.

8. BUSINESS ITEMS

- a. Regional Urban Design Guidelines
 - i. Provide direction regarding approval of Draft Regional Urban Design Guidelines
 - ii. Amend Dover, Kohl and Partners Contract

Josh Metz made a presentation to Board; mentioned charrettes and other components to the presentation of RUDG; and workshop open house brought about 100 participants. The board received comments from Board members and the public.

Chair O’Connell acknowledged arrival of Congressman Sam Farr at 3:23 p.m. Congressman Farr spoke of the need to finalize the Scenic Corridor on Highway 1 and asked for a status update. Mr. Houlemard said all entities were brought in from 2005-07 and limitations came up, that some Cities “opted out” and that the Regional Design Guidelines do not include the Scenic Corridor. He added the Board at that time elected to not do much; however, staff could bring those parties together and get an agreement to get scenic corridor.

MOTION: Supervisor Parker moved, seconded by Mayor Pro-tem Beach, to approve the Draft RUDG report and to approve the amendment to Dover et al contract.

MOTION PASSED UNANIMOUSLY

- b. Marina Coast Water District/FORA Facilities Agreement Dispute Resolution – 2nd Vote

Steve Endsley made a presentation the Board and requested a second vote on this matter. Jon Giffen reminded Board that this item is up for second vote and if other options want to be considered, Board should ask them now.

The Board received comments from members of the board regarding specific items needed in the agreement being requested, perhaps an MOU, so everyone, including MCWD can understand the terms. Authority Counsel responded that a document could be prepared to satisfy Board’s request.

MOTION: Supervisor Phillips moved, seconded by Supervisor Potter, to bring this matter back with a Memorandum of Understanding between FORA and Marina Coast Water District.

MOTION PASSED UNANIMOUSLY

The Board received public comment.

- c. Fort Ord Reuse Authority Prevailing Wage Program

Chair O'Connell stated this item was pulled off agenda and will be continued to next meeting. However, Board elected to receive public comments on this item.

Matthew Miller a Labor compliance investigator said violations regarding certified payrolls on framing work show that correct wages were not paid. These workers come from long distances and they were denied lunch and rest periods on a regular basis and that no information was provided to workers and they need to still be compensated.

Oscar Mendoza stated he worked for Erickson Framing Construction on the East Garrison project. He said he was required to pay for his health insurance. Yet, when he saw the doctor he was told he had no insurance. Mr. Mendoza was paid \$6/hr yet, he paid more than \$4,000 for this insurance which he was never able to use. He said he received no information about his rights and pay from labor compliance.

Rosendo Friday. Worked for CVC at East Garrison and said he arrived at 4:30 a.m. worked 8 hrs no lunch no rest; no reimbursement for round trip (6 hrs total) to Fresno and back. Food had to be purchased along the way and he never got reimbursed. He added that it would have been nice to be paid in order for him to hire a person to care for his disabled son.

Ivan Hernandez said he works for CBC and has same problem. He was told if he wanted to work, he need to drive his vehicle for around 6 hrs that he never got compensated for. His wife had to leave her employment because he was not available to get kids to school. He thanked investigators for their work.

Jose Alcantar introduced himself with same issues as he worked on same company. He wakes up at 3 a.m. to get ready and arrive at 4:00 to be picked up and be brought to work; there are no rest periods and the pay received was \$13.68/hr. He is not compensated for his total travel time of 6 hrs, that there is wear and tear on vehicle; the cost of gas; and that this is the equivalent of another part time job and he could be spent with his family. He added that no compliance person was ever present at the site, that companies abuse employees and "if employees need work, they have to take the abuse in order to get the job."

Maurice Belarde said contractors (plumbers) cheat on projects on Ft Ord. People are sleeping on parked vehicles while the projects are built illegally, and not up to code. Project workers agreements he requests they be looked into.

Board received additional comments from other members of the public.

d. Monterey Bay Charter School Traffic Impact Agreement

Mr. Houlemard introduced this item and Jonathan Brinkmann delivered the report to Board. The Board received comments from Board members regarding transportation impacts, type of written agreements. Jonathan responded that they have not done an EIR and he did not know when it will be completed, that a portion of the fee goes towards roads and capital improvements just like the Dunes did. The fee goes into Capital Improvement Program revenues then eventually to FORA. Erin Harway, from Denise Duffy Associates, said her firm was contracted by Monterey Bay Charter School to provide entitlements and CEQA items and that Traffic report is ready, that the School has a carpool program (60% of students) and a bus stop located near campus.

MOTION: Supervisor Potter moved, seconded by Mayor Rubio, to approve this item as presented.
MOTION PASSED UNANIMOUSLY

There was no public comment.

9. **PUBLIC COMMENT PERIOD**

The Board received public comment.

10. EXECUTIVE OFFICER'S REPORT

Mr. Houlemard stated that all items 10a through 10h listed on the Executive Officer's Report are for information only.

- a Outstanding Receivables
- b Habitat Conservation Plan Update
- c Administrative Committee
- d Post Reassessment Advisory Committee
- e Veterans Issues Advisory Committee
- f Water/Wastewater Oversight Committee
- g Travel Report
- h Public Correspondence to the Board

11. ITEMS FROM MEMBERS

None.

12. ADJOURNMENT

The meeting was adjourned at 4:44 p.m.

DRAFT

2016 FORA BOARD MEETING SCHEDULE

January 8
February 12
March 11
April 8
May 13
June 10
July 8
August 12
September 9
October 14
November 4
(November 11 is Veterans Day)
December 9

Board meetings are held on the 2nd Friday of each month at 2:00 p.m. at the Carpenter's Union Hall on the former Fort Ord (910 2nd Avenue, Marina, California), unless otherwise noticed/announced. Meeting dates and times are subject to change. Agendas and other meeting materials are posted on the FORA website www.fora.org and are available upon request.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Denise Duffy & Associates Contract Amendment

Meeting Date: December 11, 2015

Agenda Number: 7c

INFORMATION

RECOMMENDATION(S):

Receive a report regarding contract amendment #9 (**Attachment A**) with Denise Duffy & Associates (DD&A), reallocating remaining Task 10 funding of \$14,488.02 to Task 11.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority (FORA) and US Fish and Wildlife Service (USFWS) selected DD&A in 2005 to prepare the Habitat Conservation Plan (HCP) Environmental Impact Statement/Environmental Impact Report (EIS/EIR) document. Contract amendment #9 provides for reallocating remaining Task 10 (Prepare 2nd Administrative Draft EIS/EIR) funding \$14,488.02 to Task 11 (Prepare Public Review Draft EIS/EIR). Staff notes that USFWS is the lead agency for the Draft HCP EIS, while FORA is the lead agency for the Draft HCP EIR. USFWS's solicitor has not completed their review of the 2nd Administrative Draft EIS/EIR, delaying HCP completion.

FISCAL IMPACT:

Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget. The overall DD&A contract budget remains unchanged.

COORDINATION:

DD&A, Authority Counsel

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

AUTHORIZATION TO PROCEED

Note: If the scope, fee, terms of payment and conditions described in the Denise Duffy & Associates, Inc. attached memorandum are acceptable, please sign and return a copy of this authorization form for our files. Thank you.

Project Name: REVISED SERVICES (AMENDMENT #9) FOR THE FORT ORD HABITAT CONSERVATION PLAN EIR/EIS PROJECT

Accepted by (signature): _____ **Dated:** _____

Print Name: _____

Title: _____

On Behalf of: _____

Mailing Address: _____

Fee/Scope Confirmation:

ADJUSTMENT TO ORIGINAL CONTRACT BUDGET TO REALLOCATE REMAINING FUNDING IN TASK 10, \$14,488.02 TO TASK 11, PER ATTACHED BUDGET.

Existing Contract Date, if applicable: FEBRUARY 1, 2005.

If invoice should be sent to a different person or location, please complete below:

Mailing Address: _____

Attention: _____

Return to: Denise Duffy & Associates, Inc.
947 Cass Street, Suite 5
Monterey, CA 93940



Denise Duffy & Associates, Inc.

AMENDMENT #9

UPDATED Budget Summary, Sept. 1, 2015

		Amount	% complete	Billed Previous	This Invoice	Remaining
Amend #8						
4	Agency Coordination/Meetings	\$ 7,007.00	100.0%	\$ 7,007.00	\$0.00	\$ -
5	Revised CTS Analysis	\$ 3,428.00	100.0%	\$ 3,428.00	\$0.00	\$ -
6	Update HCP Covered Species Occurrence Data	\$ 8,706.00	100.0%	\$ 8,706.00	\$0.00	\$ -
7	FORTAG Analysis	\$ 8,084.00	100.0%	\$ 8,084.00	\$0.00	\$ -
8	MMTC Analysis	\$ 4,804.00	100%	\$ 4,804.00	\$0.00	\$ -
9	Review Screencheck Draft HCP	\$ 3,683.00	100%	\$ 3,683.00	\$0.00	\$ -
10	Prepare 2nd Admin Draft and Screencheck Draft EIS/EIR	\$ 63,971.00	77.4%	\$ 49,482.98	\$0.00	\$ 14,488.02
10A	Amendment #9, Transfer Task 10 funds to Task 11	\$ (14,488.02)				\$ (14,488.02)
11	Prepare Public Review Draft EIS/EIR	\$ 15,639.00	0%	\$ -	\$0.00	\$ 15,639.00
11A	Amendment #9, Transfer Task 10 funds to Task 11	\$ 14,488.02				\$ 14,488.02
Subs/Expenses	Traffic	\$ 2,000.00	0%	\$ -	\$0.00	\$ 2,000.00
	Printing/Mileage/Comm	\$ 800.00	17%	\$ 214.65	\$0.00	\$ 585.35
	Misc	\$ 75.00	0%	\$ -	\$0.00	\$ 75.00
	Admin Fee	\$ 431.00	0%	\$ -	\$0.00	\$ 431.00
	CREDIT FOR REMAINING BUDGET, through Amendment #7	\$ (17,886.22)		\$ -	\$0.00	\$ (17,886.22)
	SUBTOTAL	\$ 100,741.78		\$ 85,409.63	\$ 0.00	\$ 15,332.15
	TOTAL	\$ 811,307.78	\$ -	\$ 774,612.78	\$ 0.00	\$ 36,695.00

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Surplus II Industrial Hygienist Selection Update	
Meeting Date:	December 11, 2015	INFORMATION
Agenda Number:	7d	

RECOMMENDATION(S):

Receive an update on the Surplus II Industrial Hygienist selection process and building removal update.

BACKGROUND/DISCUSSION:

The U.S. Army conveyed real property to the Fort Ord Reuse Authority (FORA) under an Economic Development Conveyance (EDC) Memorandum of Understanding that outlines terms and conditions of a local Base Realignment and Closure (BRAC) recovery program with the restriction that FORA and the Jurisdictions received the property with the buildings "as-is, where-is." FORA was assigned specific responsibility for certain building removal and clearance obligations under a combination of State law and Board policy.

In the Seaside Surplus II area, there are 26 large, multi-story concrete structures in close proximity to occupied housing, office buildings, schools, college campus buildings and other various uses. The multistory buildings do not have elevators, are not ADA compliant and none meet current earthquake safety codes. They have become dilapidated over time, contain various forms of hazardous materials and are frequently targeted sites for vandalism and illegal dumping. Portions of the Seaside Surplus II area surround existing buildings reused in place, including the Presidio of Monterey Police station, Monterey College of Law, Monterey Peninsula College Police Officer Training Academy and National Guard buildings. The dilapidated Surplus II buildings are not reusable and it has become cost prohibitive to remodel them given the amount of hazardous materials, health and safety code issues and engineering challenges.

FORA staff is coordinating with the City of Seaside toward completing the FORA Capital Improvement Program (CIP) building removal obligation in Surplus II. FORA, at Seaside's request, will select a Industrial Hygienist (CIH) professional to identify hazardous materials in the 26 buildings along Seaside's Gigling Road, also known as "Surplus II." A request for proposals for CIH professional services was released to the public for competitive bid on October 1st. FORA staff held the first site inspection on October 15th, a second on November 5th, and is in the process of collecting and evaluating proposals. Changes to the scope during the questioning phase extended the proposal submission deadline to November 19th. Interviews will be conducted in early December and a final selection is expected in December with a recommended consultant selection for Board approval in January 2016.

FISCAL IMPACT:



Reviewed by FORA Controller

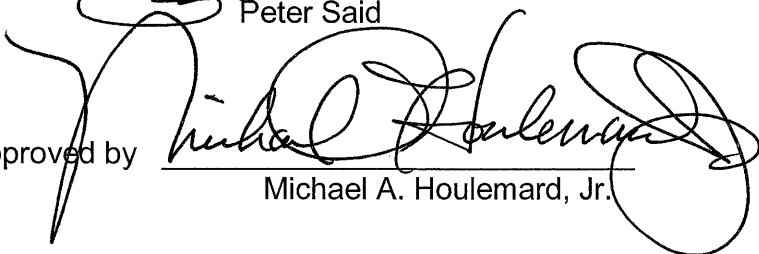


Funding for building removal activities at Surplus II area is included in the approved FY 15-16 CIP budget.

COORDINATION:

Authority Counsel, Administrative Committee

Prepared by  Peter Said Reviewed by  Stan Cook

Approved by  Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Memorandum of Understanding with Association of Monterey Bay Area Governments for Orthographic Imagery	
Meeting Date:	December 11, 2015	INFORMATION
Agenda Number:	7e	

RECOMMENDATION:

Receive a report on a Memorandum of Understanding (MOU) with Association of Monterey Bay Area Governments (AMBAG) for Orthographic Imagery (**Attachment A**).

BACKGROUND/DISCUSSION:

Fort Ord Reuse Authority (FORA) was one of the Central Coast Joint Data Committee (CCJDC) members that co-funded fly-over data collection in the area in 2007. FORA used this former Fort Ord imagery in support of the Environmental Services Cooperative Agreement (ESCA), Habitat Conservation Plan (HCP), and other mapping efforts. The 2007 imagery data is now dated. AMBAG intends to contract a vendor to collect new fly-over orthographic photography in 2015. FORA has a need for 2015 orthographic imagery in projects such as confirming the ESCA cleanup, HCP mapping, and future infographic communications. FORA's participation with the 18 city jurisdictions, 2 counties, Caltrans, U.S. Army Corps of Engineers (USACE), California State University Monterey Bay and five other groups in gathering this orthographic imagery on the Peninsula is a cost effective partnership. AMBAG will manage the project and the agencies with overlapping boundaries share the burden of the full cost. The cost of the orthographic photography tiles that include all of former Fort Ord is \$14,365.00. Additional fees for Quality Assurance/Quality Control and administration plus contingency bring the full cost of the Fort Ord area imagery to \$17,956.25. The USACE is also going to use the Fort Ord data set. As a result, AMBAG offered a cost share of the total such that FORA and USACE each pay half of the \$17,956.25 cost. AMBAG is preparing a separate contract with USACE for their cost share. FORA and AMBAG would enter into an MOU for \$8,978.13 for its half of the cost. The MOU and supporting documents are included under **Attachment A**.

