



# FORT ORD REUSE AUTHORITY

## REGULAR MEETING FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS Thursday, May 14, 2020 at 2:00 p.m. AGENDA

**ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON MAY 13, 2020.**

THIS MEETING MAY BE ACCESSED REMOTELY USING THE FOLLOWING ZOOM LINK:  
[HTTPS://ZOOM.US/J/956115894](https://zoom.us/j/956115894)

PLEASE REVIEW FORA'S UPDATED REMOTE MEETINGS PROTOCOL AND BEST PRACTICES HERE:  
[HTTPS://FORA.ORG/REMOTE\\_MEETINGS\\_PROTOCOLS](https://fora.org/remote_meetings_protocols)

1. CALL TO ORDER
2. CLOSED SESSION
  - a. Conference with Legal Counsel – Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, three potential cases.
3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION
4. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE
5. ROLL CALL

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

6. CONSENT INFORMATION/ACTION
  - a. March 27, 2020 Special Board Meeting Minutes **(p. 3)**  
**Recommendation:** Approve March 27, 2020 Special Meeting Minutes.
  - b. Administrative Committee **(p. 7)**  
**Recommendation:** Receive Administrative Committee report.
  - c. Veterans Issues Advisory Committee **(p. 17)**  
**Recommendation:** Receive a report from the Veterans Issues Advisory Committee.
  - d. Transition Status Report **(p. 21)**  
**Recommendation:** Review staff and consultant progress on actions leading to sunset of the Fort Ord Reuse Authority.
  - e. Bank Accounts Closure and Consolidation **(p. 81)**  
**Recommendation:** Authorize staff to close and consolidate FORA bank accounts.
  - f. Vacation Cash-out Policy Amendment **(p. 82)**  
**Recommendation:** Approve amended vacation cash-out policy.

## 7. BUSINESS ITEMS

## ACTION

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

- a. Memoranda of Agreements (“MOA”) for Capital Improvement Program (“CIP”) and (p. 83)  
General Fund Project Transfers  
**Recommendation:** Approve Resolution 20-xx: Authorizing Executive Officer to execute MOAs to support the transfer of three CIP and one General Fund Projects, in the forms attached hereto as exhibits or in substantially similar forms containing such modifications as the Executive Officer may deem necessary or appropriate to carry out the purposes of the MOAs.
1. Memorandum of Agreement Regarding Funding to be Provided for Removal of the City of Marina Stockade and Ancillary Buildings
  2. Memorandum of Agreement Regarding Funding to be Provided for the Repair of Stormwater Infiltration Units - Eucalyptus Road
  3. Memorandum of Agreement Regarding Funding to be Provided for the South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements
  4. Memorandum of Agreement Regarding Funding to be Provided to County of Monterey County for Oak Woodlands Project
- b. Joint Community Facilities Agreements (p. 125)  
**Recommendation:** Adopt Resolution 20-xx: Approving and Authorizing the Execution and Delivery of Joint Community Facilities Agreements with the County of Monterey and the Cities of Del Rey Oaks, Marina, Monterey, and Seaside and Approving Related Actions.

## 7. PUBLIC COMMENT PERIOD

## INFORMATION

*Members of the public wishing to address the Board on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes and will not receive Board action. Due to the [Governors Stay at Home Order](#) and recent [Executive Order related to Public Meetings Protocols](#), all FORA Meetings will now be conducted via Zoom. Public comments should be emailed to [board@fora.org](mailto:board@fora.org). Thank for your patience and understanding during these unprecedented times.*

## 8. ITEMS FROM MEMBERS

## INFORMATION

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

## 9. ADJOURNMENT

**NEXT MEETING: Friday, May 22, 2020 AT 1:00 P.M.**

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT ITEMS</b>	
<b>Subject:</b>	March 27, 2020 Meeting Minutes
<b>Meeting Date:</b>	May 14, 2020
<b>Agenda Number:</b>	6a
	<b>ACTION</b>

**RECOMMENDATION:**

Approve March 27, 2020 Meeting Minutes.

**BACKGROUND/DISCUSSION:**

March 27, 2020 FORA Board meeting minutes are presented. In this meeting, the FORA Board heard from Authority Counsel during closed session, adopted Resolution 20-01 directing staff to implement COVID-19 Public Meeting Protocols, and heard from bond counsel regarding the status of FORA’s building removal bonds.

Prepared by Harrison Tregenza  
Harrison Tregenza

Approved by Joshua Metz  
Joshua Metz



**FORT ORD REUSE AUTHORITY  
BOARD OF DIRECTORS SPECIAL MEETING MINUTES**

**1:00 p.m., Friday, March 27, 2020 | This meeting was held at the following Zoom link:  
<https://zoom.us/j/956115894>**

**1. CALL TO ORDER**

Chair Supervisor Jane Parker called the meeting to order at 1:03 p.m.

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Supervisor Jane Parker.

**3. CLOSED SESSION**

- a. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Resource Environmental, Inc. v. Fort Ord Reuse Authority. Monterey County Superior Court Case No.: 20CV000771, Pending Litigation
- b. Conference with Legal Counsel—Gov. Code §54956.9(a), (d)(1): Fort Ord Reuse Authority v. All Persons Interested in the Matter of the Issuance and Sale of Bonds by the Fort Ord Reuse Authority and the Tax Increment Revenue Pledged To, and to be Used for, the Repayment of Such Bonds. Monterey County Superior Court Case No.: 20CV000381, Pending Litigation.
- c. Conference with Legal Counsel—Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, one potential case.

Time Entered: 1:09 p.m.

Time Exited: 1:22 p.m.

**4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION**

Authority Counsel Jon Giffen provided an update to the Board. No action to report.

**5. ACKNOWLEDGMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

- Executive Officer Joshua Metz announced that FORA has received correspondence from:
  - The City of Marina regarding Monterey County's request to reallocate bond proceeds.
  - Monterey County regarding post-FORA funding requests.
  - The City of Seaside regarding post-FORA funding requests.
- Mr. Metz acknowledged FORA staff and consultants for their work getting FORA to its sunset date.

**6. ROLL CALL**

**Voting Members Present:**

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Mayor Pro-Tem Gail Morton (City of Marina), Supervisor Mary Adams (County of Monterey), Councilmember Frank O'Connell (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember Jon Wizard (City of Seaside), Mayor Joe Gunter (City of Salinas), Councilmember Jan Reimers (City of Carmel-by-the-Sea), Councilmember Cynthia Garfield (City of Pacific Grove), Mayor Mary Ann Carbone (City of Sand City), Councilmember John Gaglioti (Del Rey Oaks).

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

Colleen Courtney (17<sup>th</sup> State Senate District), Steve Matarazzo (University of California, Santa Cruz), David Martin (Monterey Peninsula College), Dr. Eduardo Ochoa (CSUMB), Keith Van Der Maaten (MCWD).

**7. BUSINESS ITEMS**

**a. Consider COVID-19 Public Meeting Protocols**

Mr. Metz noted that FORA staff is following protocol set forth by Governor Gavin Newsom and the Monterey County Health Department. He noted that Governor Newsom has made several executive orders regarding suspension of the Ralph M. Brown Act, most notably Executive Order N-29-20. Ms. Flint added that FORA is codifying these legal changes via a resolution and that they will stay this way unless the Brown Act is changed again before FORA sunsets. Ms. Flint then answered questions from the Board. Public comment was heard on the item.

**MOTION:** On motion by Board member Morton and seconded by Board member Carbone and carried by the following vote, the Board moved to adopt Resolution 20-01 directing staff to implement COVID-19 Public Meeting Protocols.