FISCAL IMPACT:

Reviewed by FORA Controller 

Funding for the orthographic imagery tile set and staff time for this item are included in the approved annual budget.

COORDINATION:

AMBAG and Authority Counsel

Prepared by 

Mary Israel

Approved by 

Michael A. Houlemard, Jr.

MEMORANDUM OF UNDERSTANDING BETWEEN THE
ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS
AND THE FORT ORD REUSE AUTHORITY

2015 REGIONAL ORTHOPHOTOGRAPHY PROJECT

THIS AGREEMENT is entered into this ___ day of December, 2015, by and between the ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS (“AMBAG”) and the FORT ORD REUSE AUTHORITY (“FORA”).

WITNESSETH

WHEREAS, AMBAG will enter into a technical services contract on or about December 15th 2015, with Pictometry International Corporation (“PICTOMETRY”), a technical contractor, to provide technical and professional services related to orthophotography of the Monterey Bay region. A copy of the exhibit from the AMBAG/PICTOMETRY contract are attached hereto, labeled Exhibit “I” and incorporated herein by this reference; and

WHEREAS, FORA wishes to obtain ortho-photographic imagery (“IMAGERY”).

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. SCOPE OF SERVICES

A. AMBAG shall provide FORA at FORA’s request any and all products developed by PICTOMETRY as defined in Exhibit “I” related to IMAGERY of the area of interest as specified by FORA.

B. PICTOMETRY will adhere to customary and reasonable acceptance standards and product specifications as set forth in Exhibits “I” and “I Part 2. Scope of Work.”

2. COMPENSATION

A. Upon execution of this Agreement FORA shall pay to AMBAG the not-to-exceed cost as set forth in Exhibit “II” attached hereto and incorporated herein by this reference.

B. In the event AMBAG receives funding from any other jurisdiction for materials requested by FORA, AMBAG shall reimburse FORA its pro-rata share for the use of the IMAGERY.

C. One hundred percent (100%) of the not-to-exceed amount of \$8,978.13 (Exhibit “II”) will be due within 30 days of signing and will be invoiced by AMBAG.

3. TERM OF AGREEMENT

A. The term of this agreement shall be from December __, 2015 to June 30, 2016, unless otherwise extended by mutual consent.

4. TERMINATION OF AGREEMENT

AMBAG or FORA may terminate or suspend this Agreement with or without cause at any time by giving ten (10) days written notice to the other party.

5. NOTICES

A. All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

AMBAG: Gina Schmidt
GIS Coordinator
ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS
P.O. Box 809
Marina, CA 93933-0809

FORA: Michael A. Houlemard, Jr.
Executive Officer
FORT ORD REUSE AUTHORITY
920 2nd Avenue, Suite A
Marina, CA 93933

B. Any and all notices or other communications required or permitted relative to this Agreement shall be in writing and shall be deemed duly served and given when personally delivered to either of the parties, FORA or AMBAG, to whom it is directed; or in lieu of such personal services, when deposited in the United States mail, first class, postage prepaid, addressed to FORA or to AMBAG at the addresses set forth above (until notice of a different address is given to the parties pursuant to the next paragraph).

C. Either party may change their address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided for in the preceding paragraph.

6. INDEMNIFICATION/DEFEND/HOLD HARMLESS

FORA and AMBAG agree to indemnify, protect, defend and hold each other harmless from and against any loss, damage, expense or liability, including reasonable attorneys' fees and costs of suit, arising out of or in connection with the intentional, willful, wanton, reckless or negligent conduct of the FORA or AMBAG.

7. ATTORNEY'S FEES AND COURT VENUE

Should either party to this Agreement bring legal action against the other (formal judicial proceeding, mediation or arbitration) the case shall be handled in Monterey County, California, and the party prevailing in such action shall be entitled to reasonable attorneys' fees which shall be fixed by the judge, mediator or arbitrator hearing the case and such fee shall be included in the judgment, together with all costs.

8. INTERPRETATION

Notwithstanding the fact that one or more provisions of this Agreement may have been drafted by one of the parties to this Agreement, such provisions shall be interpreted as though they were a product of a joint drafting effort and no provisions shall be interpreted against a party on the grounds that said party was solely or primarily responsible for drafting the language to be interpreted.

9. SOLE AND ONLY AGREEMENT MODIFICATION

This Agreement constitutes the sole and only agreement between the parties hereto relating to the work described under this Agreement, and correctly sets forth the rights, duties and obligations of each to the other as of its date. Any prior agreement, negotiation, or representation not expressly set forth in this Agreement is of no force or effect. Any modification of this Agreement must be in writing and delivered pursuant to the terms of item 5 of this Agreement.

10. THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed to create, and the parties do not intend to create, any rights in third parties.

11. SEVERABILITY

If any term of this Agreement is held invalid by a court of competent jurisdiction or arbitrator the remainder of this Agreement shall remain in effect. **IN WITNESS WHEREOF** the parties have executed this Agreement on the date first hereinabove written.

AMBAG

FORA

By: _____
Title: _____

Michael A, Houlemard Jr., Executive Officer

EXHIBIT I : Fort Ord Reuse Authority

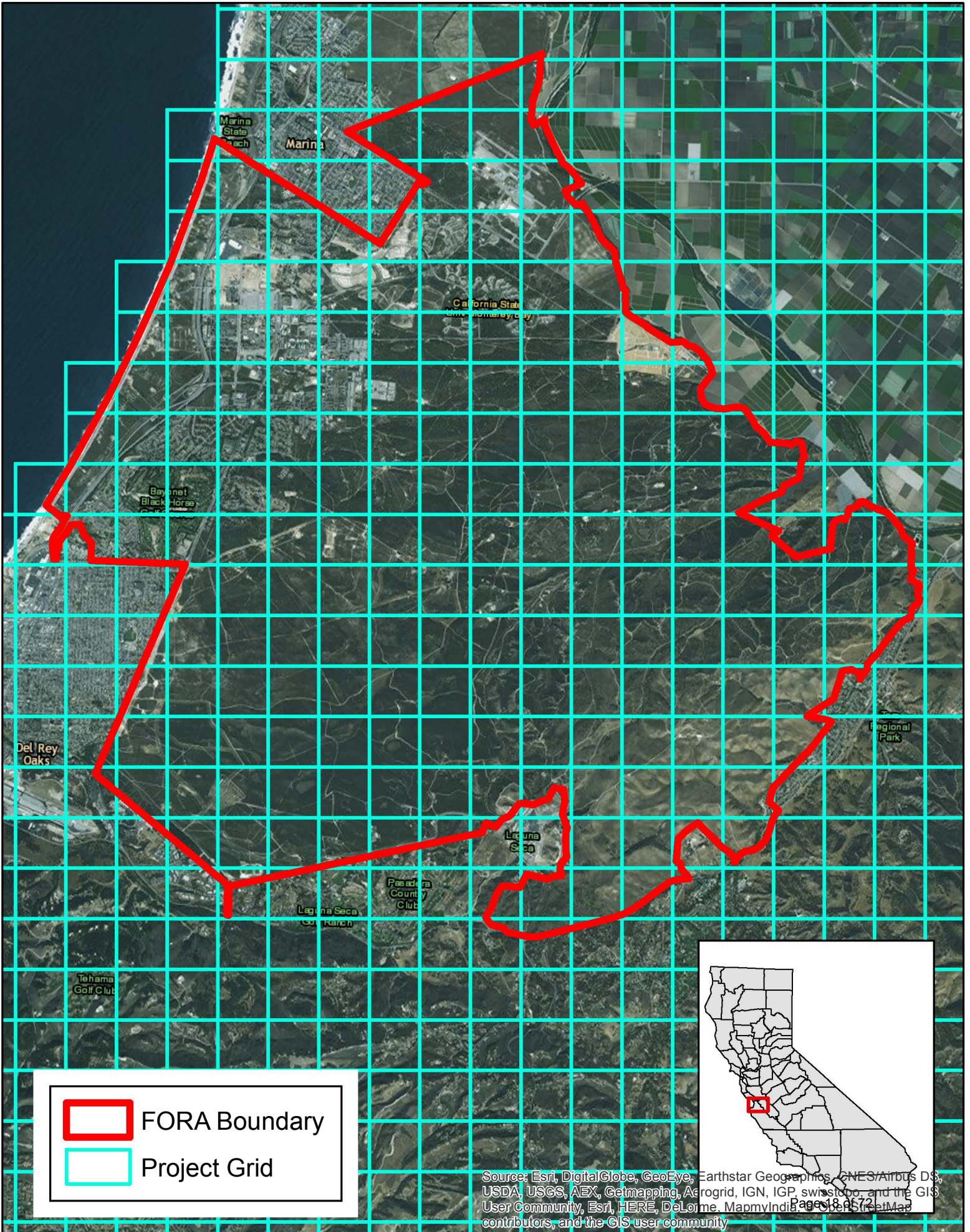


Exhibit I

Part 2. SCOPE OF WORK

PICTOMETRY CONTRACT PHOTOGRAMMETRIC PRODUCT SPECIFICATIONS

221 tiles will be flown.

Each tile is 0.25 square miles and will be at 3" tile scale.

The area of interest is shown on the map (Exhibit I)

Ortho mosaic accuracy for 3-inch GSD: RMSE (x or y) 0.50 ft;
RMSE^z 0.50 ft; NSSDA (95%) 0.87 ft. Accuracy guaranteed in area
covered by provided LiDAR based DEM.

The final deliverables will be 3" GSD orthographic mosaic tiles
in Geotiff format (California State Plane NAD 83 US Survey Feet
Zone 3 /4.)

Mosaic of the tiles will be for the area of interest by FORA as
shown in Exhibit I.

Exhibit II

BUDGET

Total Not to Exceed Cost of Area as Defined in Exhibit

Cost of Tiles:	\$ 7,182.50
Cost of QA/QC (10%)	718.25
*Administration AMBAG (10%)	\$ 718.25
Survey Control (5%)	<u>359.13</u>
Total Cost:	\$ 8,978.13

*Includes:

- Contract Administration
- Project administration & oversight
- Vendor liaison & management
- Reporting to participants
- Approval of payments to vendor

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Adopt 2016 FORA Legislative Agenda

Meeting Date: December 11, 2015

Agenda Number: 7f

INFORMATION/ACTION

RECOMMENDATION(S):

Adopt the 2016 Fort Ord Reuse Authority (FORA) Legislative Agenda (**Attachment A**).

BACKGROUND/DISCUSSION:

Since 2000, FORA staff and the Legislative Committee have solicited legislative, regulatory, policy and/or resource allocation suggestions from the jurisdictions to enhance and move forward the reuse and redevelopment of the former Fort Ord. This year, FORA staff worked with JEA and Associates (FORA's legislative representatives in Sacramento), FORA jurisdiction staff, and federal/state legislative offices to amend the FORA Legislative Agenda to reflect the current status of funding opportunities and program changes and to address unfinished items from the 2015 Legislative Agenda. The Legislative Committee reviewed, considered, and approved the 2016 Legislative Agenda at their November 3, and December 2, 2015 meetings.

The items on the annual Legislative Agenda serve as the focus of the annual Legislative Mission to Washington, DC, which typically occurs in spring. Selected FORA Board and staff members travel to the nation's capital to meet with key legislative, military, and governmental leaders to discuss FORA's positions and needs. The agenda also frames issues and funding needs for the State legislative work, which may also include a Sacramento visit in spring. The approved Legislative Agenda stands as a statement of FORA's legislative, regulatory, policy and/or resource allocation needs.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

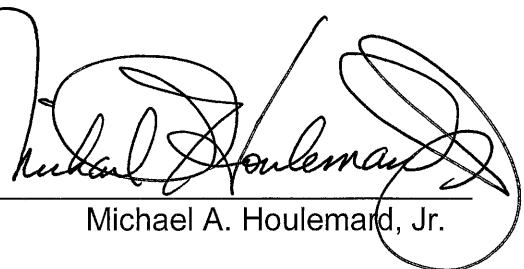
COORDINATION:

FORA Legislative and Executive Committees, JEA & Associates, Congressman Sam Farr / Senator Bill Monning / Assemblymember Mark Stone, Transportation of Agency of Monterey County and respective staff.

Prepared by


Maria Buell

Approved by


Michael A. Houlemard, Jr.



Fort Ord Reuse Authority 2016 LEGISLATIVE AGENDA

The purpose of this report is to outline 2016 Fort Ord Reuse Authority (FORA) legislative tasks. The FORA 2016 Report 's Legislative Agenda defines Board policy, sets legislative, regulatory or federal/state resource allocation positions, and supports the 1997 Base Reuse Plan's (BRP) defined programs and the 2012 BRP Reassessment report's for replacing the former Fort Ord military regional economic contributions with comparable level civilian activity/programs. The Legislative Agenda is meant to assist state and federal agencies/legislative offices regarding property transfer, economic development, environmental remediation, habitat management/conservation, and infrastructure and mitigation funding. The order in which the tasks are presented herein does not imply rank or priority. Each item is considered a "priority" in achieving FORA's objectives.

A. HABITAT CONSERVATION PLAN (HCP). Continue/enhance ongoing coordination with federal and state legislative representatives to secure approval of the HCP.

Issue:

HCP approval remains critical to former Fort Ord reuse. Alternatives to a base wide HCP are costly and time consuming and do not effectively serve the goal of managing or protecting endangered species.

Benefits:

HCP approval is essential to protecting habitat and to effectively develop jobs and housing.

Challenges:

Processing the HCP over the past fifteen years was difficult and costly. Insufficient federal/state agency resources and overlapping regulatory barriers have thwarted the HCP process.

Proposed Position:

- Support legislative and regulatory coordination, state and federal resources, and strong advocacy to enable speedy reviews and processing.
- Coordinate with Department of Interior/ Bureau of Land Management (BLM), California Department of Fish and Wildlife (CDFW), the 20th Congressional District, the 17th State Senate District and the 29th State Assembly District to finalize an MOU between BLM and CDFW regarding habitat management on BLM's Fort Ord National Monument, a required milestone to completing the HCP.

B. NATIONAL MONUMENT. Assist in implementing the federal National Landscape Conservation System (Fort Ord National Monument) designation for the former Fort Ord Bureau of Land Management (BLM) Natural Resource Management Area through increased trail access, completion of munitions and explosives removal, and continued advancement of the Fort Ord Habitat Conservation Plan (HCP).

Issue:

HCP approval and implementation are essential to former Fort Ord reuse and will support the National Monument. Advancing access connects the National Monument to other Monterey Bay venues. State and national funding and further recognition are critical.

Benefits:

National attention to the unique flora, fauna, and recreational resources found on the Fort Ord National Monument supports Fort Ord Habitat Management Plan and HCP preservation efforts. The National Monument designation emphasizes the national significance of the BLM's former Fort Ord property to potential donors and other funding sources. As an advocate for the designation, FORA supports BLM's mission and former Fort Ord recreation/tourism, helping improve resource competitiveness.

Challenges:

Each year, the local BLM office competes nationally to receive public and private grants and federal appropriations that support its mission.

Proposed Position:

- Continue to support and work with the 20th Congressional District to introduce/sponsor funding for former Fort Ord conservation, trails, etc.

C. ECONOMIC RECOVERY SUPPORT. Support statewide and regional efforts to create local jurisdiction economic recovery base reuse financing.

Issue:

The loss of "redevelopment financing" and other refinancing tools to assist in implementing base closure recovery programs was a heavy blow to FORA's member jurisdictions. Jurisdictional funding has dropped and substitute financial tools to support economic reuse/recovery initiatives are needed.

Benefits:

Sufficient funding resources for the reuse and recovery from former Fort Ord closure and other military bases. Funding support for economic development programs, habitat management protection, building removal, or other infrastructure demands associated with the reuse programs.

Challenges:

1. Obtaining agreement to use tax or special district funds to create special financing districts to support, targeted economic recovery, affordable housing and/or infrastructure in the climate of limited resources.
2. State funding sources remain unclear.

Proposed Position:

Support legislation, activating local agency processes for economic development.

- Support establishment of Military Base Reuse “Recovery Zones.”
- Support legislation for incentive based mechanisms to strengthen jurisdictions ability to implement base closure recovery programs.

D. VETERANS CEMETERY. Continue support for the California Central Coast Veterans Cemetery (CCCVC) development on the former Fort Ord.

Issue:

Burial space for California Central Coast veterans is inadequate. The former Fort Ord is both ideally suited and centrally located. A site was set aside/designated in 1990s for a veterans cemetery and the FORA Board of Directors supported through multiple previous actions the establishment of the California Central Coast Veterans Cemetery (CCCVC). In 2011, the Legislature amended Military and Veterans Code section 1450.1 directing California Department of Veteran Affairs (CDVA), in cooperation with the City of Seaside, County of Monterey, FORA, and surrounding local agencies, to design, develop, and construct the Veterans Cemetery on the former Fort Ord. In January 2013, the FORA Board authorized transfer of the land designated for the CCCVC to CDVA. In August, CDVA submitted an application to the U.S. Department of Veteran Affairs (DVA) for approximately \$6.8 million in grant funding to establish the CCCVC. Senator Bill Monning authored legislation reducing the approximate \$2.6 million funding gap between the federal grant and estimated project costs by \$1 million dollars. Additional State funding efforts reduced the funding gap by another \$1 million. The David and Lucile Packard Foundation provided a \$350,000 loan and \$150,000 in grant funding. Local fundraising efforts produced the remaining portion, allowing State to accept the U.S. Department of Veterans Affairs (USDVA) grant funding on October 15, 2013. The federal funds were disbursed to State on September 2014, and construction began in early 2015. Current funding supports CCCVC design, planning, and environmental review and incorporate above ground columbaria, administration and maintenance buildings, a committal shelter, minimal landscaping, and all necessary infrastructure for initial operation. Future expansion requires additional design, planning, and review and includes in-ground gravesites and additional columbaria, as well as other potential ancillary uses.

Benefits:

The CCCVC offers final resting places for the region’s 50,000 (approx.) veterans.

Challenges:

Completion of the cemetery construction will require significant coordination between FORA, the CCCVC Foundation, the California Department of General Services (DGS), CDVA, USDVA, the City of Seaside, the County of Monterey, and other state/federal agencies.

Proposed Position:

- Support DGS and CDVA construction efforts.
- Support efforts to sustain priority standing for the CCCVC with CDVA and USDVA.
- Promote continued vigilance and cooperation among the regulatory agencies.
- Coordinate with federal agencies, the City of Seaside, the County of Monterey, the 20th Congressional District, the 17th State Senate District, and the 29th State Assembly District to sustain efforts to generate federal funding and/or status for future CCCVC expansion.

E. AUGMENTED WATER SUPPLY. Work with local and regional agencies to secure State and Federal funding to augment FORA's water supply capital needs.

Issue:

The FORA Capital Improvement Program includes approximately \$24M to fund a Regional Water Augmentation necessary to implement the Base Reuse Plan. Securing outside funds to assist this requirement could help the timely implementation of recycled water and/or desalination water facilities and smooth out upfront costs of infrastructure.

Benefits:

Development projected under the Base Reuse Plan depends on an augmented water supply. Additional grant funding could reduce FORA and Marina Coast Water District (MCWD) cost to secure water resources and reduce the required hefty capital charges.

Challenges:

Scarce funding and competing water projects throughout the region and state. No current federal/state program exists for this funding.

Proposed Position:

- Continue to work with MCWD to ensure that they fulfill their contractual obligation to FORA for water resource augmentation.
- Support and coordinate efforts with MCWD, Monterey County Water Resources Agency, Monterey Regional Water Pollution Control Agency, other agencies, and FORA jurisdictions to secure funding and/or support other funding mechanisms proposed for this purpose.
- Coordinate potential water bond funding for Monterey Bay region and FORA augmentation needs.

F. TRANSPORTATION IMPROVEMENTS. Work with Transportation Agency for Monterey County (TAMC) and local jurisdictions to secure transportation funds.

Issue:

The FORA Capital Improvement Program requires capital and monetary mitigations of approximately \$121 million for transportation infrastructure on and proximate to the former Fort Ord. Some of this funding requires a local, or other, match from the appropriate regional or state transportation body to bring individual projects to completion. Roadway infrastructure proximate to the former Fort Ord impacts traffic mitigation measures on the former Fort Ord.

Benefits:

The timely installation of required on-site, off-site, and regional roadway improvements supports mitigating development impacts and maintaining and improving levels of service vital to the regional economy.

Challenges:

Applying scarce transportation funds to the appropriate projects to optimize transportation system network enhancements. Remaining federal and state programs offering grants or low cost resources are dwindling and increasingly competitive. An adopted HCP is an application requirement for most federal and state transportation grant programs.

- Support and coordinate with TAMC, FORA jurisdictions, and others for state infrastructure bonds, federal authorization or other grant/loan/low cost resources.
- Restart efforts to request amendment to Monterey County Local Coastal Plan (LCP) for safety

- improvements to Moss Landing/Castroville section of Highway 1.
- Advocate for approved regional improvements to maintain traffic flow and funding for transit improvements and active transportation.
- Continue/enhance ongoing coordination with congressional and state legislative representatives to secure HCP approval.

G. PUBLIC SAFETY OFFICER TRAINING. Work with the County of Monterey to assist Monterey Peninsula College (MPC) to obtain capital and program funding for its former Fort Ord Public Safety Officer Training Programs.

Issue:

FORA/County agreed to assist MPC in securing program funds in 2003.

Benefits:

The Public Safety Officer Training Program is an important component of MPC's Fort Ord reuse efforts and will enhance public safety training at the regional and state levels. Adequate funding is critical.

Challenges:

Funds available through the Office of Homeland Security, the Office of Emergency Services, or other sources may be restricted. MPC has yet to accept the property for the former Fort Ord projects.

Proposed Position:

- Pursue legislative or other actions to support MPC efforts to secure funding sources.

H. LEGISLATIVE COOPERATION. Coordinate efforts with other Monterey Bay agency legislative issues.

Issue:

Monterey-Salinas Transit, Transportation Agency for Monterey County, and the County of Monterey have adopted legislative programs, some of which will have Fort Ord reuse impacts.

Benefits:

Collaborative funding efforts by agencies involved in the same or interdependent projects will increase the chances to obtain critical funding and also be enhanced by partnering matching funds.

Challenges:

State and federal funding is limited and competition for available funds will be keen.

Proposed Position:

- Coordinate and support other legislative programs in the Monterey Bay area when they interface with former Fort Ord reuse programs.

I. ASSURING LONG TERM STEWARDSHIP OF MUNITIONS CLEANUP AREAS.

Coordinate with Federal, State and local agencies on post-cleanup stewardship of munitions and explosives ordnance issues/areas.

Issue:

FORA sunsets in June 30, 2020. There will be significant post FORA property management and post-remediation issues that will need to be managed. Those issues require resources, coordination and cooperation which are still being defined.

Benefits:

Collaborative resources efforts by agencies involved in the same or interdependent projects will increase the chances to obtain critical funding and also be enhanced by partnering.

Challenges:

State and federal funding resources are limited. Federal and State agencies have not funded long term stewardship. In addition local jurisdictions have limited funding for long-term stewardship.

Proposed Position:

- Seek federal and state cooperation to assure responsiveness and long-term stewardship for munitions response areas.

J. LEGISLATIVE COORDINATION REGARDING FORA TRANSITION ISSUES

Issue:

FORA's sunset in 2020 calls for coordination of many items. Specifically a report to State Legislature must be filed in 2018. Working with local agencies such as LAFCO is crucial. Coordination will be beneficial /essential in traversing the long list of issues and reporting requirements.

Benefits:

Collaborative efforts will assure effective transition prior to the 2020 sunset.

Challenges:

State law requirements contractual obligations, and inter-agency agreements will require intensive and unavoidable legislative multi-agency negotiations.

Proposed Position:

- Coordinate and seek support from State Legislature (17th State Senate District and 29th State Assembly District) to assure post-FORA funding for jurisdictions and reuse obligations.

K. PREVAILING WAGE COORDINATION

Coordinate with 17th and 12th State Senate Districts and 27th State Assembly District to clarify the implementation of the FORA Prevailing Wage Policy and the enforcement provisions of SB-854 with the State Department of Industrial Relations.

Issue:

Ongoing confusion continues with various interpretations of how the FORA Prevailing Wage Policy interfaces with the registration, reporting and enforcement provisions of SB-854.

Benefits

FORA has a \$180 million dollar in Capital Improvement Program with a Prevailing Wage Policy. FORA provides statewide monitoring of prevailing wages and has authority to sanction violators.

Challenges:

SB 854 is in the first year of implementation and there is little experience within DIR of working Base Reuse Programs.

Proposed Position:

Support legislative and regulatory coordination, state and federal resources, and strong advocacy to enable speedy reviews, compliance, enforcement and coordinated decisions.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Oak Woodland Conservation Planning Update	
Meeting Date:	December 11, 2015	INFORMATION/ACTION
Agenda Number:	8a	

RECOMMENDATION(S):

- i. Receive an Oak Woodland Conservation Planning status report.
- ii. Provide staff with direction regarding an administrative draft Request for Proposals (RFP) for professional consultant services (**Attachment A**) to assist City of Seaside (Seaside) and County of Monterey (County) to complete Base Reuse Plan (BRP) Biological Resources Policy B-2, Program B-2.1 and Program B-2.2 (Oak Woodland Policies) (A revised draft RFP to return for Board consideration at the January 8, 2016 Board meeting).

BACKGROUND/DISCUSSION:

The BRP requires Seaside and County to implement oak woodland conservation planning. Specifically, the Oak Woodland Policies direct Seaside and County to identify and designate an oak woodland conservation area specific to development areas within their jurisdictions and ensure oak woodland management and monitoring within the designated area(s) (**Attachment B** and **Attachment C**). The Oak Woodland Policies direct Seaside and County to coordinate their Oak Woodland conservation planning efforts with neighboring jurisdictions within identified polygons.

At its December 14, 2012 meeting, the FORA Board received the 2012 BRP Reassessment Report, which identified five categories for Board consideration. Category III included incomplete BRP Policies and Programs implementation, which identified the Oak Woodland Policies. With Post Reassessment Work Plan adoption in 2014, the Board assigned FORA staff to work with member jurisdiction staff to identify and implement Category III item work plans. FORA staff, in coordination with County and Seaside staff, identified Oak Woodland Conservation Planning as a cross jurisdiction Category III item.

Subsequently, in September 2014 FORA staff convened an Oak Woodland Working Group (Working Group) to discuss a process for implementing the required Oak Woodland Policies. The Working Group was comprised of staff representatives from Seaside, County, Marina, CSUMB, MPC, and UCMBEST.

By general consensus, the Working Group thought it advisable that FORA fund qualified biologist or arborist services to prepare the background documents needed by Seaside and the County to complete their required Oak Woodland Policies.

In October 2014, FORA staff prepared an administrative draft RFP to initiate the process. The primary deliverables that a contracted biologist or arborist would prepare involve a map that identifies and designates the required oak woodland conservation area and respective oak management and monitoring plans for the conservation area, and the scheduling of presentations to commissions, committees, and Boards. The consultant would also provide clear definition and strategies that recognize that these are development polygons with active and proposed future projects vital to jurisdiction needs, necessitating a balance between and compatibility with the environment.

As advised by the Working Group, FORA staff included a consultant services line item for "potential Oak Woodland designation area" in the FY 15/16 Annual FORA Budget, which was approved by the FORA Board on May 8, 2015.

California Department of Veterans Affairs (CDVA) requested assistance to meet oak woodland mitigations for development at the California Central Coast Veterans Cemetery site. This request has been included in the administrative draft RFP Scope of Services.

At the November 13, 2015 FORA Board meeting, FORA staff informed Board members that it was preparing the administrative draft RFP to begin the process to contract for biologist or arborist services to prepare planning documents in accordance with the identified Oak Woodland Policies.