**MOTION PASSED UNANIMOUSLY**

**b. Review Building Removal Bond Documents**

Member Parker and Mr. Metz introduced the item, noting this will be part of a series of items that will culminate with a decision in April, with no decision required today. Mr. Thimmig gave the Board an overview of the updated Bond Indenture of Trust and answered questions from members of the Board. Then Mr. Northcross gave an update on the impacts that COVID-19 is having on the bond market and how FORA's impending building removal bonds will be affected by the changes. Mr. Northcross then answered questions from the Board members. Public comment was heard on this item. A discussion took place regarding the allocations of building removal bond funds. Member Garfield asked that staff provide the Board a review of the bond allocation methodology at the April 9, 2020 Board meeting.

**8. PUBLIC COMMENT**

No public comment was received.

**9. ITEMS FROM MEMBERS**

Dr. Ochoa announced there has been interest locally in using empty CSUMB facilities for overflow needs from local hospitals. Governor Newsom reached out to the California State University ("CSU") Chancellor and various CSUs are coordinating on this. CSUMB has been contacted by various local parties but will wait until direction is given from the CSU Chancellor before making any decisions. Mr. Metz noted that the Habitat Working Group ("HWG") met earlier that day and made a recommendation that will be coming to the FORA Board in the packet for the April 9, 2020 Board meeting. He also noted the HWG has come to an agreement that they no longer need to meet, making this morning's meeting their last meeting.

**10. ADJOURNMENT** at 2:45 p.m.

Minutes Prepared by:

Harrison Tregenza  
Deputy Clerk

Approved by:

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Joshua Metz Executive Officer

DRAFT

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT AGENDA</b>	
<b>Subject:</b>	Administrative Committee
<b>Meeting Date:</b>	May 14, 2020
<b>Agenda Number:</b>	6b
	<b>ACTION</b>

**RECOMMENDATION:**

Receive a report from the Administrative Committee.

**BACKGROUND/DISCUSSION:**

The Administrative Committee held meetings on March 11 and 25 and April 1 and 15 2020. Approved minutes for these meetings are provided as **Attachments A, B, C, and D.**

**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  Approved by   
Harrison Tregenza Joshua Metz

**ATTACHMENTS:**

- A. March 11, 2020 Administrative Committee Minutes
- B. March 25, 2020 Administrative Committee Minutes
- C. April 1, 2020 Administrative Committee Minutes
- D. April 15, 2020 Administrative Committee Minutes

**FORT ORD REUSE AUTHORITY**  
**SPECIAL ADMINISTRATIVE COMMITTEE MEETING MINUTES**  
**8:30 a.m. Wednesday, March 11, 2020 | FORA Conference Room**  
 920<sup>2nd</sup> Avenue, Suite A, Marina, CA 93933

**1. CALL TO ORDER**

Co-Chair Joshua Metz called the meeting to order at 8:30 a.m.

The following members were present:

Melanie Beretti* (County of Monterey)	Hans Uslar* (City of Monterey)
Dino Pick* (City of Del Rey Oaks)	Michelle Overmeyer (MST)
Layne Long* (City of Marina)	Craig Malin* (City of Seaside)
Anya Spear (CSUMB)	Nick Chiulos* (County of Monterey)
Patrick Breen (MCWD)	Todd Muck (TAMC)
Vicki Nakamura (MPC)	Bill Collins (U.S. Army)
Steve Matarazzo (UCMBEST)	*Voting Member

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by City of Seaside City Attorney Sheri Damon.

**3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

Executive Officer Joshua Metz reported the following:

- FORA heard from Authority Counsel that the Monterey County Office of Education has retained an attorney to inquire further about the impact of the bond on their finances. They are asking for an extension for the validation action time period.
- The CDEC Hill demolition is moving quickly towards activation.
- Staff and consultants are formulating a response to the Assembly Bill 1486 Survey and will circulate to members. Members may submit responses as well.
- Staff will present the Fiscal Year (FY) 19-20 mid-year budget at the next Administrative Committee Meeting on March 18<sup>th</sup>.
- FORA will sunset in 111 days and have had 26 Board and Committee meetings in 2020 to date (2.5 months or 10 weeks).
- Review safety/security meeting protocol and lobby check-in procedure.
- Going forward, the FORA office will implement a new call-in procedure for future meetings. Courtesy reminder to mute your phone line when not speaking.

**4. PUBLIC COMMENT PERIOD**

Public comment was received.

**5. BUSINESS ITEMS**

*\*The Administrative Committee agreed to hear item 5b before item 5a.*

**a. DRAFT Transition Plan Implementing Agreement (“TPIA”) Review & Recommendation(s)**

Regional Government Services (“RGS”) consultant Kendall Flint provided an overview of three proposed water-related TPIA language options for section 2.0; Water Allocations:

- Option A: Use current TPIA language;



- Option B: Use amended TPIA language;
- Option C: Remove section from TPIA entirely.

Committee members, staff, and consultants engaged in discussion regarding each of the proposed options and possible amendments. The committee also heard from MCWD and MCWD's counsel, Roger Masuda on the issue.

**MOTION:** On motion by Committee member Uslar, seconded by Committee member Malin, and approved by the following vote, the Administrative Committee moved to recommend Option B with the following proposed amendments:

- Each of the parties listed shall meet and confer in good faith and cooperatively develop one or more agreements.
- Insert "and/or" to read "Develop one or more agreements between the parties and/or MCWD."
- Remove "and to establish parameters for amending the allocations in the future, as may be appropriate" and insert "The parties acknowledge that MCWD has agreed to the water allocations in Exhibit A."

**MOTION:** On motion by Committee member Long, seconded by Committee member Pick, and approved by the following vote, the Administrative Committee moved to table Member Uslar's previous motion until the April 1, 2020 Administrative Committee Meeting.

### **MOTION PASSED UNANIMOUSLY**

#### **b. Building Removal Bond Proceeds Distribution Review & Recommendation(s)**

Melanie Beretti reported that after reviewing the significantly increased costs of building removal, Monterey County made a proposal to put forward 12.5% of the bond issuance. She noted that this is what the County would like to put forward to the Administrative Committee for consideration. Craig Malin noted that the Seaside City Council gave him the authorization to accept the County's proposal. The committee had a discussion regarding this proposal and its ramifications.

**MOTION:** On motion by Committee member Beretti, seconded by Committee member Malin, and carried by the following vote, the Administrative Committee moved to accept Monterey County's proposal regarding building removal bond proceed allocation, with the addition of parcels that the respective jurisdictions have identified.

### **Motion Passed; with one (1) No vote from Committee member Long**

#### **6. ITEMS FROM MEMBERS**

Josh Metz and Jon Giffen reported that their call with the Monterey County Office of Education regarding the bond issuance went well. Mr. Giffen also reported the April 17, 2020 Board meeting will focus on building removal bond documents.

#### **7. ADJOURNMENT at 10:08 a.m.**

Minutes Prepared By:

Harrison Tregenza  
Deputy Clerk

APPROVED

## FORT ORD REUSE AUTHORITY

### ADMINISTRATIVE COMMITTEE MEETING MINUTES

8:30 a.m. Wednesday, March 25, 2020 | This meeting was held at the following Zoom link:  
<https://zoom.us/j/956115894>

#### 1. CALL TO ORDER

Co-Chair Joshua Metz called the meeting to order at 8:30 a.m.