The Board majority voted in favor of a motion not to receive the FORA staff information report included in the November 13, 2015 FORA Board packet. Board members recommended staff return with a report addressing concerns raised by Board members and the public. After receiving input from Administrative Committee and Executive Committee members on December 2, 2015, staff framed the above recommendation. If this recommendation is approved, Board member and public concerns would be addressed in the following ways:

- 1) **Public participation:** The administrative draft RFP includes public engagement opportunities (such as public workshops, open houses, and public hearings) while the consultant work is being accomplished (See **Attachment A**). Staff has also recommended that FORA Board provide direction to staff on the administrative draft RFP. During public comment period for this item, the public will have an opportunity to comment on the RFP.
- 2) **Jurisdiction coordination:** The Oak Woodlands Policies specify that Seaside and County will coordinate with City of Marina, California State University Monterey Bay (CSUMB), FORA, and other interested entities in the designation of the oak woodland conservation area. The administrative draft RFP includes these jurisdictions.
- 3) **City of Marina participation:** The County Oak Woodland Policies specify City of Marina coordination. This is also described in the administrative draft RFP along with sharing the resulting work with City of Marina and other jurisdictions.
- 4) **Assistance to CDVA:** The proposed administrative draft RFP Scope of Services includes assistance to CDVA to mitigate impacts to oak woodland habitat.
- 5) **Qualified biologist involvement:** The proposed administrative draft RFP provides the services of a qualified biologist or arborist to conduct this work.


FISCAL IMPACT:

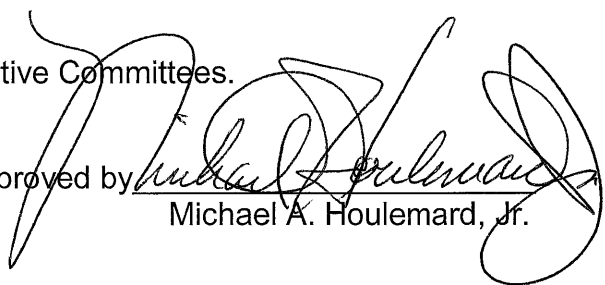
Reviewed by FORA Controller 

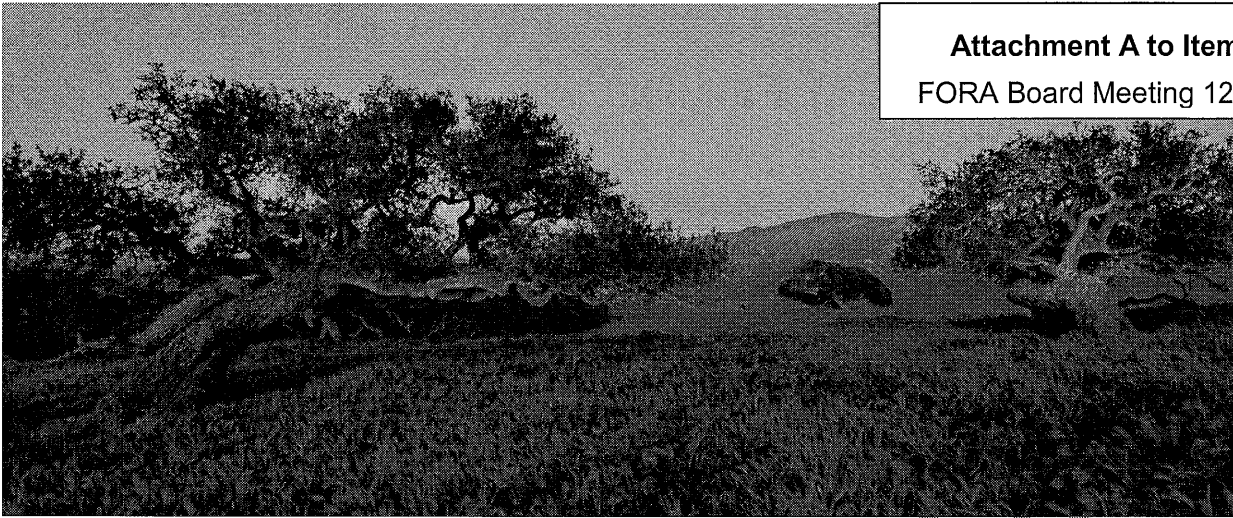
Funding for the Oak Woodland Conservation plan and staff time are included in the approved annual budget.

COORDINATION:

CDVA, County, Seaside, Administrative, and Executive Committees.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.



Fort Ord Reuse Authority (FORA) Request for Proposals (RFP)

Consultant Services – Complete an Oak Woodland Conservation Planning area designation, management and monitoring strategy on the former Fort Ord

Critical Dates:

- Proposals distributed: Monday, January __, 2016
- Pre-submittal meeting: FORA may elect to hold a pre-submittal meeting
- Proposal submittals due: **Thursday, February __, 2016 by 4:00 p.m., PST**
- Consultant Interviews: February _____, 2016

FORA Contact:

Ted Lopez, Associate Planner
920 2nd Avenue, Suite A
Marina, CA 93933
(831) 883-3672
(831) 883-3675 Fax
ted@fora.org

Table of Contents

(Pending)

ADMINISTRATIVE DRAFT

Purpose

This RFP invites you to submit a proposal to complete an oak woodland conservation planning area in accordance with City of Seaside (Seaside) and County of Monterey (Monterey) Base Reuse Plan (BRP) Oak Woodland Policy B-2 and Programs B-2.1 and B-2.2. In accordance with BRP provisions, planning participants shall include Seaside, County, City of Marina (Marina), University of California Monterey Bay Education, Science and Technology (UCMBEST), California State University Monterey Bay (CSUMB), Monterey Peninsula College (MPC), California Department of Veterans Affairs (CDVA) and other interested entities. It is expected that the project will include an extensive public participation outreach component, inclusive of community members and other stakeholders.

Background

The Reuse Plan underwent a comprehensive reassessment process that concluded in December 2012. The final report identified 5 categories of policy issues needing attention. Category III items focus on yet-to-be-completed FORA Policies and Programs. Among these are the development of oak woodland conservation areas, including management and monitoring plans, for polygons located within the jurisdiction of Seaside and the County (**Exhibit A – same as Attachments B and C to 12/11/15 Board Item 8a**). FORA is partnering with Seaside and the County to prepare an oak woodland conservation area resource management and monitor plan on behalf of both jurisdictions. FORA is also assisting and partnering with the California Department of Veterans Affairs (CDVA) to assist oak woodland mitigation requirements for the veterans cemetery project.

Context

The Fort Ord Reuse Authority's (FORA's) mission is to prepare, adopt, finance, and implement a plan for the former Fort Ord, including land use, transportation systems, conservation of land/water, recreation and business operations. In order to meet these objectives, the BRP was adopted in 1997. FORA adopted the Reuse Plan as the official local regional plan to enhance and deliver promised economic recovery, while protecting designated natural resources.

Scope of Services

Task 1 –Public Participation Process

The Consultant shall develop and deliver an extensive public participation process. This task shall include, but not be limited to, up to 10 community workshops, presentations and open houses to encourage public input on oak woodland conservation designation, management and monitoring ideas. The team's qualified biologist or arborist shall participate in the public participation process.

Deliverables:

- Up to 10 public presentations / community workshop events.

Task 2 –Agency Presentation Process

The consultant shall develop and deliver presentations to public agencies and local organizations as required. This task shall include, but not be limited to, up to 12 agency presentations. Presentations shall be conducted to City of Seaside and County of Monterey agency commissions, City Council and Board of Supervisor meetings. The team's qualified biologist or arborist shall participate in the agency presentation process.

Deliverables:

- Up to 12 presentations to City of Seaside and / or County of Monterey commissions, Boards, and/or councils.

Task 3 – Background Data Collection and Context

FORA, City of Seaside, County of Monterey and other interested parties, local cities / agencies shall provide available data sources from the 1997 Fort Ord Reuse Plan, 1997 Fort Ord Reuse Plan Final Program Environmental Impact Report, 1997 Installation Wide Multispecies Habitat Management Plan, GIS data, and development project site specific information when available. Consultant will review the relevant background data through the lens of accomplishing 1997 Fort Ord Reuse Plan Biological Resources Policy B-2 and Programs B-2.1 and B-2.2 pertaining to the City of Seaside and County of Monterey.

The Consultant shall also include the services of a qualified biologist or arborist to research, quantify, review, and conduct the completion of all work.

Deliverables:

- Summary report providing project background and data context.

Task 4 – Conservation Area Designation

The Consultant shall complete an administrative draft Oak Woodland Conservation Area map within the polygons identified in BRP Biological Resources Policy B-2 and Programs B-2.1 and B-2.2 in City of Seaside and County of Monterey. The Consultant shall seek public input on the administrative draft Oak Woodlands Conservation Area map as part of Task 1.

Deliverables:

- Up to 8 coordination meetings as determined by FORA staff.
- Administrative draft Oak Woodland Conservation Area map.
- Draft Oak Woodland Conservation Area map (after completing public participation process).

The Consultant shall also coordinate oak woodland conservation planning with the City of Marina. This shall include the sharing of data, information and proposed management strategies that result in a seamless process for oak conservation with the City of Seaside and County of Monterey.

- Up to 2 coordination meetings with City of Marina.

The Consultant shall also coordinate oak woodland conservation planning and mitigation measures with the California Department of Veterans Affairs (CDVA). This shall include the sharing of data, information and proposed management strategies that result in a seamless process for oak conservation with the City of Seaside and County of Monterey.

- Up to 2 coordination meetings with CDVA.
- Develop and present up to 3 potential options for CDVA to mitigate veterans cemetery oak woodland impacts.
- Sharing of draft Oak Woodland Conservation Area map, data, information and management strategies.

Task 5 – Oak Woodlands Conservation Area Resource Management and Monitoring Plan

Using the final Oak Woodlands Conservation Area map, and input from the public participation process, the consultant will prepare a resource management and monitoring plan for the draft Oak Woodland Conservation Area map completed in Task 4. Management measures shall include:

- Maintenance of a large, contiguous block of oak woodland habitat,
- Access control,
- Erosion control, and
- Non-native species eradication.

The management plan will specify coordination of management measures with the Fort Ord Coordinated Resource Management Planning team (CRMP).

Monitoring measures shall include, but not be limited to:

- Monitoring in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement, and
- Submission of annual monitoring reports to the CRMP

The consultant shall receive feedback from planning participants during coordination meetings as it develops the administrative draft Oak Woodlands Conservation Area Resource Management and Monitoring Plan (administrative draft plan). The Consultant shall seek public input on the administrative draft plan as part of Task 1. At the conclusion of the public participation process, the consultant shall present the administrative draft plan and seek feedback on the administrative draft plan from the Fort Ord CRMP. Next, the consultant shall make appropriate revisions to the administrative draft plan and produce a draft Oak Woodlands Conservation Area Resource Management and Monitoring Plan (draft plan). The consultant shall use this draft plan for conducting Task 2 – Agency Presentation Process. The consultant will make any necessary changes to the draft plan during Task 2.

Deliverables:

- Up to 8 coordination meetings as determined by FORA staff.
- Up to 2 coordination meetings with City of Marina.
- Up to 2 coordination meetings with CDVA.
- Administrative Draft Oak Woodlands Conservation Area Resource Management and Monitoring Plan.
- Presentations of administrative draft Oak Woodlands Conservation Area Resource and Monitoring Plan
- Administrative Draft Oak Woodland Conservation Area Resource and Monitoring Plan

Task 6: Mutual Responsibilities Related to Scope of Services

Close cooperation will be required between FORA staff and consultant. FORA's specific responsibilities are listed below:

- A. FORA staff will provide a project manager or coordinator as a single point of contact.
- B. FORA staff, from a range of divisions, will attend and participate in project meetings as appropriate.

- C. FORA staff will support the consultant's public engagement throughout the project and solicit the attendance of third parties whose participation FORA deems important.
- D. FORA will make every effort to ensure the attendance of elected officials, committee members, and stakeholders as appropriate at key meetings and presentations.
- E. FORA will provide appropriate meeting room(s) for any public engagement meetings, workshops, presentations, and studio workspace, including securing the space.
- F. Consultant shall provide FORA staff with monthly project status memorandums (1 page).

End of Scope of Work

Contents of Proposal

Submitted proposals must be structured to address the skills, experience, and abilities needed to complete the required CEQA process, as generally described in the attached Scope of Services. In your proposal, FORA requests that you provide:

- A. A proposal describing how your firm will complete this work (30 pages or less). This shall require a proposed project schedule to complete the work tasks in the Scope of Services.
- B. Work completion costs. This shall require a cost estimate in a spreadsheet format.
- C. Statement of Qualifications.
- D. Examples of relevant experience providing like services.
- E. Three recent client references.

Proposal Submission Instructions

Eight (8) bound copies and an electronic copy of the proposal must be submitted, with all copies having been signed by the individual or, if a company, the company official with the power to bind the company in its proposal.

Questions regarding this RFP and FORA's specific submission requirements may be directed to Ted Lopez, Associate Planner. Mr. Lopez can be reached by telephone at (831) 883-3672, or by e-mail at ted@fora.org.

The Proposal is due no later than Thursday, February ____, 2016 by 4:00 p.m., PST to:

Ted Lopez, Associate Planner
Fort Ord Reuse Authority
920 2nd Ave., Suite A
Marina, CA 93933

An incomplete proposal or proposal received after the due deadline will not be considered.

Criteria for Selection

The RFP submittal will be evaluated on the following factors:

- A. Demonstrated ability to competently and efficiently complete process for complex land use issues and oak woodland conservation policies.
- B. Demonstrated subject matter experience and knowledge in preparing or implementing forest management and monitoring plans or protocols.
- C. Merits of materials included in your proposal.
- D. Timelines and Cost Estimates as described in **Contents of Proposal**.

Tentative Schedule

RFP distributed:	Monday, January __ 2016
Pre-submittal meeting:	FORA reserves right to hold pre-submittal meeting
Proposal submittal due:	Thursday, February __, 2016 by 4:00 p.m., PST
Consultant Interviews:	February __ 2016
Consultant Selection/Award:	February /March 2016
Contract Work Begins:	March 2016
Estimated Completion:	December 2016

Addenda

Any subsequent changes in the RFP from the date of issuance to the date of submittal, such as that which might result from input at the pre-proposal conference, will go into an addendum by FORA staff to those parties who have provided the proper notice of interest in responding to the RFP. We encourage all potential proposers to register their intent to submit by phone, mail or e-mail to make sure that they receive notice of addenda on a timely basis.

Equal Opportunity Program Requirements

FORA is committed to equal opportunity in solicitation of professional service consultants doing business with, or receiving funds from FORA. FORA encourages prime consultants to share this commitment.

Acceptance of Contract

Subsequent to the selection of the awarded consulting firm, the contents of the proposal shall become a contractual obligation if a contract ensues. Failure of a consultant to accept this obligation will result in the cancellation of the contract award.

Prime Consultant Responsibilities

The selected consultant will be required to assume responsibility for all services offered in their proposal. The selected consultant will be the sole point of contact with regards to contractual matters, including payment of any and all charges resulting from the contract.