The following members were present:

Melanie Beretti\* (County of Monterey)  
Layne Long\* (City of Marina)  
Anya Spear (CSUMB)  
Patrick Breen (MCWD)  
Vicki Nakamura (MPC)  
Steve Matarazzo (UCMBEST)  
Michelle Overmeyer (MST)

Hans Uslar\* (City of Monterey)  
Craig Malin\* (City of Seaside)  
\*Voting Member

#### 2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by City of Marina City Manager Layne Long.

#### 3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Office Joshua Metz reported the following:

- To deal with the COVID-19 crisis, Governor Gavin Newsom has declared a state of emergency and the Monterey County Board of Supervisors has established a shelter in place order. Mr. Metz acknowledges that it is an unprecedented time and extends acknowledgement to all the local government officials who are responding to the community's needs.
- FORA staff have been adapting to make sure they are meeting its looming deadlines.
- FORA staff have received:
  - A memo from NHA Advisors.
  - A note from Monterey County regarding financial requests that will be discussed by the FORA Board.
  - A note from the City of Marina regarding concerns about the recommendation to the FORA Board to approve the bond allocation adjustment.
- FORA will be hosting Zoom trainings for its Board and Committee members on March 26, 2020
- Mark Northcross and Paul Thimmig are on the call to answer questions on any questions related to the Building Removal bond documents or the updated Indenture of Trust.
- The correct title for Item 7b on today's agenda is "Draft FY2019-2020 Mid-Year CIP Budget Review"

#### 4. PUBLIC COMMENT PERIOD

No public comment was received.

#### 5. APPROVAL OF MEETING MINUTES

- a. March 4, 2020 Regular Meeting Minutes

**MOTION:** On motion by Committee member Uslar, seconded by Committee member Malin and carried by the following vote, the Administrative Committee moved to approve the March 4, 2020 Meeting Minutes with the proposed amendments.

**MOTION PASSED UNANIMOUSLY**

**6. MARCH 12, 2020 BOARD MEETING FOLLOW-UP**

Mr. Metz reviewed the March, 2020 Board Meeting Agenda, noting that the EIR vote passed and that FORA staff are continuing to work with the consultant team to develop a response to comments on that project. No vote was taken on the Transition Plan Amendments, though there was direction given to staff to record the Master Resolution. The Transition Plan will be coming back to the Board in the month of April.

**7. BUSINESS ITEMS**

a. Building Removal Bond Documents

Mr. Metz started the item introducing the Mr. Northcross and bringing up NHA Advisors’ memo for the Committee members to review. Mr. Northcross gave an update to the Administrative Committee on the status of the bond market and how the COVID-19 crisis has impacted FORA’s Building Removal Bond project. A discussion took place among the members regarding Mr. Northcross’s update. Mr. Metz and Mr. Thimmig answered questions from the members.

**MOTION:** On motion by Committee member Uslar, seconded by Committee member Malin, the Administrative Committee moved to propose to the FORA Board that they discuss finding a solution to extend FORA with the intent of maximizing potential bond payments.

A discussion took place regarding Member Uslar’s motion.

<b>Item 7a</b>	
Craig Malin	AYE
Layne Long	NO
Melanie Beretti	NO
Hans Uslar	AYE

**MOTION FAILED**

b. Draft FY 2019-20 Mid-Year Budget Review

Mr. Metz introduced the item and gave the Committee a brief overview of the topic. Ms. Rodriguez then went over the Mid-Year Budget line by line. Ms. Reimer then went over details on the CIP and transportation projects. Ms. Rodriguez and Mr. Metz answered questions from the Committee.

**MOTION:** On motion by Committee member Malin, seconded by Committee member Long and carried by the following vote, the Administrative Committee moved to advance the Draft FY 2019-20 Mid-Year Budget to the FORA Board of Directors for consideration.

**MOTION PASSED UNANIMOUSLY**

**8. ITEMS FROM MEMBERS**

Mr. Metz noted that demolition of the barracks on CDEC hill has begun.

**9. ADJOURNMENT** at 9:57 a.m.

Minutes Prepared By:

Harrison Tregenza  
Deputy Clerk

APPROVED

## FORT ORD REUSE AUTHORITY

### ADMINISTRATIVE COMMITTEE MEETING MINUTES

8:30 a.m. Wednesday, April 1, 2020 | This meeting was held at the following Zoom link:  
<https://zoom.us/j/956115894>

#### 1. CALL TO ORDER

Co-Chair Joshua Metz called the meeting to order at 8:34 a.m.

The following members were present:

Melanie Beretti\* (County of Monterey)  
Layne Long\* (City of Marina)  
Dino Pick\* (City of Del Rey Oaks)  
Anya Spear (CSUMB)  
Patrick Breen (MCWD)  
Vicki Nakamura (MPC)  
Steve Matarazzo (UCMBEST)

Hans Uslar\* (City of Monterey)  
Craig Malin\* (City of Seaside)  
Colleen Courtney (Sen. Monning)  
\*Voting Member

#### 2. PLEDGE OF ALLEGIANCE

In lieu of the Pledge of Allegiance, Seaside City Manager Craig Malin waved an American Flag.

#### 3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Joshua Metz reported the following:

- He acknowledged the American troops serving on the USS Roosevelt and wishes his best to folks around the country and world.
- Impressive progress is being made on the CDEC Hill building removal by Doug Yount and his team.
- FORA staff received a memo from NHA Advisors that provides a summary on the history of the bond allocation project.

#### 4. PUBLIC COMMENT PERIOD

No public comment was received.

#### 5. APPROVAL OF MEETING MINUTES

- a. March 6, 2020 Special Meeting Minutes

**MOTION:** On motion by Committee member Malin, seconded by Committee member Pick and carried by the following vote, the Administrative Committee moved to approve the March 6, 2020 Meeting Minutes with the proposed amendments.

#### MOTION PASSED UNANIMOUSLY

#### 6. April 9, 2020 BOARD MEETING AGENDA REVIEW

Mr. Metz reviewed the April 9, 2020 Board Meeting Agenda, giving details on each Consent and Business item, and answering questions from the members. Ms. Flint of Regional Government Services ("RGS") presented on Item 8c on the agenda and answered questions from the members.

Mr. Metz also noted that the Board meeting following the April 9, 2020 meeting will be at 1:00 p.m., not 2:00 p.m. as the agenda says.

**7. ITEMS FROM MEMBERS**

There were no items from members.

**8. ADJOURNMENT** at 9:01 a.m.

Minutes Prepared By:

Harrison Tregenza  
Deputy Clerk

## FORT ORD REUSE AUTHORITY

### ADMINISTRATIVE COMMITTEE MEETING MINUTES

**8:30 a.m. Wednesday, April 15, 2020 | This meeting was held at the following Zoom link:  
<https://zoom.us/j/956115894>**

#### 1. CALL TO ORDER

Co-Chair Joshua Metz called the meeting to order at 8:32 a.m.

The following members were present:

Melanie Beretti\* (County of Monterey)  
Layne Long\* (City of Marina)  
Anya Spear (CSUMB)  
Patrick Breen (MCWD)  
Vicki Nakamura (MPC)  
Steve Matarazzo (UCMBEST)

Hans Uslar\* (City of Monterey)  
Craig Malin\* (City of Seaside)  
Dino Pick \* (City of Del Rey Oaks)  
Mike Zeller (MCWD)  
Matt Deal (MST)  
Colleen Courtney (Sen. Monning)  
\*Voting Member

#### 2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

None

#### 3. PUBLIC COMMENT PERIOD

Public comment was received.

#### 4. APPROVAL OF MEETING MINUTES

a. March 11, 2020 Special Meeting Minutes

**MOTION:** On motion by Committee member Malin, seconded by Committee member Pick and carried by the following vote, the Administrative Committee moved to approve the March 11, 2020 Meeting Minutes with the proposed amendments.

#### MOTION PASSED UNANIMOUSLY

#### 5. APRIL 9, 2020 BOARD MEETING FOLLOW-UP

Mr. Metz reviewed the April 9, 2020 Board Meeting, noting that the Mid-Year and CIP Budgets were approved unanimously. He then noted that on Items 8b and 8c, the Board chose two alternatives that are now on the FORA website for members to review. Mr. Metz answered questions and a discussion took place among committee members regarding the upcoming April 17, 2020 Special Board Meeting.

#### 6. BUSINESS ITEMS

a. DRAFT Transition Plan Implementing Agreement (“TPIA”) Review & Recommendation(s)  
Mr. Metz introduced the item noting this discussion began at the March 11, 2020 Administrative Committee meeting. He noted that FORA staff has continued working with bond counsel and that communications with each agency’s attorneys continues, adding that the bond work is continuing. Ms. Flint discussed the item, addressing member Uslar’s motion from the March 11, 2020

Administrative Committee meeting. Mr. Pick noted that in addition to member Uslar’s tabled motion, there is a proposed motion from CSUMB. A robust discussion took place among the members regarding the various motions.

**MOTION:** On motion by Committee Member Uslar, seconded by Committee Member Malin, the Administrative Committee moved to take up Member Uslar’s motion from the March 11, 2020 Administrative Committee meeting. This previous motion was to recommend Option B with the following proposed language: “Each of the Parties listed may meet and confer in good faith and cooperatively develop one or more agreements between the Parties and/or MCWD regarding the provision of potable water and recycled water services. The Parties acknowledge that FORA and MCWD have agreed to the allocations in Exhibit A.”

A discussion took place among the members regarding Member Uslar’s motion.

<b>Item 6a</b>	
Craig Malin	AYE
Layne Long	NO
Melanie Beretti	NO
Hans Uslar	AYE
Dino Pick	AYE

**MOTION PASSED**

A discussion regarding the item took place after the vote.

b. Unassigned Funds Allocation Discussion

Mr. Metz introduced the item and gave the Committee a brief overview of the topic. Mr. Metz gave a summary of each of the funding requests that FORA has received to date. A discussion took place among the members regarding the funding requests and the group’s consensus was that the Committee was not ready for action at the moment.

**7. ITEMS FROM MEMBERS**

Mr. Metz noted that there will be a Special Board Meeting Thursday, April 30 so that the bond issue can be voted on by the FORA Board of Directors.

**8. ADJOURNMENT** at 9:41 a.m.

Minutes Prepared By:

Harrison Tregenza  
Deputy Clerk



<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT AGENDA</b>	
<b>Subject:</b>	Veterans Issues Advisory Committee
<b>Meeting Date:</b>	May 14, 2020
<b>Agenda Number:</b>	6c
	<b>INFORMATION/ACTION</b>

**RECOMMENDATION:**

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

**BACKGROUND/DISCUSSION:**

The VIAC met on April 23, 2020 and approved the February 27, 2019 minutes. The approved minutes are provided as **Attachment A**.

**FISCAL IMPACT:**



Reviewed by FORA Controller \_\_\_\_\_

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

**COORDINATION:**

VIAC

Prepared by Harrison Tregenza Approved by Joshua Metz  
Harrison Tregenza Joshua Metz

**ATTACHMENTS:**

- A. February 27, 2020 Veterans Issues Advisory Committee Minutes

APPROVED

**FORT ORD REUSE AUTHORITY  
VETERANS ISSUES ADVISORY COMMITTEE (VIAC) MEETING MINUTES  
3:00 P.M. February 27, 2020 | FORA Conference Room  
920 2<sup>nd</sup> Avenue, Suite A, Marina CA 93933**

1. **CALL TO ORDER:** Acting Chair Joshua Metz called the meeting to order at 3:02 p.m.

**Committee Members Present:**

Ian N. Oglesby, City of Seaside – Chair  
James Bogan, Disabled American Veterans  
Col. Gregory Ford, U.S. Army  
Command Sgt. Major Robert Londers, U.S. Army  
Jack Stewart, Fort Ord Veterans Cemetery Advisory Committee  
Sid Williams, Monterey County Military and VA Commission

2. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Sgt. Major Londers.

3. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

Mr. Metz went over VIAC voting members and quorum requirements.

**MOTION:** On motion by Member Williams and second by Member Ford, the Veterans Issues Advisory Committee moved to add Ms. Erica Chaney and Mr. Jack Murphy to the VIAC, remove Mr. Gunter from the VIAC, and make Col. Ford an alternate for Sgt. Major Londers.

**MOTION PASSED UNANIMOUSLY**

Mr. Metz then made an announcement that Ms. Gaddy took a job with MPUSD and that Natalie Van Fleet will be taking over her position at FORA.

4. **PUBLIC COMMENT PERIOD**

None

5. **APPROVAL OF MEETING MINUTES**

- a. October 24, 2019 Regular Meeting Minutes
- b. January 23, 2020 Regular Meeting Minutes

**MOTION:** On motion by Member Bogan and second by Member Williams, the Veterans Issues Advisory Committee moved to approve the October 24, 2019 and the January 23, 2020 Regular Meeting Minutes.

**MOTION PASSED UNANIMOUSLY**

6. **BUSINESS ITEMS**

- a. **Affordable Housing**

**INFORMATION/ACTION**

**i. Veterans Transition Center (“VTC”) Housing Development**

Mr. Murphy reported that a bid went out that day regarding renovations on a duplex. He noted that hopefully by the end of the year, 6 duplexes should be finished. Mr. Murphy stated that the Lightfighter project is moving along well, that Monterey County assigned them \$3.5 million and that by the end of this month, the VA should start construction. Housing, affordable housing, and commercial units will be provided. He went on to say that the VTC has received state funding to provide housing for paroled veterans and that they will put out a prevailing wage bid for a Martinez Hall renovation soon.

**b. Post-FORA VIAC Committee**

Mr. Metz reported that FORA’s mid-year budget will be presented at the March 12, 2020 Board Meeting, which will inform discussion regarding Post-FORA VIAC funding. Mr. Metz heard questions and comments from members. Mr. Metz noted that the FORA Finance Committee did not make a recommendation for funds for the veterans community. It will be up to the FORA Board to decide whether any funds will go to the veterans community, and to determine what to do with the remaining funds in the mid-year budget. He recommended that if the VIAC members want to fight for the funding, that they speak at the next FORA board meeting during public comment. Mr. Oglesby noted that the funds were for “priming the pump” for the committee transfer to Monterey County and recommends VIAC members voice their concerns with their respective County Supervisor. Mr. Williams recommended that FORA staff write a report on the VIAC request so that it can be brought forward to the FORA Board.

**MOTION:** On motion by Member Ford and a second by Member Stewart, the Veterans Issues Advisory Committee moved to give Member Oglesby instructions to write a letter to the FORA Board from the VIAC regarding potential funds for the veterans community post-FORA sunset.

**MOTION PASSED UNANIMOUSLY**

**c. California Central Coast Veterans Cemetery (“CCCVC”) Status Report**

Ms. Chaney noted that construction has been moving quickly on the California Central Coast Veterans Cemetery, Phase 2. She also noted the groundbreaking ceremony has been moved to Saturday, March 21 and that Senator Monning will be attending. She announced that Nicole Hollingsworth has moved on from Senator Monning’s office and will be starting in a new position at CSUMB.

**d. Ord Military Community**

Sgt. Major Londers announced that DLI will be having their Language Day event on May 8, 2020. He also accounted that soon they will be unveiling their newly refurbished cannon on DLI grounds.

**e. Fundraising Status**

**i. Central Coast Veterans Cemetery Foundation (“CCVCF”) Status Report**

Mr. Bogan reported the CCVCF is focused on assisting CCCVC groundbreaking preparations. Mr. Bogan stated CCVCF is considering how to become directly involved in assisting the United Veterans Council Heroes Open Golf Tournament, as well as options for extending CCVCF’s assistance to additional organizations.

**f. VA-DOD Clinic**

Col. Ford noted that the Clinic still does not have a pharmacy, though there is movement towards getting one.

**g. Military & Veterans Affairs Office (“MVAO”) – Monthly Report**

No report.

**h. Calendar of Events**

Mr. Metz reported the Drones Automation & Robotics Technologies (“DART”) DroneCamp and Symposium will be held at CSUMB June 22-26, 2020. Visit [www.montereybaydart.org](http://www.montereybaydart.org) for more details.