Disclosure

As a general rule, all documents received by FORA are considered public records and will be made available for public inspection and copying upon request. If you consider any documents submitted with your response to be proprietary or otherwise confidential, please submit a written request for a determination of whether the documents can be withheld from public disclosure no later than ten days prior to the due date of your response. If you do not obtain a determination of confidentiality prior to the submittal deadline, any document(s) submitted will be subject to public disclosure.

Terms and Conditions

Issuance of the RFP does not commit FORA to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure a contract for services. All respondents should note that the execution of any contract pursuant to this RFP is dependent upon the approval of the FORA Board.

FORA reserves the right to retain all proposals for a period of sixty (60) days for examination and comparison. FORA also reserves the right to waive non-material irregularities in any proposal, to reject any or all proposals, to reject or delete one part of a proposal and accept the other, except to the extent that the proposals are qualified by specific limitations.

Once the consultant is selected and all scoping and financial negotiations are completed, the consultant will be asked to execute FORA's Standard Professional Services Agreement (**Attachment**) and return it to FORA with all necessary documentation including Certificates of Insurance. Once the Authority Counsel has reviewed and approved the signed agreement, a presentation will be scheduled for approval of the contract by the FORA Board, if appropriate.

All studies, reports, documents, and other materials prepared by or in possession of the consultant as part of work or services under the contract shall include electronic copies where possible and shall become the permanent property of FORA and shall be delivered to FORA upon demand.

Firebreaks should be designed to protect structures in Polygon 31b from potential wildfires in Polygon 31a. Barriers should be designed to prohibit unauthorized access into Polygon 31a. [Topic III-85]

Responsible Agency: Del Rey Oaks

Status – Del Rey Oaks: Deed restrictions require implementation and compliance with HMP habitat management requirements. MOA and HMP Implementing/Management Agreement with FORA also requires compliance with HMP requirements. To date, no development adjacent to habitat areas is approved.

Biological Resources Policy B-2: As site-specific development plans for a portion of the Reconfigured POM Annex Community (Polygon 20c) and the Community Park in the University Planning Area (Polygon 18) are formulated, the City shall coordinate with Monterey County, California State University, FORA and other interested entities in the designation of an oak woodland conservation area connecting the open space lands of the habitat management areas on the south of the landfill polygon (8a) in the north.

Program B-2.1: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall ensure that those areas are managed to maintain or enhance habitat values existing at the time of base closure so that suitable habitat is available for the range of sensitive species known or expected to use these oak woodland environments. Management measures shall include, but not limited to maintenance of a large, contiguous block of oak woodland habitat, access control, erosion control and non-native species eradication. Specific management measures should be coordinated through the CRMP. [Topic III-86]

Responsible Agency: Seaside

Status – Seaside: An oak woodland conservation area has not been designated. Planning for Polygon 20c recently commenced with the City's processing of the Monterey Downs, Monterey Horse Park, and Veterans' Cemetery projects.

Program B-2.2: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall monitor, or cause to be monitored, those areas in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement and shall submit annual monitoring reports to the CRMP. [Topic III-87]

Responsible Agency: Seaside

Status – Seaside: An oak woodland conservation area has not been designated, therefore, no monitoring has occurred.

Biological Resources Policy B-2: As site-specific planning proceeds for Polygons 8a, 16, 17a, 19a, 21a, and 21b, the County shall coordinate with the Cities of Seaside and Marina, California State University, FORA and other interested entities in the designation of an oak woodland conservation area connecting the open space lands of the habitat management areas on the south, the oak woodland corridor in Polygons 17b and 11a on the east, and the oak woodlands surrounding the former Fort Ord landfill in Polygon 8a on the north. Oak woodlands areas are depicted in Figure 4.4-1

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Category III

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Responsible Agency: Seaside

Status— Seaside: An oak woodland conservation area has not been designated. Planning for Polygon 20c recently commenced with the City's processing of the Monterey Downs, Monterey Horse Park, and Veterans' Cemetery projects.

Program B-2.2: For lands within the jurisdictional limits of the City that are components of the designated oak woodland conservation area, the City shall monitor, or cause to be monitored, those areas in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement and shall submit annual monitoring reports to the CRMP. [Topic III-87]

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Category III

large, contiguous block of oak woodland habitat, access control, erosion control and non-native species eradication. Specific management measures should be coordinated through the CRMP. [Topic III-88]

Responsible Agency: County

Status – Monterey County: An oak woodland conservation area has not been designated. HMP habitat/development designations were revised for some of these polygons as part of the East Garrison/Parker Flats Land Swap Agreement (LSA). Planning for this area is being conducted by the City of Seaside on behalf of Monterey County, as the City processes the application for the Monterey Downs, Monterey Horse Park, and Veterans' Cemetery projects.

Program B-2.2: For lands within the jurisdictional limits of the County that are components of the designated oak woodland conservation area, the County shall monitor, or cause to be monitored, those areas in conformance with the habitat management compliance monitoring protocol specified in the HMP Implementing/Management Agreement and shall submit annual monitoring reports to the CRMP. [Topic III-89]

Responsible Agency: County

Status – Monterey County: An oak woodland conservation area has not been designated. HMP habitat/development designations were revised for some of these polygons as part of the East Garrison/Parker Flats Land Swap Agreement (LSA).

Biological Resources Policy C-2: The [jurisdiction] shall encourage the preservation and enhancement of oak woodland elements in the natural and built environments. Refer to Figure 4.4-1 for general location of oak woodlands in the former Fort Ord.

Program C-2.1: The City shall adopt an ordinance specifically addressing the preservation of oak trees. At a minimum, this ordinance shall include restrictions for the removal of oaks of a

certain size, requirements for obtaining permits for removing oaks of the size defined, and specifications for relocation or replacement of oaks removed. [Topic III-90]

Responsible Agency: Seaside

Status – Seaside: The City's tree ordinance, Chapter 8.54 of the municipal code, does not specifically address oak trees or oak woodland.

Program C-2.2: [Marina] **Program C-2.5** [Seaside] **Program C-2.4** [County] Where development incorporates oak woodland elements into the design, the [jurisdiction] shall provide the following standards for plantings that may occur under oak trees; 1) planting may occur within the dripline of mature trees, but only at a distance of five feet from the trunk and 2) plantings under and around oaks should be selected from the list of approved species compiled by the California Oaks Foundation (see Compatible Plants Under and Around Oaks). [Topic III-91]

Responsible Agencies: Marina, Seaside, County

Status – Marina: The City's tree ordinance, Chapter 17.51 of the municipal code, does not specifically address oak trees or oak woodland.

Status – Seaside: The City's tree ordinance, Chapter 8.54 of the municipal code, does not specifically address oak trees or oak woodland.

Status – Monterey County: The County's tree ordinance, Chapter 16.60 of the County code, restricts the removal of oak trees. Replacement planting standards are not included in the code.

Biological Resources Policy D-2: The [jurisdiction] shall encourage and participate in the preparation of educational materials through various media sources which describe the biological resources on the former Fort Ord, discuss the importance of the HMP and

FORT ORD REUSE AUTHORITY BOARD REPORT		
BUSINESS ITEMS		
Subject:	MCWD/FORA Facilities Agreement Dispute Resolution / MOA	
Meeting Date:	December 11, 2015	INFORMATION/ACTION
Agenda Number:	8b	

RECOMMENDATION(S):

Accept a Memorandum of Agreement between FORA and MCWD.

BACKGROUND/DISCUSSION:

FORA Board members received an update on the dispute resolution process initiated by MCWD and as authorized in the 1998 Water and Wastewater Facilities Agreement (FA). By the delegated authorities provided in the Facilities Agreement dispute resolution terms, the FORA Executive Officer (EO) and MCWD General Manager (GM) negotiated a solution within the time frame required.

On September 11, 2015 a majority of the FORA Board voted to confirm the dispute resolution agreed to by the FORA EO and the MCWD GM under FA terms. Because the vote was not unanimous, it must return to the Board for a second vote. At the October 2015 meeting, Authority Counsel recommended the item be agendized for closed session on November 13, 2015. At its November 13, 2015 open session, the Board unanimously passed a motion to bring the matter back in December with a Memorandum of Agreement (MOA) to document the resolution between MCWD and FORA.

Authority Counsel and MCWD Counsel documented the agreement in an MOA to be considered by the MCWD Board on December 7, 2015. It is the expectation the MOA will be provided to the FORA Board on or before December 9, 2015.

Staff recommends acceptance of the MOA between FORA and MCWD.


FISCAL IMPACT:

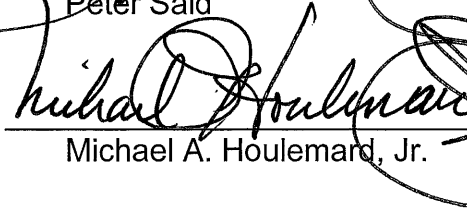
Reviewed by FORA Controller 

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

COORDINATION:

Authority Counsel

Prepared by 
 Peter Said

Approved by 
 Michael A. Houlemard, Jr.

Reviewed by 
 Steve Endsley

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Water Augmentation Project Planning Process	
Meeting Date:	December 11, 2015	INFORMATION/ACTION
Agenda Number:	8c	

RECOMMENDATION(S):

Receive a report on the status of the Water Augmentation planning process.

BACKGROUND/DISCUSSION:

At its November 2, 2015 Special meeting, the FORA Board adopted a resolution to authorize FORA participation in three-party planning.

The Purpose of the Three Party Planning Process (TPPP) is to endorse in principle, and fund, a short term planning process designed to provide detailed analysis building on the prior Regional Urban Water Augmentation Plan (RUWAP) studies leading to an 'all of the above' approach to solving Water Augmentation for the Fort Ord Community. The goals are to:

- Analyze a "Pipeline financing agreement" between FORA, MCWD and MRWPCA identifying phasing and financing obligations of the parties and are identified, agreed upon, and specific board approval.
- Explore the most cost and technically efficient mix of water augmentation options/alternatives.
- Emphasize solutions that lower the cost burden for ratepayers and end users such as economies of scale.
- Staff to provide scope of services for Board Review, for each element of the program. Components of the planning process include, but are not limited to: Alternatives Analysis, economic and feasibility study, overall work plan & budget, revised CEQA process. Each Board would approve any agreements that emerge from the planning process on each scope.
- Identify top level milestones for the long term elements of the program starting with an Alternatives Analysis
- Provide first year contribution to the planning process with MCWD and MRWPCA not to exceed \$157,000 for fiscal year 2015/2016. Costs of the individual components of the planning process will be refined and revised as needed.
- Discuss how FORA mitigation dollars may, or in part, be applied to various elements of the Water Augmentation planning process (Subject to specific Board approval).

FORA staff, working with the parties, has identified a need for establishing a prioritized list of available alternative water resources, and to develop an alternative water sources work plan that will carry the parties from concept to development. Staff is working with MCWD and MWRPCA to draft an Alternatives Analysis Scope of Work Regarding Water Augmentation Planning which will be forwarded to the Board for review when complete.

At its October 9, 2015 meeting, FORA Board members raised a number of questions related to Fort Ord Water Augmentation Planning. At Board Member Edelen's request FORA staff transcribed Board questions and staff responses, which are now available by request.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

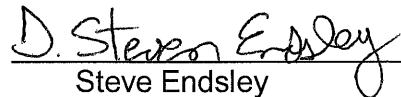
COORDINATION:

Authority Counsel, MCWD, MRWPCA

Prepared by


Peter Said

Approved by


Steve Endsley

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Fort Ord Reuse Authority Prevailing Wage Program Resolution	
Meeting Date:	December 11, 2015	INFORMATION/ACTION
Agenda Number:	8d	

RECOMMENDATION:

- i. Provide direction regarding FORA's prevailing wage compliance role.
- ii. Approve a FORA's Master Resolution Amendment (**Attachment C**) requiring contractors to register with California Department of Industrial Relations ("DIR") and returning responsibility for monitoring and enforcement of the former Fort Ord prevailing wage requirements from jurisdictions to FORA.
- iii. Approve Staff's recommendation to implement Option A (**Attachment B**) by issuing a Request for Proposal to obtain Labor Compliance Monitoring Services for one year in an amount not to exceed \$250,000.

BACKGROUND:

- Adopting a prevailing wage requirement (as a base-wide policy) surfaced in legislative debates during FORA's creation. While the FORA enabling legislation did not include prevailing wage provisions, the initial FORA Board meeting explored the policy questions in the adoption of a procurement code. In fact, the FORA Board's first action in setting prevailing wage policy occurred on July 14, 1995, with the adoption of Ordinance No. 95-01, establishing FORA's Procurement Code and requiring prevailing wages to be paid to all workers employed on FORA's construction contracts. The FORA Master Resolution was adopted on March 14, 1997. Article 3.03.090 of the Master Resolution required/confirmed that prevailing wages be paid for all first generation projects occurring on parcels subject to the Base Reuse Plan (BRP).
- FORA's right to require and enforce prevailing wages was tested through a lawsuit filed against a property developer, Cypress Marina Heights LP (CMH) in Marina (*Cypress, supra*, 191 Cal.App.4th at p. 1504.) that sought an order requiring prevailing wages. The case was resolved (after appeal) by a settlement agreement that upheld FORA's Master Resolution section 3.03.090 general prevailing wage requirement.
- Discussion regarding prevailing wage requirements continued and included in BRP compliance actions through 2006, when the Board engaged in further policy clarification actions. In August 2006, the Board received a status report on jurisdiction efforts to adopt and implement prevailing wage policies consistent with Chapter 3 of the Master Resolution. That report was the result of FORA Executive Committee and Authority Counsel's examination of FORA's role in implementing prevailing wage policies on the former Fort Ord. Since 2006, the FORA Board has heard compliance concerns expressed by the Labor Council, received several additional reports, slightly modified a section of Chapter 3 of the Master Resolution, and directed staff to provide information to the jurisdictions about compliance. The FORA Board has never considered and has not indicated any intention to rescind or modify the Master Resolution requirements for prevailing wages on First Generation construction.
- Also, in 2001, FORA entered into Implementation Agreements ("IA") with its jurisdictions that included requiring deed restrictions to be included in any conveyance and subsequent deed

transactions, that “[a]ny development of the property will be and is subject to the provisions of the Reuse Plan [and] the policies and programs of [FORA], including the ... Master Resolution.” Recently, the City of Marina has indicated it will not assign resources to monitor or enforce the prevailing wage requirement and violations of the prevailing wage requirement have been reported to the FORA for both projects in the County of Monterey and the City of Marina.