**7. ITEMS FROM MEMBERS**

Mr. Cliff Guinn announced that he’s collecting military artifacts for a future Ford Ord museum and wanted to know what is going to happen with FORA artifacts post-sunset. Mr. Oglesby asked Mr. Guinn to bring a formal request in writing to the VIAC committee for the artifacts.

Mr. Bogan noted that there was a transfer of land for a museum with no cost, from the Dept of Interior.

Mr. Oglesby asked that members of the committee should each write their own letters to the FORA Board requesting the Board to consider providing funding to the veterans community.

Mr. Metz noted that former FORA employee Robert Norris was honored by the National Coalition for Homeless Veterans. The VIAC had a round of applause for Mr. Norris.

**8. ADJOURNMENT** at 3:48 p.m.

Minutes Prepared by:  
Harrison Tregenza  
Administrative Coordinator

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT ITEMS</b>	
<b>Subject:</b>	Transition Status Update
<b>Meeting Date:</b>	May 14, 2020
<b>Agenda Number:</b>	6d
<b>INFORMATION</b>	

**RECOMMENDATION:**

Review staff and consultant progress on actions leading to sunset of the Fort Ord Reuse Authority.

**BACKGROUND/DISCUSSION:**

The following table updates the status of LAFCO’s Tier 1 and Tier 2 Action Items identified in its February 3<sup>rd</sup> meeting agenda and addresses specific concerns provided by LAFCO in its May 6, 2020 letter to FORA (**Attachment A**). We continue to make progress towards an orderly dissolution on June 30, 2020. An updated Planned Board Meeting Agenda Schedule is attached for information (**Attachment B**).

<b>Tier 1: Actions Critical to Orderly Dissolution</b>	
<p>1. Transfer CFD funds and other remaining fund balances, records and office equipment to Monterey County.</p>	<ul style="list-style-type: none"> <li>• CFD funds related to Habitat will be transferred to local land use agencies upon execution of Joint Community Facilities Agreements. Fund distribution was determined by Board action at April 17, 2020 Special Meeting. A template form of these agreements is included in the current Board packet (Item 7b).</li> <li>• FORA staff is working with County staff to facilitate the transfer of all documents and records and has already begun this process.</li> <li>• Unassigned office equipment will be offered for sale.</li> </ul>
<p>2. Transfer ESCA, LRA designation and EDC contract to Seaside.</p>	<ul style="list-style-type: none"> <li>• FORA nominated Seaside as its Local Redevelopment Authority</li> </ul>

	<p>(“LRA”) successor at its February 21, 2020 Special Board Meeting, and subsequently signed by the City of Seaside and FOR A.</p> <ul style="list-style-type: none"> <li>FORA received confirmation from the office of the Undersecretary of Defense that the Army has recognized Seaside as FORA’s successor on May 1, 2020 (<b>Attachment C</b>)</li> <li>A new ESCA agreement with the Army and the City of Seaside is being prepared. Once complete and final approval from DTSC, FORA will transfer remaining deeds for property transfers to the City of Seaside for final disposition to the underlying jurisdictions.</li> </ul>
<p>3. Transfer water allocations, first right of refusal for Army excess groundwater, water augmentation obligations, water and wastewater capacity charges and rates to MCWD.</p>	<ul style="list-style-type: none"> <li>This has been completed and is memorialized in the ESCA/LRA agreement with Seaside and is included in individual agreements between MCWD and local agencies.</li> </ul>
<p>4. Follow up re: litigation fund, reserve request and LAFCO requested language in TPIA.</p>	<ul style="list-style-type: none"> <li>FORA has provided \$500,000 to LAFCO for potential litigation.</li> <li>LAFCO is not a signatory to the TPIAs and the language is already part of the legislation which extended FORA. Therefore, legal counsel does not believe it is appropriate in the TPIA agreements.</li> </ul>
<p>5. Make final payment to terminate CalPERS contract.</p>	<ul style="list-style-type: none"> <li>FORA has set aside \$6.9 million in its 115 Trust Balance to retire CalPERS Liabilities. The Board has previously voted to set aside an additional \$1.5 million leaving \$8.4 million available for its termination</li> </ul>

	<p>payment. CalPERS will not provide its final determination regarding total payment due until likely 90 days post sunset. In addition, due to earnings fluctuations related to Covid 19, this number may be higher than originally anticipated. To accommodate this, FORA's Board may direct that proceeds from its pending bond sale be used to satisfy this debt. For planning purposes, the set aside in the bond could be as high as \$5 million with any funds NOT used for this debt, returned to local agencies by the specified bond allocation formula for building removal. This is currently reflected in the proposed 2020 Transition Plan which will be coming to the Board on June 11, 2020.</p> <ul style="list-style-type: none"> <li>• If the bond is not secured, the County will be directed to negotiate a term of not more than 5 years to repay this debt through unencumbered property tax revenues as stipulated in the 2018 Transition Plan.</li> </ul>
<p>6. Create a plan for final year audit.</p>	<ul style="list-style-type: none"> <li>• The final audit will be conducted by Moss, Levy &amp; Hartzheim. Staff is preparing documents for transmittal on or before June 30, 2020. We anticipate that the County will assume oversight and provide copies of the audit to LAFCO and member agencies.</li> <li>• All funds will have been transferred with the exception of the Section 115 Trust which needs to remain on the books until such time as the CalPERS liability is determined.</li> </ul>

	<ul style="list-style-type: none"> <li>The County will be designated as the authorized entity to release funds from the Trust to CalPERS. Paperwork has been requested from the Trust Administrator to designate the County.</li> </ul>
7. Transfer remaining FORA held real estate to agencies.	<ul style="list-style-type: none"> <li>As the LRA successor, Seaside will facilitate the transfer of any/all remaining properties.</li> </ul>
8. Record the FORA Master Resolution one month prior to dissolution.	<ul style="list-style-type: none"> <li>The Master Resolution was recorded at the County on April 14, 2020.</li> </ul>
9. Resolve existing and pending litigation.	<ul style="list-style-type: none"> <li>FORA Counsel is negotiating with two current claimants in an attempt to resolve them by June 30, 2020. FORA is unaware of any current pending litigation.</li> </ul>
10. Capital Improvement Projects	<ul style="list-style-type: none"> <li>Approval to transfer funds and responsibility for the three remaining CIP projects to the underlying jurisdictions is on the current meeting agenda (Item 7a). CIP projects include South Boundary Road (Del Rey Oaks), removal of the Stockade (Marina) and Eucalyptus Infiltrator Repair (Seaside).</li> <li>Funds will be transferred to each jurisdiction once MOA has been fully executed, which includes acknowledgement of jurisdiction's status as CEQA lead agency where applicable.</li> </ul>



<b>Tier 2: Actions Important but not Essential Prior to Dissolution</b>	
<p>1. Transfer local and regional road obligations, agree on distribution of CFD funds collected for habitat management, agree on distribution of other fund balances.</p>	<ul style="list-style-type: none"> <li>• See Tier 1 Action Item 1.</li> <li>• TAMC has established a regional road fee and will begin collection on July 1, 2020.</li> <li>• All agencies are responsible for their own local roads and habitat management effective July 1, 2020.</li> </ul>
<p>2. Certify the HCP FEIR and approve the plan.</p>	<ul style="list-style-type: none"> <li>• The Board will consider approval of the Final EIR at its June 11, 2020 Regular Board Meeting.</li> </ul>
<p>3. Form a Joint Powers Authority to implement the HCP.</p>	<ul style="list-style-type: none"> <li>• Member agencies have determined to not form a JPA prior to FORA's sunset but may be explored in the future.</li> </ul>
<p>4. Create escrow agreements with Del Rey Oaks for South Boundary Road and GJMB.</p>	<ul style="list-style-type: none"> <li>• See Tier 1, Item 10.</li> </ul>
<p>5. Complete the issuance of Building Removal Bonds and associated agreements.</p>	<ul style="list-style-type: none"> <li>• This is an ongoing process pending action by the State of California. The Board will review action at its May 22, 2020 meeting.</li> </ul>
<p>6. Satisfy or assign other existing FORA contracts that require action.</p>	<ul style="list-style-type: none"> <li>• Legal counsel has reviewed all agreements and believes that all have been satisfied and/or may no longer be enforceable post FORA sunset.</li> </ul>

**Items from May 6, 2020 LAFCO Letter:**

**1. Address unresolved issues identified by LAFCO.**

*The FORA Board Agenda packet for May 14 includes Item 7a Memoranda of Agreements for Capital Improvement Program and General Fund Project Transfers, addresses Capital Improvement Program (CIP) projects and provision of funding to the Cities of Marina,*

*Seaside, and Del Rey Oaks through agreements. Copies of these agreements are included in the agenda package for public review including LAFCO.*

**2. Address unresolved issues identified by California Native Plant Society (CNPS).**

*FORA legal counsel is preparing a response to CNPS.*

**3. Address unresolved issues identified by Carpenters Union Local 605 (Carpenters Union).**

*FORA legal counsel is preparing a response to the Carpenters Union.*

**4. Address unresolved issues identified by Keep Fort Ord Wild (KFOW).**

*See May 6, 2020 Letter, Item 1.*

**5. Address unresolved issues identified by Monterey Peninsula College (MPC).**

*FORA has conferred with MPC concerning habitat maintenance and other issues that are addressed in a 2003 agreement for public safety officer training that remains largely unperformed. Given FORA's legislatively mandated sunset on June 30, 2020, inadequate time remains for the parties to perform the terms of the agreement as contemplated in 2003. As such, the agreement will likely terminate pursuant to Section 17.B of the agreement.*

**6. Address the definitive status of FORA agreements and plans after June 30, 2020.**

*Legal counsel has reviewed all agreements and believes that all have been satisfied and/or may no longer be enforceable post FORA sunset.*

**7. Prioritize action on a 2020 Transition Plan and ensure that the Transition Plan meets specific requirements described in the FORA Act.**

*Due to the evolving nature of the Building Removal Bond process, the Board will likely consider adopting its 2020 Transition Plan at its June 11, 2020 meeting. The Plan must accurately reflect actions related to retirement of the CalPERS debt and therefore must wait to adapt to that final determination. A draft version of the plan will be presented to the Board as an information item on its May 22, 2020 meeting.*

**8. Prioritize action to address FORA's CalPERS liability funding strategy.**

*See Tier 1, Item 5.*

**9. Provide supplemental litigation reserve funding to LAFCO for FORA defense, in an amount of up to \$1.5M.**

*The Board may consider this item at its June 11, 2020 meeting.*

**10. Provide \$100,000 in funding for LAFCO administrative oversight post-dissolution.**

*The Board may consider this at its June 11, 2020 meeting,*

**11. Include language that provides for post-dissolution disbursement of FORA funds to LAFCO for litigation or administrative expenses, in the Multi-Agency Implementing Agreement or other agreement.**

*The Board has provided \$500,000 for litigation expenses to LAFCO. The Board may consider additional funds for administrative costs and additional litigation request at its June 11, 2020 meeting,*

**12. Resolve existing litigation, avoid taking on new legal risk, coordinate on matters of legal risk, and assign a successor to litigation that may not be resolved by June 30.**

*At present, no litigation is pending against FORA and it is proceeding carefully and responsibly to avoid taking on any legal risk. FORA met again with LAFCO on May 7, 2020 in an effort to coordinate on matters of legal risk and will continue to do so until June 30, 2020. To the extent possible, FORA will seek to assign a willing successor to any pending litigation or legal dispute not resolved by June 30, 2020.*

**FISCAL IMPACT:**

None.

**COORDINATION:**

Authority Counsel. Executive Officer. Finance Director.

**ATTACHMENTS:**

- A. LAFCO May 6, 2020 Letter
- B. Updated Planned Board Meeting Agenda Schedule
- C. Office of Economic Adjustment – LRA Recognition Letter

Prepared by KFlint  
Kendall Flint, RGS

and Approved by:   
Joshua Metz

2020

May 6, 2020

### Commissioners

#### Chair

Matt Gourley  
Public Member

#### Vice Chair

Ian Oglesby  
City Member

Luis Alejo  
County Member

Joe Gunter  
City Member

Mary Ann Leffel  
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Christopher Lopez  
County Member

Warren Poitras  
Special District Member

Maria Orozco  
City Member, Alternate

Jane Parker  
County Member, Alternate

Steve Snodgrass  
Public Member, Alternate

Graig R. Stephens  
Special District Member, Alternate

### Counsel

Kelly L. Donlon  
General Counsel

### Executive Officer

Kate McKenna, AICP  
132 W. Gabilan Street, #102  
Salinas, CA 93901

P. O. Box 1369  
Salinas, CA 93902

Voice: 831-754-5838

[www.monterey.lafco.ca.gov](http://www.monterey.lafco.ca.gov)

Fort Ord Reuse Authority  
Executive Officer Josh Metz and Executive Committee  
920 2<sup>nd</sup> Avenue, Suite A  
Marina, CA 93933

**Subject: May 6, 2020 FORA Executive Committee Agenda Packet and related FORA Dissolution Items**

Dear Executive Officer Metz and Executive Committee,

On behalf of the Local Agency Formation Commission, I am writing to comment on agenda items for your May 6 Executive Committee meeting, including the draft agenda packet for the May 14 FORA Board meeting. LAFCO provided written comments to the FORA Administrative Committee prior to their meeting this morning. After participating in that meeting, we are sharing our updated comments for your consideration as you set agendas for the May 14 FORA Board Meeting Agenda and subsequent Board meetings through June. Our comments are in the spirit of fulfilling LAFCO's responsibilities under California Government Code section 67700.

We request that FORA's Transition Plan amendments, CalPERS liability funding strategy, and the allocation of FORA funds be scheduled for consideration on May 14 or soon thereafter. We also request that substantive requests and issues raised by LAFCO and FORA stakeholders be placed on the May 14 and subsequent agendas for discussion and official responses. FORA's dissolution schedule is now very compressed. In the short time available to address outstanding items, we remain engaged in working with FORA to accomplish our respective dissolution responsibilities to the fullest extent possible.

I have attached LAFCO's April 27 Executive Officer's report on the status of the FORA dissolution (**Attachment 1**) for background, as well as recent letters from stakeholders in our Monterey Bay communities. Following are specific comments and requests related to your Committee's agenda items and other matters in need of urgent attention by FORA and its member agencies.

#### I. Address unresolved CEQA-related issues.

LAFCO has requested that FORA address issues related to identification and assignment of FORA lead agency CEQA projects and their corresponding responsibilities for mitigation measures. Most recently, LAFCO transmitted a letter to the FORA Board on April 17, requesting that FORA address the successor agency assignments of FORA CEQA lead agency status projects and existing FORA contracts with the California Native Plant Society, by adding language in the 2020 Transition Plan and completing successor agreements.

The draft FORA Board Agenda packet for May 14 includes Item 7a Memoranda of Agreements for Capital Improvement Program and General Fund Project Transfers, which would appear to address successor agency assignments of FORA lead agency status Capital Improvement Program (CIP) projects to the Cities of Marina, Seaside, and Del Rey Oaks through agreements. Drafts of these agreements are not yet available for review. LAFCO seeks to coordinate with FORA on these items as they move forward.

## 2. Address unresolved issues identified by FORA stakeholders.

LAFCO is concerned by the range of unresolved issues that stakeholders have raised in correspondence related to aspects of FORA dissolution. These stakeholders include the California Native Plant Society (CNPS), Carpenters Union Local 605 (Carpenters Union), Monterey Peninsula College (MPC), and Keep Fort Ord Wild (KFOW). Each entity has identified substantial matters that must be addressed with the FORA Board. LAFCO requests a written summary of FORA's responses to issues raised by each FORA stakeholder. The issues are summarized below.