Prevailing Wage New Legislation:

In June 2014, the California legislature adopted registration requirements for contractors and subcontractors involved in public works projects or other projects as may be determined by the Labor Commissioner. SB 854 was passed to fund the California DIR monitoring and enforcement of prevailing wage laws, and requires 1) online registration, 2) payment of a \$300 fee, 3) filing by agencies of notices of their public works projects with DIR, and 4) submittal of certified payroll records to DIR. Contractors/Subcontractors must be clear of any record of delinquent unpaid wages or penalty assessments.

DISCUSSION:

At its March 13, 2015 meeting, the FORA Board authorized the Executive Officer to request a formal DIR determination on FORA projects. However, several Board members requested that staff not wait for DIR’s determination and return with a plan for a FORA prevailing wage compliance program. Other Board members expressed concern that FORA would set up a prevailing wage compliance program when individual jurisdictions are responsible for compliance.

On November 5, 2015, FORA’s Executive Officer received DIR’s response (relayed from Senator Bill Monning’s Office after personal contact from the Senator) attached as **Attachment A**. DIR’s response cited the following:

“...for the project to be defined as a public work there must be construction, alteration, demolition or repair work, and the project must contain public funds. Labor Code section 1720(b) further defines public funds to include:

(a) *For purposes of this section, “paid for in whole or in part out of public funds” means all of the following:*

- (1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.*
- (2) Performance of construction work by the state or political subdivision in execution of the project.*
- (3) Transfer by the state or political subdivision of an asset of value for less than fair market price.*
- (4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.*
- (5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.*
- (6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.*

In our previous telephonic discussions, you have confirmed that First Generation Projects have public funds and are construction projects over \$1,000. As such, there would be a statutory obligation to treat these projects as a public works and ensure all contractors performing this work were subject to the public works statutes (Labor Code sections 1720-1861), which would include contractor registration.”

It is staff's interpretation that, since FORA and the jurisdiction accept less land sales revenue from nearly every historical Fort Ord private sector project (based on the economic analyses performed by the jurisdictions that assess the cost of FORA mitigation fees, building removal, prevailing wage, and other costs) individual development projects may also qualify as a public work.

FORA staff researched options for a FORA prevailing wage compliance program. **Attachment B** contrasts three (3) options for a FORA prevailing wage compliance program.


FORA staff's assumption of two full-time staff positions or equivalent consultant hours to monitor, respond to inquiries, and prepare reports is based on FORA Capital Improvement Program development forecasts. A redacted master services agreement is included under **Attachment C** to provide an example of a consultant contract for prevailing wage services to a public agency. FORA staff recommends pursuing **Option A**. The FORA Board may want to consider appropriate funding sources for this compliance work at the mid-year budget. The cost for FORA to take on this work could range from \$120,000 to \$350,000/year.

Master Resolution Amendment:

The FORA Master Resolution ("MR") was adopted originally by Ordinance # 97-01 to establish the "governing code" by which FORA's operation of its powers and authority would be deployed in the Monterey Bay Region's recovery from Fort Ord closure. The MR formally adopted definitive direction and operational authority for the business of FORA consistent with California Law under the Authority Act. When the MR was adopted, the FORA Board anticipated that the MR would ultimately be amended to account for changes in California law, alterations to operational provisions, and to maintain consistency between Board decisions and the Authority Act.

The Board is requested to approve a FORA Master Resolution Amendment (**Attachment C**) to require contractors to register with DIR and direct FORA staff to monitor and enforce jurisdiction compliance with the prevailing wage policy.

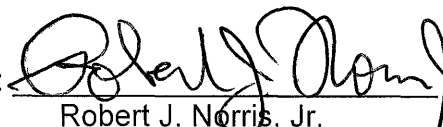
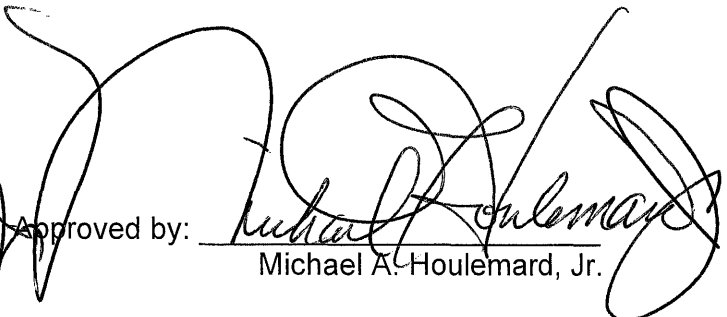
FISCAL IMPACT:

Reviewed by FORA Controller 

Staff time for this item is included in the approved FORA budget. Should the FORA Board direct staff to proceed with any of the three options for implementing a FORA prevailing wage compliance program, an additional FORA budget will be needed. The Board may want to consider funding options to pay for these costs which were previously jurisdictional obligations.

COORDINATION:

FORA Board, City of Marina, Authority Counsel, Department of Industrial Relations.

Prepared by: 
Robert J. Norris, Jr. Approved by: 
Michael A. Houlemard, Jr.

Questions to and answers received from Eric Rood, Assistant Labor Commissioner, CA Department of Industrial Relations

November 5, 2015

1. In review of the recently enacted SB 854, Fort Ord Reuse Authority (FORA) staff noted that SB 854 encompasses public works projects, as specified, to be paid the general prevailing wage as determined by the Director of the Department of Industrial Relations (DIR). In reviewing the FORA Master Resolution prevailing wage provisions, First Generation Construction on the former Fort Ord is required, by FORA covenant, to pay not less than general prevailing rate of wages as determined by the Director of DIR. FORA's prevailing wage provisions define First Generation Construction projects as public works projects subject to SB 845. Does DIR agree with this determination?

Answer: SB 854 did not expand the definition of public works. It does require all contractors has defined in Labor Code section 1722.1, to register, pay a \$300 fiscal annual fee and be of good legal standing in order to perform public works.

Labor Code section 1722.1 defines a contractor as:

For the purposes of this chapter, "contractor" and "subcontractor" include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770).

In short, a contractor/vendor who is subject to public works laws as defined in Labor Code sections 1720 through 1861, would be required to register.

Labor Code section 1720(a)(1) defines what comprises a public works. It states:

(a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the post construction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems. [emphasis added]

In addition, for the project to be defined as a public work there must be construction, alteration, demolition or repair work, and the project must contain public funds. Labor Code section 1720(b) further defines public funds to include:

(b) For purposes of this section, “paid for in whole or in part out of public funds” means all of the following:

- (1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.*
- (2) Performance of construction work by the state or political subdivision in execution of the project.*
- (3) Transfer by the state or political subdivision of an asset of value for less than fair market price.*
- (4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.*
- (5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.*
- (6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.*

Labor Code section 1771 brings in the term maintenance to be included in a public work and sets a minimum dollar threshold for projects over \$1,000. Section 1771 states:

*Except for **public works projects of one thousand dollars (\$1,000) or less**, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.*

*This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to **contracts let for maintenance work.***

The general rule to determine if a project is subject to public works is:

- Is the project construction, alteration, demolition, installation, repair or maintenance work;
- Is the project paid out by public funds;
- Is the project over \$1,000

In our previous telephonic discussions, you have confirmed that First Generation Projects have public funds and are construction projects over \$1,000. As such, there would be a statutory obligation to treat these projects as a public works and ensure all contractors performing this work were subject to the public works statutes (Labor Code sections 1720-1861), which would include contractor registration.¹

¹ Please note that in *Monterey/Santa Cruz County Bldg. and Const. Trades Council v. Cypress Marina Heights LP* (2011) 191 Cal.App.4th 1500. In that case, the developer bought the land (at FMV) from FORA and argued that it did not have to pay prevailing wages, because there was no public money and the purchase agreement did not specify that prevailing wages were required on the construction. The local building trades brought suit and won. Court found that FORA's Master Resolution (requiring prevailing wages) and deed covenants (also requiring prevailing wages) applied to downstream government entities and developers, even on non-public works projects, as it was a contractual requirement to pay prevailing wages that ran with the land. So, it is DIR's Page 51 of 72

Please note that if the Federal government is administering any FORA projects, this could change the determination. If there are federal administrated projects, you should make a request to the DIR's Director's Legal Unit for a determination.²

If a state agency or private developer is overseeing a construction project where there is public monies; the project would more than likely be subject to California public works labor laws.

Please note FORA can provide stricter contractual obligations for private work where there are no public funds. This may include requiring contractor registration, filing CPRs, and paying prevailing wages; however, any enforcement would have to go through the courts as a breach of contract.

2. Does FORA need to follow a formal process for DIR to consider whether or not FORA is subject to SB 854?

Answer: In most instances, you will not need to request a formal determination to DIR's Office of the Director's (OD) Legal Unit. In most instances, formal determinations are made when there is controversy on what comprises public funds. Section 1720(b) of the Labor Code which I provided in the last answer, is the statute to determine if a project contains public funds.

Labor Code section 1720(b), reproduced above, defines public funds.

3. If yes, to whom should FORA address its request for a determination?

Answer: There are two types of determinations: (1) a request for a craft/classification wage rate and (2) a coverage determination to determine if a project is subject to public works laws. A written **request for a wage rate** should be sent to the following address:

DIR- Office of Policy, Research and Legislation
455 Golden Gate Boulevard, 9th Floor
San Francisco, California 94102

You may also send an email to DIR at statistics@dir.ca.gov.

A formal **request for a coverage determination** should be in writing and sent to the following address:

DIR- Office of the Director
Attention: Legal Unit
1515 Clay Street, 7th Floor
Oakland, California 94612

understanding that the prevailing wage requirements apply to both public and private projects under the FORA Master Resolution are subject to prevailing wage projects. Only those projects that are statutory public works can be enforced by DLSE.

² See also *Southern California Labor Management Operating Engineers Contract Compliance Committee v. Aubry* (1997) 54 Cal.App.4th 873.

Labor Code section 1773.4 and 1773.5 provides the legal mechanisms to request a determination for wage rates under section 1773.4, and to determine if a project is subject to public works under section 1773.5.

Section 1773.4 and 1773.5 state:

Labor Code 1773.4.

Any prospective bidder or his representative, any representative of any craft, classification or type of workman involved, or the awarding body may, within 20 days after commencement of advertising of the call for bids by the awarding body, file with the Director of Industrial Relations a verified petition to review the determination of any such rate or rates upon the ground that they have not been determined in accordance with the provision of Section 1773 of this code. Within two days thereafter, a copy of such petition shall be filed with the awarding body. The petition shall set forth the facts upon which it is based. The Director of Industrial Relations or his authorized representative shall, upon notice to the petitioner, the awarding body and such other persons as he deems proper, including the recognized collective bargaining representatives for the particular crafts, classifications or types of work involved, institute an investigation or hold a hearing. Within 20 days after the filing of such petition, or within such longer period as agreed upon by the director, the awarding body, and all the interested parties, he shall make a determination and transmit the same in writing to the awarding body and to the interested parties.

Such determination shall be final and shall be the determination of the awarding body. Upon receipt by it of the notice of the filing of such petition the body awarding the contract or authorizing the public work shall extend the closing date for the submission of bids or the starting of work until five days after the determination of the general prevailing rates of per diem wages pursuant to this section.

Upon the filing of any such petition, notice thereof shall be set forth in the next and all subsequent publications by the awarding body of the call for bids. No other notice need be given to bidders by the awarding body by publication or otherwise. The determination of the director shall be included in the contract.

Labor Code section 1773.5:

(a) The Director of Industrial Relations may establish rules and regulations for the purpose of carrying out this chapter, including, but not limited to, the responsibilities and duties of awarding bodies under this chapter.

(b) When a request is made to the director for a determination of whether a specific project or type of work awarded or undertaken by a political subdivision is a public work, he or she shall make that determination within 60 days receipt of the last notice of support or opposition from any interested party relating to that project or type of work that was not unreasonably delayed, as determined by the director. If the director deems that the complexity of the request requires additional time to make that determination, the director may have up to an additional 60 days if he or she certifies in writing to the requestor, and any interested party, the reasons for the extension. If the requestor is not a political subdivision, the requester shall, within 15 days of the request, serve a copy of the request upon the political subdivision, in which event the political subdivision shall, within 30 days of its receipt, advise the director of its position regarding the request. For projects or types of work that are otherwise private development projects receiving public funds, as specified in subdivision (b) of Section 1720, the director shall determine whether a specific project or type of work is a public work within 120 days of receipt of the last notice of support or opposition relating to that project or type of work from any interested party that was not unreasonably delayed, as determined by the director.

(c) If an administrative appeal of the director's determination is made, it shall be made within 30 days of the date of the determination. The director shall issue a determination on the administrative appeal within 120 days after receipt of the last notice of support or opposition relating to that appeal from any interested party that was not unreasonably delayed, as determined by the director. The director may have up to an additional 60 days if he or she certifies in writing to the party requesting the appeal the reason for the extension.

(d) The director shall have quasi-legislative authority to determine coverage of projects or types of work under the prevailing wage laws of this chapter. A final determination on any administrative appeal is subject to judicial review pursuant to Section 1085 of the Code of Civil Procedure. These determinations, and any determinations relating to the general prevailing rate of per diem wages and the general prevailing rate for holiday, shift rate, and overtime work, shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

4. If subject to SB 854, FORA staff would continue to monitor prevailing wage compliance on former Fort Ord. How would FORA staff access online prevailing wage compliance information in the future?

Answer: For all projects awarded on or after April 1, 2015, contractors are required to directly enter their certified payroll data directly to the DIR online CPR or to upload their data using an xml upload. Today, all certified payroll records are available on our website at <https://efiling.dir.ca.gov/eCPR/pages/search>. The records today are fully redacted and do not provide the public with the employee's name, address and social security number. All other CPR data is available.

Awarding bodies will be required to provide DIR notice of its public works project in our PWC 100 at <https://www.dir.ca.gov/pwc100ext/LoginPage.aspx>. Labor Code section 1773.3 states:

*(a) (1) An awarding agency shall provide notice to the Department of Industrial Relations of any public works contract subject to the requirements of this chapter, **within five days of the award.***

(2) The notice shall be transmitted electronically in a format specified by the department and shall include the name of the contractor, any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the department specifies that aids in the administration and enforcement of this chapter.

*(c) In lieu of responding to any specific request for contract award information, the department may make the information provided by awarding bodies pursuant to this section available for public review on its Internet Web site. **[Emphasis added]***

An awarding body is defined in the Labor Code under section 1722, which states:

"Awarding body" or "body awarding the contract" means department, board, authority, officer or agent awarding a contract for public work.