### **a. CNPS' Unresolved Issues:**

In its May 1, 2020 letter (**Attachment 2**) and an earlier letter dated April 17, 2020, CNPS raised issues regarding FORA's requirement from its 2010 Environmental Assessment/Initial Study to successfully negotiate with CNPS to relocate a currently identified habitat preserve further south before FORA can proceed with its South Boundary Road project; CNPS not agreeing to relocate the habitat preserve area; FORA's 1998 and 1999 contracts with CNPS requiring protection of the habitat preserve from fragmentation and degradation in perpetuity; and FORA's inability to deliver an approved South Boundary Road project to the City of Del Rey Oaks.

### **b. Carpenters Union's Unresolved Issues:**

In its April 8, 2020 letter (**Attachment 3**), Carpenters Union raised issues urging FORA to record its Master Resolution; significant concern over language stating that the draft Multi-Agency Transition Plan Implementing Agreement (TPIA) would supersede 2001 Implementation Agreements between FORA and its member agencies; and concern that the draft TPIA makes no mention of the obligations contained in the original Implementation Agreements. Subsequently, FORA recorded its Master Resolution, but has not addressed the Carpenters Union's remaining concerns.

### **c. KFOW's Unresolved Issues:**

In its April 17, 2020 letter (**Attachment 4**), KFOW raised issues regarding FORA's need to clearly state in its Transition Plan the status of the Fort Ord Reuse Plan going forward after FORA sunsets; FORA's need to identify the agency or agencies that will be responsible for enforcing the Reuse Plan and its programs, policies, and CEQA mitigations post-FORA dissolution; FORA requirements to make a CEQA determination before acting on the Transition Plan; FORA requirements to provide public notice prior to making a CEQA determination/decision; and FORA requirements to take a second vote on the proposed amendments if the first vote is not unanimous.

### **d. MPC's Unresolved Issues:**

In its April 9, 2020 email (**Attachment 5**), MPC raised issues related to the April 9 FORA Board Meeting Agenda Item 8b Habitat Working Group Report & Set Aside Funds Distribution Recommendation. MPC expressed concerns that the purpose of FORA's habitat funds was to manage habitat land set aside to mitigate basewide development and that this purpose would be negated if FORA only allocated shares of this funding to FORA's five land use jurisdictions and excluded MPC and other educational institutions from receiving these funds. The FORA Board approved Alternative 1, which still excluded MPC and other educational institutions from receiving FORA's habitat funds.

## 3. Address the definitive status of FORA agreements, contracts and plans after June 30, 2020.

FORA's official positions on the definitive status of FORA agreements, contracts and plans after June 30, 2020 will serve as an important reference point. In this regard, LAFCO asks the FORA Board to provide its opinions and supporting analyses on the post-dissolution status of FORA documents, including but not limited to:

- FORA Transition Plan,
- Fort Ord Reuse Plan and related EIR mitigation measures,
- 2001 Implementation Agreements,
- 1998 FORA-Sierra Club Settlement Agreement, and
- 2002 FORA-MPC-County of Monterey Public Safety Officers Training Facilities Agreement.

#### **4. Prioritize action on a 2020 Transition Plan and ensure that the Transition Plan meets specific requirements described in the FORA Act.**

LAFCO is concerned about FORA's delayed consideration of a 2020 Transition Plan. In the event that draft Transition Plan Implementing Agreements are not completed, individual local agencies will need to rely on FORA's adopted Transition Plan for guidance on dissolution items. We understand that FORA intends to include post dissolution obligations related to FORA issuance of tax increment bonds for building removal funding and that this pending item is causing FORA to postpone 2020 Transition Plan action. Given these circumstances, LAFCO asks FORA to address issues related to tax increment bonds and prioritize action on a 2020 Transition Plan.

The FORA Act, California Government Code section 67700, states that FORA's Transition Plan "shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations." LAFCO requests that FORA ensure its Transition Plan meets each requirement described in the FORA Act. The adopted 2018 Transition Plan includes a reference to a schedule of remaining obligations. Though not stated in the Transition Plan, it appears that FORA intends Exhibit A to the Transition Plan to serve as a schedule of obligations. LAFCO asks FORA to confirm if Exhibit A is indeed a "schedule of remaining obligations."

In previous discussions with FORA staff and consultants, FORA mentioned that it was reviewing Exhibit A to determine which agreements identified in the exhibit required assignment to a successor, additional action before June 30, or survived beyond June 30. LAFCO notes that FORA's contracts with CNPS concerning Plant Reserve INorth and the recently signed Environmental Services Cooperative Agreement (ESCA) Implementing Agreement are not listed in Exhibit A, but should be included. As mentioned in the previous section, FORA is also planning to consider additional agreements transferring its lead agency status and funds to the Cities of Marina, Seaside, and Del Rey Oaks for certain FORA CIP projects. LAFCO asks that FORA share the results of its review and provide an updated version of Exhibit A as an attachment to its draft 2020 Transition Plan.

In addition, as included in FORA's April 30, 2020 Board Packet under Item 7a Building Removal Bond Funding Agreements, FORA expects to complete actions and agreements to issue tax increment bonds in the approximate amount of \$30 million and assign its responsibilities related to bond administration to the City of Marina before June 30. This item is an example of a FORA dissolution action that was not included in the Transition Plan or Exhibit A. LAFCO asks FORA to provide a complete final accounting of Transition Plan required actions, agreements and other documents that survive past June 30, and how each item is to be administered or assigned to a successor.

#### **5. Prioritize action to address FORA's CalPERS liability funding strategy.**

LAFCO is concerned about FORA's delayed discussion and action on a CalPERS liability funding strategy. The April 30 FORA Board Meeting Agenda included Item 7b CalPERS Liability Funding Strategy, which identified likely increased costs (estimated to be an additional \$5 million) for FORA's final payment to its CalPERS termination liability, identified a requirement that the CalPERS liability needed to be satisfied in order for FORA to issue tax increment bonds for building removal, and identified a plan to include funds from FORA's bond issuance to satisfy the CalPERS liability. LAFCO requests FORA to discuss and take appropriate action on this urgent matter.

#### **6. Prioritize action to address issues related to FORA tax increment bond issuance for building removal.**

FORA's efforts to obtain additional funds for building removal through issuance of tax increment bonds are close to being accomplished but face two recently identified issues. One issue is that FORA must satisfy its CalPERS termination liability (discussed in #5 above) and the second issue is that FORA must satisfy its debt to the East Garrison developer as required by a 2006 Basewide Funding Obligations Agreement among the County of Monterey, FORA, and East Garrison Partners. This item is particularly concerning to LAFCO because FORA's consultant reported that 2020 Transition Plan delays are due to efforts to include the bond issuance and its associated agreements and requirements in the draft 2020 Transition Plan. LAFCO requests that FORA take action to resolve this issue or move forward with alternative plans for its tax increment funds if resolution is not possible.

#### **7. Provide supplemental litigation reserve funding to LAFCO for FORA defense, in an amount of up to \$1.5M.**

LAFCO has estimated an additional litigation reserve funding need of up to \$1.5 million due to stakeholders' unresolved issues, newly identified CalPERS termination liability payment issues, and an existing unresolved

FORA litigation matter. Also, FORA is proceeding with preparation of its Habitat Conservation Plan Environmental Impact Report (HCP EIR) for future FORA Board consideration to certify the document in June 2020, which, in LAFCO's view, has high potential to generate litigation risk. In addition, FORA has not transferred its litigation role for pending litigation matters to a successor or successors. Also, it is uncertain if FORA will address all stakeholders' unresolved issues before June 30. Furthermore, LAFCO and FORA member Agencies could face unknown unresolved issues post June 30 that increase litigation risk.