Awarding bodies should have language within its bid and/or contract documents the specific Labor requiring the contractor to be registered pursuant to Labor Code section 1771.1(a), as well as, the following Labor Code sections: 1720, 1771, 1772-1776 and 1810-1815. In addition, the contractor should be advised apprenticeship laws apply if the project is over \$30,000 pursuant to Labor Code section 1777.5.

Please note, contractors can only provide DIR certified payroll data if the awarding body has provided DIR notice of the project using our PWC 100 online notification. The PWC 100 will generate a unique DIR project ID number, which the contractor can use to submit certified payroll data.

Fort Ord Prevailing Wage Policy Options

Description	Option A	Option B	Option C
Summary	FORA compliance with mix of 1 FORA staff and consultant monitors as needed	FORA compliance through staff monitors	Status Quo compliance provided by individual jurisdictions
FORA Master Resolution Amendment	Yes	Yes	Yes
Estimated Cost	80 hours week compliance software \$250,000 per FY.	Assuming 2 FTE compliance software: \$350,000 /per year.	Varies by jurisdiction
Estimated Schedule	Selection period Estimated 2 months.	Selection period Estimated 4 months.	Unknown
Estimated Duration	5 years if jurisdictions assume after 06/30/20	5 years if jurisdictions assume after 06/30/20	5 years or more; May change after 06/30/2020
Flexibility with changing development cycles	Flexibility could be addressed in contract	Hiring additional personnel when needed will be challenging	
Long-term obligations	FORA responsibility ends on 06/30/2020	Any retiree benefits will be addressed in FORA dissolution plan	

RESOLUTION NO. 15-__

**A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY
AMENDMENT TO MASTER RESOLUTION SECTION 3.03.090 (b)(c) PREVAILING WAGE
AND REGISTRATION REQUIREMENT WITH DEPARTMENT OF INDUSTRIAL
RELATIONS**

WHEREAS, the Fort Ord Reuse Authority ("FORA") adopted Ordinance No. 95-01 establishing a Procurement Code requiring prevailing wages to be paid to all workers employed on FORA's construction contracts; and,

WHEREAS, the Fort Ord Reuse Authority Master Resolution ("MR") was adopted originally by Ordinance No. 97-01 to establish the "governing code" by which FORA's operation of its powers and authority would be deployed in the Monterey Bay Region's recovery from Fort Ord closure; and,

WHEREAS, the Fort Ord Reuse Authority has adopted an amendment to the Master Resolution requiring the payment of Prevailing wage on former Fort Ord projects; and,

WHEREAS, the FORA Board of Directors ("Board"), at its December 11, 2015 meeting, authorized the inclusion of a requirement that all contractors and subcontractors on the former Fort Ord register with the California Department of Industrial Relations (DIR) as specified by the California Labor Code 1725.5; and,

WHEREAS, the FORA Board, at its December 11, 2015 meeting, authorized FORA to take responsibility for monitoring and enforcement of the FORA prevailing wage policy previously delegated to individual jurisdictions; and,

WHEREAS, the FORA Board intends this requirement to take effect from and after adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Fort Ord Reuse Authority hereby adopts the amendments to its Master Resolution 3.03.090 adding amendments (a)(b)(c)(d) requiring registration with the California Department of Industrial Relations for:

(a) All contractors performing "First Generation Construction" must be registered and in good standing with the California Department of Industrial Relations (DIR) as defined in California Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a).

(b) Evidence of compliance with this Master Resolution provision and any specific or additional enforcement action must be submitted to the Fort Ord Reuse Authority when any land use decision is submitted for Base Reuse Plan consistency concurrence/determination.

(c) Member agencies must include language in all of their contracts and deeds for the conveyance, disposition and/or development of former Fort Ord property to

give notice of and assure compliance with the policy set forth above in subsections 3.03.090(a) and (b).

(d) FORA staff will monitor and determine compliance by member agencies with this section at the time of and as part of FORA's consistency determination under Chapter 8 of this Master Resolution.

ADOPTED this ____ th day of December, 2015 by the Fort Ord Reuse Authority by the following roll call votes listed by name:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

Michael A. Houlemard, Jr.,
Executive Officer

Frank O'Connell, FORA Board Chair

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Outstanding Receivables

Meeting Date: December 11, 2015

Agenda Number: 10a

INFORMATION

RECOMMENDATIONS:

Receive a Fort Ord Reuse Authority (FORA) outstanding receivables update for November 2015.

BACKGROUND/DISCUSSION:

FORA Late Fee policy requires receivables older than 90 days be reported to the Board.

City of Marina (Marina)/Preston Park:

On September 15, 2015, Marina purchased FORA's 50% interest in Preston Park for \$35 million. As a result of the sale, FORA conveyed ownership of the property to Marina and paid from its share of the net sales proceeds the \$18 million loan secured by Preston Park which was used to fund capital projects and building removal activities on the former Fort Ord. With the remaining sales proceeds, FORA paid for attorney's fees owed to Rabobank, set aside \$2.08 million to environmental mitigations owed by developer fees from the project, and set aside funds to pay for building removal and other FORA obligations per the approved FORA budget.

- ❖ Residual Actions: Final accounting of operations income and expenses as of the closing date and processing reconciling distribution to FORA and Marina. This to be completed by December 15.

FISCAL IMPACT:

Positive. FORA collects land sale revenue, retires debt, and allocates funds to obligations and projects per approved FY 15-16 budget.

COORDINATION:

Executive Committee

Prepared by 
Ivana Bednarik

Approved by _____
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT	
EXECUTIVE OFFICER'S REPORT	
Subject:	Habitat Conservation Plan Update
Meeting Date:	December 11, 2015
Agenda Number:	10b
INFORMATION	

RECOMMENDATION(S):

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

BACKGROUND/DISCUSSION:

Item 9b from March 13, 2015 included additional background on this item and is available at the following website: <http://www.fora.org/Board/2015/Packet/031315BrdPacket.pdf>

The Fort Ord Reuse Authority (FORA), with the support of its member jurisdictions and ICF International (formerly Jones & Stokes), FORA's HCP consultant, is on a path to receive approval of a completed base wide HCP and 2081 permit in 2015, concluding with U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) issuing federal and state Incidental Take Permits.

ICF completed the screen check draft HCP on March 2, 2015, and FORA disseminated the draft to permittees, CDFW, and USFWS. FORA received comments from most Permittees within the review schedule. However, CDFW and USFWS did not submit all comments within this original 90-day review schedule. The USFWS solicitor has not yet completed their draft HCP review. FORA and ICF have met with Permittees and Wildlife Agencies to receive comments, address questions, and resolve concerns. FORA staff and consultants are working to revise the HCP document in response to comments received so that the public draft can be released.

FORA is Lead Agency to the Environmental Impact Report (EIR), while USFWS is Lead Agency to the Environmental Impact Statement (EIS). FORA representatives met with CDFW Chief Deputy Director Kevin Hunting on June 16, 2015 to discuss review schedules and CDFW staff resources. Mr. Hunting said that his department would act to provide sufficient CDFW staff resources and maintain review schedules. CDFW and USFWS have submitted partial comments on the 2nd Admin. Draft EIS/EIR, but have not yet confirmed that they have submitted all comments. FORA scheduled the 2nd Admin. Draft EIS/EIR comment period to conclude by October 30, 2015. CDFW and USFWS's legal counsel have not concluded their 2nd Admin. Draft EIS/EIR review.

FISCAL IMPACT:

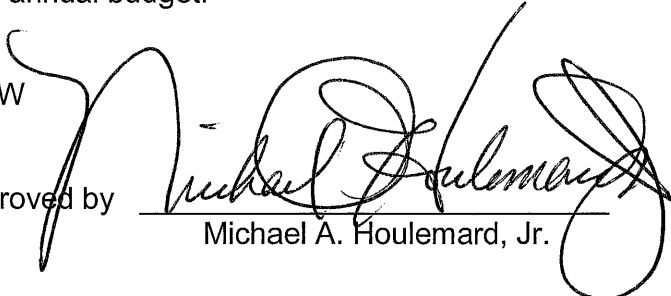
Reviewed by FORA Controller 

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

COORDINATION:

ICF, Denise Duffy and Associates, USFWS, CDFW

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT
EXECUTIVE OFFICER'S REPORT

Subject: Administrative Committee	
Meeting Date: December 11, 2015 Agenda Number: 10c	INFORMATION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The Administrative Committee met on November 3, 2015. The approved minutes from these meetings are attached (**Attachment A**).

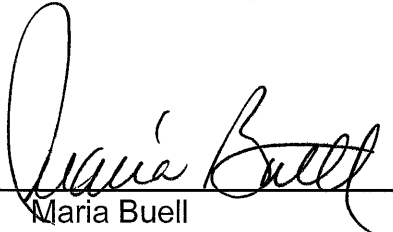
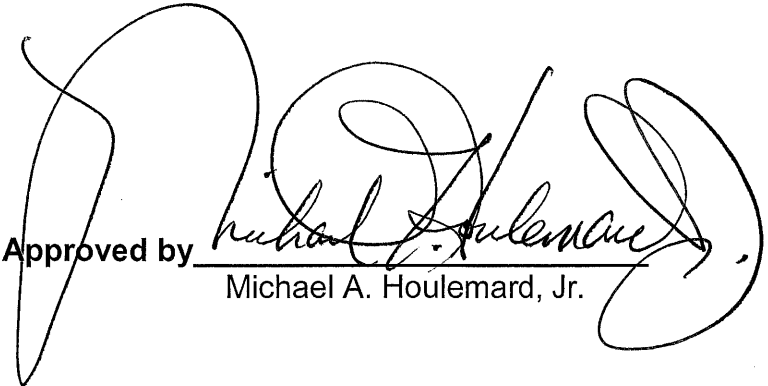
FISCAL IMPACT:

Reviewed by the FORA Controller 

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

COORDINATION:

Administrative Committee

Prepared by  Maria Buell Approved by  Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES
8:30 a.m., Wednesday, November 3, 2015 | FORA Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER

Co-chair Dawson called the meeting to order at 8:30 a.m. The following were present:

**voting members, AR = arrived after call to order*

Daniel Dawson, City Del Rey Oaks*
Layne Long, City of Marina-AR*
Melanie Beretti, Monterey County*
John Dunn, City of Seaside*
Diana Ingersoll, City of Seaside
Elizabeth Caraker, City of Monterey*
Anya Spear, CSUMB
Gage Dayton, UCSC

Erin Harwayne, DD&A
Mike Zeller, TAMC
Wendy Elliott, MCP
Don Hoffer, MCP
Lyle Shurtleff, BRAC
Andy Sterbenz, Schaaf & Wheeler
Bob Schaffer

FORA Staff:
Michael Houlemard
Steve Endsley
Jonathan Brinkmann
Robert Norris
Josh Metz
Ted Lopez
Peter Said
Maria Buell

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance led by Elizabeth Caraker.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Mr. Dawson left meeting at 8:35 a.m. Mr. Houlemard continues to Chair the meeting. Gage Dayton, Administrative Director of UC Santa Cruz Natural Resources introduced one of his staff members to FORA. It was announced that MCWD will start their water management process and jurisdictions will receive requests for input. Don Hoffer announced that special black fiber has been extended further into Marina. Mr. Houlemard summarized the Regional Urban Design Guidelines workshop of November 2, and invited Administrative Committee members to view those displays available at FORA's Community Information Conference.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MEETING MINUTES

- a. September 30, 2015 Administrative Committee Minutes
- b. October 14, 2015 Administrative Committee Minutes

MOTION: Elizabeth Caraker moved, seconded by Anya Spear to approve the September 30 and October 14, 2015 Administrative Committee minutes.

MOTION PASSED UNANIMOUSLY

6. NOVEMBER 13, 2015 BOARD MEETING AGENDA REVIEW

Mr. Houlemard reviewed the items under Consent Agenda and said those reports are for information purposes only. He added Board Chair requested these items now be shown on Consent Agenda and staff is following his request. Under Business items, Mr. Houlemard provided a brief summary and said Item 8d is moving forward and they will be paying developer fees as well. Under Executive Officer's report, Mr. Houlemard said there are a number of informational items, including RUDG report. Both items are shown on Draft Board agenda until Executive Committee decides.

The Committee received public comments.

a. FORA/MCWD Facilities Agreement Dispute Resolution-2nd Vote

Steve Endsley provided a brief report and stated it will be discussed at the next Board meeting. He added there are legal implications of various decisions. Mr. Houlemard said this item is under legal counsel review to confirm these items are correct before presenting them to Board. Mr. Endsley said related agreements pertaining to water and budget are being reviewed. Mr. Houlemard added that Board considered a second vote on the 3-party planning process at its special meeting of November 2 voting 6-4 to approve it and that conservation is the most efficient way for water augmentation and less expensive to customers and that an option for desalination is still needed. Mr. Endsley said \$157,000 is FORA's contribution and the other agencies will add their own. Staff will ensure the project and scope are fully described and bring it back to Board. Reclaimed recycled water is at front of this and is ready to go and Monterey Regional Water Pollution Control Agency (MRWPCA) and Marina Coast Water District (MCWD) are working out the final arrangements.

The Committee received public comments.

b. Base Reuse Plan (BRP) Post-Reassessment Report-Category 3 Status

Jonathan Brinkmann provided a presentation summarizing the Category III status. John Dunn stated each jurisdiction will be addressing the incomplete list through the General Plan and commented on the high abstraction level of the report. Mr. Endsley said great progress has been made and the report could show that and how many of the items still remaining might overlap.

The Committee received public comments.

7. BUSINESS ITEMS

a. Caretaker Costs Policy

Jonathan Brinkmann stated that at last Board meeting, the Caretaker policy for reimbursement was adopted. He handed out a copy of this policy (which was attached to report committee members received). He said Board made some modifications which are included in the copy presented. He said there are submittal deadlines and one approaching is January 31, 2016. Any jurisdictions requesting funding need to apply before deadline.

8. ITEMS FROM MEMBERS

None.

9. ADJOURNMENT

Meeting was adjourned at 9:22 a.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Finance Committee	
Meeting Date: December 11, 2015	INFORMATION
Agenda Number: 10d	

RECOMMENDATION(S):

Receive a report from the Finance Committee (FC) meeting on December 8, 2015.

BACKGROUND/DISCUSSION:

The FC is scheduled to meet on December 8, 2015 to discuss the FY 14-15 Annual Financial Report. The Minutes from this meeting will be presented to FORA Board in January 2016.

FISCAL IMPACT:

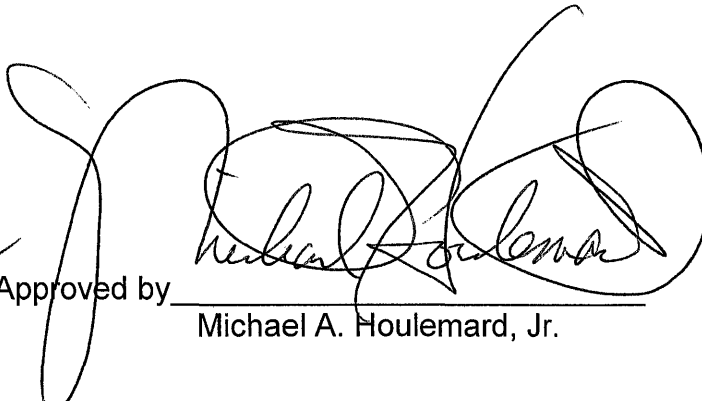
Reviewed by FORA Controller 

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

COORDINATION:

Finance Committee

Prepared by 
Marcela Fridrich

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Post Reassessment Advisory Committee

Meeting Date: December 11, 2015

Agenda Number: 10e

INFORMATION

RECOMMENDATION(S):

Receive a report on the Post Reassessment Advisory Committee (PRAC) activity/meeting.

BACKGROUND/DISCUSSION:

The PRAC met on Thursday, November 12, 2015 and received status updates regarding the FORA Trails Working Group, affordable housing presentation, blight removal, Regional Urban Design Guidelines and related items. The PRAC members approved a FORA staff suggestion to invite Ms. Linda Mandolini, President of Eden Housing to a future meeting. Ms. Eden is a foremost national expert and authority on affordable housing.

The next meeting of the PRAC is scheduled for 9:00 am on Thursday, November 12, 2015.

Approved October 8, 2015 minutes is attached (**Attachment A**).

FISCAL IMPACT:

Reviewed by FORA Controller 

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

COORDINATION:

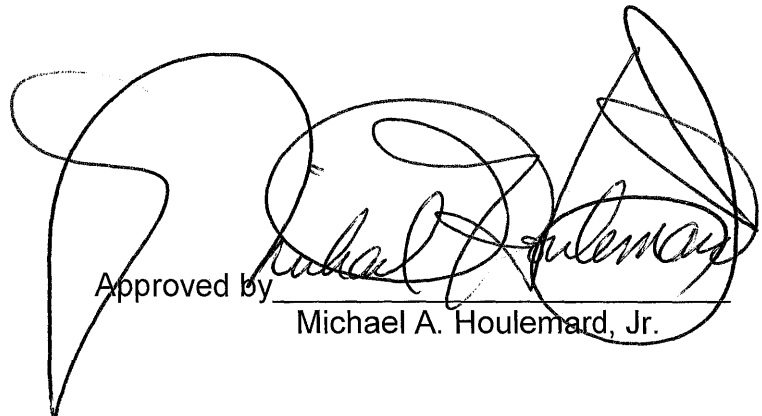
PRAC, California State University Monterey Bay, Transportation Agency for Monterey County, Bureau of Land Management, Administrative and Executive Committees.

Prepared by



Ted Lopez

Approved by



Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY
BASE REUSE PLAN POST-REASSESSMENT ADVISORY COMMITTEE (PRAC)
MEETING MINUTES

9:00 a.m., Thursday, October 8, 2015 | FORA Conference Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Fort Ord Reuse Authority (FORA) PRAC Chair Victoria Beach called the meeting to order at 9:04 a.m. The following people were in attendance:

Committee Members

- Victoria Beach (Chair), City of Carmel
- Gail Morton, City of Marina
- Ralph Rubio, Mayor City of Seaside
- Jane Parker, Supervisor County of Monterey
- Andre Lewis, California State University Monterey Bay (CSUMB)

Other Attendees

- Bob Schaffer, member of the public
- Jane Haines, member of the public
- Tim O'Halloran, City of Seaside
- Diana Ingersoll, City of Seaside
- Phyllis Meurer, member of the public

FORA Staff

- Steve Endsley
- Jonathan Garcia
- Ted Lopez
- Jen Simon
- Peter Said

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Victoria Beach showed committee members a developer produced publication, "In Town Living" as an example of developing residential neighborhoods. Discussion followed on affordable housing and the CSUMB speaker series on this topic. Andre Lewis offered to send a video link to the speaker event for distribution. Gail Morton asked whether PRAC should have a discussion on what "mixed-use" land opportunities mean for Fort Ord.

3. APPROVAL OF MEETING MINUTES

September 10, 2015 Post-Reassessment Advisory Committee Minutes, with minor corrections made, such as inclusion of Tim O'Halloran, who was not listed as attendee.

MOTION: Jane Parker moved, 2nd by Gail Morton, to approve September 10, 2015 Minutes.

MOTION PASSED: Unanimously.

4. PUBLIC COMMENT PERIOD

Bob Schaffer expressed his view that developer fees are too high and suggested the approval process for development needs to be reviewed. Victoria Beach suggested an assessment fee

review/analysis report, which would be valuable information to compare with other communities. Ms. Beach asked if/when Staff can provide a report to the committee. Staff noted that they would follow up on this request to prepare a report in the coming months.

5. BUSINESS ITEMS

a) Meeting Calendar.

Jonathan Garcia summarized staff's effort to coordinate an alternative standard meeting date. Mr. Garcia proposed the committee continue to meet on the second Thursday of each month at 9:00am then reevaluate this again in January.

b) Trails.

Ted Lopez gave a brief update on the blue-print trails map progress. Staff has met and received input from meetings with the representatives from Cities of Marina, Seaside, Del Rey Oaks, County of Monterey, Fort Ord Reuse Trails Advisory Group (FORTAG), CSUMB, UCSC and City of Del Rey Oaks with UCMBEST the one remaining meeting to be held. Jonathan Garcia clarified that the Trails Working Group representatives from each jurisdiction met individually with staff, then will meet collectively as a whole once all input is gathered. Mr. Lopez noted the timeframe for finalizing a draft blue-print trails map will be around November/December.

c) Water Augmentation.

Steve Endsley presented a PowerPoint slide presentation on the Water Augmentation Project planning process. The Committee discussed items throughout the presentation. Jane Parker asked for an update on the Source Water Agreement. Ralph Rubio reported the process is moving forward and that it is close to being finalized. Mr. Endsley continued with the discussion and recommended the Board: 1) adopt resolution to endorse Pure Water Monterey Project and 2) adopt resolution to authorize FORA Joint Water Augmentation Planning.

Victoria Beach offered in summary the following items requested for a future PRAC meeting(s): 1) affordable housing report; 2) jurisdiction development fee analysis/comparison report; 3) proposed Water Symposium—potential dates including staff assigned to lead and develop the symposium. Diana Ingersoll reported Chris Placco (CSUMB) had offered to take the lead on this proposed symposium including use of campus facility. Andre Lewis (CSUMB) commented that the President's Office would have to approve any request to use CSUMB facilities. Jonathan Garcia reported on the RUDG progress and announced there will be a RUDG Board Workshop scheduled for November 2, 2015.

6. ITEMS FROM COMMITTEE MEMBERS

None.

7. ADJOURNMENT

The PRAC meeting was adjourned at 10:41 a.m. The next meeting is scheduled for Thursday, November 12, 2015 at 9:00 a.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Regional Urban Design Guidelines Task Force

Meeting Date: December 11, 2015

Agenda Number: 10f

INFORMATION

RECOMMENDATION(S):

Receive Regional Urban Design Guidelines (RUDG) Task Force ("Task Force") Update.

BACKGROUND/DISCUSSION:

The Task Force met at 10:00am Monday, October 12 and 9:30am Tuesday, November 3, 2015 to review RUDG Administrative drafts incorporating Base Reuse Plan (BRP) direction, existing jurisdiction policies and plans, and community input. Discussion during the October 12th meeting focused on continuing refinement to presented documents and content and suggestions for format adjustments.

During the November 3rd meeting, members reinforced Board comments from the November 2nd, Special Board Meeting/RUDG Workshop and offered additional points of clarification and direction. Members took unanimous formal action directing staff and consultant to include content previously allocated to a "Design Fort Ord" document (Illustrative Plans & Renderings, Public Process, and the RUDG Market Study) into a RUDG Appendix. Members emphasized the need for preface language to clarify the Appendix content is for reference only, and is not intended as measures of RUDG compliance.

In addition, key task force direction included: a) continue to strengthen BRP-RUDG language; b) clarify how RUDG will be implemented/ evaluated during consistency determinations; c) clarify RUDG Policy Application language; and d) strengthen Definitions section.

Approved October 12, 2015 minutes are attached (**Attachment A**).

The next RUDG Task Force meeting is scheduled for 9:30am Wednesday December 16, 2015.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

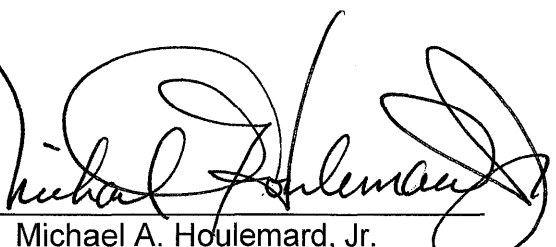
COORDINATION:

Administrative Committee and Dover, Kohl & Partners

Prepared by


Josh Metz

Approved by


Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY

REGIONAL URBAN DESIGN GUIDELINES TASK FORCE REGULAR MEETING NOTES

10:00 a.m., Monday, October 12, 2015 | FORA Conference Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER AND ROLL CALL

Regional Urban Design Guidelines (RUDG) Task Force (Task Force) Chair Michael Houlemard called the meeting to order at 10:13am. The following were present:

Members:

John Dunn, City of Seaside
Victoria Beach, City of Carmel-by-the-Sea
Layne Long, City of Marina
Elizabeth Caraker, City of Monterey

FORA Staff:

Michael Houlemard
Jonathan Garcia
Josh Metz
Steve Endsley
Ted Lopez

Others:

Grace Bogdan, Monterey County
Virginia Murillo, TAMC
Chris Placco, CSUMB
Diana Ingersoll, City of Seaside
Tim O'Halloran, City of Seaside
Rick Medina, City of Seaside
Jane Haines
Kathy Biala
Gene Doherty
Steve Matarazzo
Bob Schaffer
Beth Palmer
Brian Boudreau
Margaret Davis
Jason King

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Michael Houlemard and Josh Metz provided an update from their recent participation at the International Economic Development Council annual conference. Major themes included: 1) economic development takes place on a national competitive landscape; 2) housing affordability, availability of skilled workforce, and regulatory certainty are key drivers of business location decisions; and 3) multiple success stories around the nation include the message that desirable millennials and knowledge workers are highly mobile, and have location flexibility, therefore creating communities that meet criteria for living, working and playing is sound development strategy.

3. APPROVAL OF MEETING MINUTES

a. September 10, 2015 Meeting Minutes.

MOTION: John Dunne moved, second by Victoria Beach to approve September 10, 2015 minutes with attendance list corrections.

MOTION PASSED: .Unanimous.

4. PUBLIC COMMENT PERIOD

Margaret Davis noticed a November 7, 2015 Veterans Day event organized by the Fort Ord Warhorse. Bob Schaffer noticed that all Dunes at Monterey Bay Phase I homes (71) had sold and that Phase II is moving ahead.

5. BUSINESS ITEMS

Members discussed the format for a November 2, 2015 Board Workshop to present/review and obtain direct input on the latest Administrative DRAFT RUDG document. Members also suggested reprising the level of community engagement achieved during the February 2015 design charrette. In order to enable the broadest public involvement it was decided to host morning and evening open house to engage public and obtain input.

Members reviewed the 10/5/15 DRAFT RUDG and provided input and recommendations for improvement including: a) breaking current format into 4 rather than 2 chapters (Introduction & Policy Application, How to Use the RUDG, RUDG Focus Areas, Regional Guidelines); b) adding an Economic Benefits/Development page to the Introduction; c) expanding background on genesis of Opportunity Sites; and c) including a Definitions section.

Discussion centered on the importance of linking proposed RUDG with BRP policy direction. Members discussed organizing the chapter presenting the RUDG to reflect explicit scope and direction from BRP page 61, paragraph 2. Chapter headings should include: Road Design, Building Height & Setbacks, Landscaping, Signage and Other Matters of Visual Importance. Members also discussed the importance of defining "other matters of visual importance". While no recommendation on specific additional categories was made, discussion on the subject included: fencing, lighting, streetscape/hardscape and sustainability issues (i.e. solar power and rooftop orientation).

6. ITEMS FROM MEMBERS

None.

7. ADJOURNMENT

The meeting was adjourned at 12:45pm.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Travel Report

Meeting Date: December 11, 2015

Agenda Number: 10g

INFORMATION

RECOMMENDATION(S):

Receive a travel report from the Executive Officer.

BACKGROUND/DISCUSSION:

Per the FORA Travel Policy, the Executive Officer (EO) submits travel requests to the Executive Committee on FORA Board/staff travel. The Committee reviews and approves requests for EO, Authority Counsel and board members travel; the EO approves staff travel requests. Travel information is reported to the Board.

UPCOMING TRAVEL

Destination: Washington, DC

Date: TBD (January/February, 2016)

Traveler/s: TBD (Executive Officer, Authority Counsel, up to 2 Board members, 1 staff member)

A number of issues are developing pertaining the Base Realignment Closures (BRAC) and its impact on the Environmental Services Cooperative Agreement, the Habitat Conservation Plan, and Land Use Conservation. Staff is still working to determine the most beneficial timing for this trip, given recent developments in each of these subject areas.

Though dates and attendance have not yet been finalized, staff received Executive Committee travel authorization for the Executive Officer, Authority Counsel, and up to two Board members. Staff will compile airfare and hotel estimates for Executive Committee information/approval and will present this information at the next meeting.

FISCAL IMPACT:

Reviewed by FORA Controller 

Travel expenses are paid/reimbursed according to the FORA Travel policy.

COORDINATION:

Executive Committee

Prepared by


Maria Buell

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Public Correspondence to the Board

Meeting Date: November 13, 2015

Agenda Number: 10h

INFORMATION

Public correspondence submitted to the Board is posted to FORA's website on a monthly basis and is available to view at <http://www.fora.org/board.html>.

Correspondence may be submitted to the Board via email to board@fora.org or mailed to the address below:

FORA Board of Directors
920 2nd Avenue, Suite A
Marina, CA 93933