LAFCO receives annual funding from its local government agencies, most of which are not FORA members. Consequently, LAFCO has a duty to shield its non-FORA agencies from FORA-related litigation matters and corresponding financial burdens by requesting additional litigation funding from FORA.

**8. Provide \$100,000 in funding for LAFCO administrative oversight post-dissolution.**

LAFCO is charged with ensuring that all of FORA's assets are properly transferred and ensuring that FORA's contracts, agreements, and pledges to pay or repay money are honored and properly administered. To accomplish its oversight tasks, LAFCO will need to complete a significant amount of work post dissolution. This work will entail:

- Oversight of FORA's fiscal year 2019-20 audit preparation process;
- Oversight of FORA's property transfers to Seaside and others, and
- Close coordination with FORA's assigned to successors or administrators on agreements that will not be completed until after June 30, 2020.

A partial list of other post-dissolution agreements includes: ESCA (Seaside); EDC Agreement (Seaside); Pollution Legal Liability Insurance CHUBB Policy (Seaside); Agreement with the California Department of Toxic Substances Control and FORA member agencies concerning Monitoring and Reporting on Environmental Restrictions (Monterey County); and the CalPERS pension contract. Unresolved issues post-dissolution may further increase LAFCO's administrative oversight workload.

Due to its post dissolution tasks, LAFCO will need \$100,000 in funding to implement its administrative oversight role. LAFCO expects that its role could last up to five years with most oversight costs occurring in the first fiscal year (FY 2020-21) after FORA dissolution. In order to avoid further impact to the Commission's regular workload priorities for local agencies, LAFCO may contract for administrative services required for FORA work.

**9. Include language that provides for post-dissolution disbursement of FORA funds to LAFCO for litigation or administrative expenses, in the appropriate agreement or funding vehicle.**

The May 6 FORA Administrative Committee Meeting included discussion of the final draft Multi-Agency Implementing Agreement. LAFCO staff requested FORA and its member agencies' assistance in identifying the appropriate agreement or vehicle for language assuring post dissolution funding for LAFCO from an agency holding future FORA funds, such as the County of Monterey. FORA's Transition Plan consultant stated that the draft 2020 Transition Plan would include language addressing post dissolution funds for LAFCO. This is an important issue for LAFCO due to the uncertainty of receiving any funds from FORA beyond the initial \$500,000 litigation reserve fund payment. This language would provide important assurances that LAFCO would have a mechanism in place to request and receive legal defense and administrative oversight funds post dissolution. Such a mechanism would provide protection to LAFCO's non-FORA members from FORA-related financial impacts.

**10. Resolve existing litigation, avoid taking on new legal risk, coordinate on matters of legal risk, and assign a successor to litigation that may not be resolved by June 30.**

LAFCO has asked FORA to resolve its existing litigation, avoid taking on new risk, assign a successor to litigation that may not be resolved by June 30, and to coordinate on matters of legal risk. These issues are still of concern. Most significantly, FORA has authorized work toward certifying its HCP EIR in June. This action increases the legal risk for LAFCO and FORA member agencies.

Also, existing litigation involving a building demolition contractor's dispute over damaged equipment from removal of high-density concrete is scheduled for mediation in June, but it is possible that resolution will not occur by June 30. FORA has not yet created a plan to assign FORA's litigation role and funding for these and other matters of legal risk.

Thank you for your attention to these urgent matters. We are working closely with your staff and counsel to address the items, and will appreciate your help in leaving a clear public record of official FORA intentions, responses and actions for each issue. Also, I would like to inform you that the Local Agency Formation Commission will conduct a public hearing on June 22 at 4:00 p.m. to consider a resolution making determinations about FORA's scheduled dissolution on June 30. Feel welcome to contact me directly by cell at (831)682-0157 or by email at [mckennak@monterey.lafco.ca.gov](mailto:mckennak@monterey.lafco.ca.gov) at any time.

Sincerely,



Kate McKenna, AICP  
Executive Officer

Attachments:

1. LAFCO April 27, 2020 Staff Report
2. Letter from the Law Offices of Stamp | Erickson dated May 1, 2020 on behalf of CNPS to FORA Board of Directors
3. Letter from the Carpenters Union Local 605 dated April 8, 2020 to FORA Board of Directors
4. Letter from the Law Offices of Stamp | Erickson dated April 17, 2020 on behalf of KFOR to FORA Board of Directors
5. Email from Vicki Nakamura dated April 9, 2020 on behalf of MPC to FORA Board of Directors



KATE McKENNA, AICP  
Executive Officer

LOCAL AGENCY FORMATION COMMISSION  
P.O. Box 1369  
Salinas, CA 93902  
Telephone (831) 754-5838

132 W. Gabilan Street, Suite 102  
Salinas, CA 93901  
www.monterey.lafco.ca.gov

DATE: April 27, 2020  
TO: Chair and Members of the Commission  
FROM: Kate McKenna, AICP, Executive Officer  
PREPARED BY: Jonathan Brinkmann, Senior Analyst and Darren McBain, Principal Analyst  
SUBJECT: Consider Status Report on Fort Ord Reuse Authority (FORA) Dissolution Process (LAFCO File No. 18-06)

**SUMMARY OF RECOMMENDATIONS:**

It is recommended that the Commission:

1. Receive the Executive Officer's report;
2. Receive any public comments; and
3. Provide for any questions or follow-up discussion by the Commission.

**EXECUTIVE SUMMARY:**

The FORA Act, California Government Code section 67700, mandates FORA dissolution on June 30, 2020 and describes a limited LAFCO role to provide for the orderly dissolution of FORA "including ensuring that all contracts, agreements, and pledges to pay or repay money entered into by the authority are honored and properly administered, and that all assets of the authority are appropriately transferred."

Many of the FORA Board's actions to date have been consistent with an orderly dissolution in the context of LAFCO's statutory role. For example, important work is in progress to transfer assets, liabilities, and related administrative responsibilities. However, LAFCO staff remains concerned about some aspects of remaining FORA dissolution-related tasks and processes. These concerns include: Transition Plan Implementing Agreements; status of LAFCO's previous requests for additional litigation defense funds and post-dissolution administrative task funds; Transition Plan amendments; designation of successor agencies for FORA's CEQA responsibilities on FORA-approved roadway projects; successor agency assignment for existing FORA contracts; and status of the Fort Ord Reuse Plan's programs, policies, and CEQA mitigation measures post-FORA dissolution.

Staff will schedule a public hearing on FORA dissolution at the June 22 regular LAFCO meeting rather than the May 18 meeting as previously planned. The extra month will allow FORA more time to review and address issues discussed in this report. In addition, FORA has postponed until May important actions such as consideration of amendments to the 2018 Transition Plan and distribution of unassigned funds. This timing essentially requires moving LAFCO's public hearing on FORA dissolution to June in order for LAFCO to be able to appropriately address FORA's dissolution actions.

**DISCUSSION:**

Following is an update on current dissolution matters.

**1. Transfer of Assets, Liabilities, and Related Administrative Responsibilities is in Progress.**

FORA has made significant progress in the planned transfer of assets, liabilities and administrative responsibilities. These include:

- The planned transfer of Community Facilities District funds and other fund balances;

- Assigning FORA's Environmental Services Cooperative Agreement, Local Redevelopment Authority role, and Economic Development Conveyance Agreement to the City of Seaside;
- Making payment provisions to terminate FORA's CalPERS liability and contract;
- Reviewing proposed amendments to the 2018 Transition Plan to reflect current FORA dissolution plans;
- Making plans to transfer records and office equipment to the County of Monterey; and
- Taking steps to ensure transfer of remaining FORA-held real estate to local agencies.

The FORA Board took specific actions needed to transfer certain fund balances when it adopted its mid-fiscal year General and Capital Improvement Program budget, and approved distribution of approximately \$17 million in habitat set-aside funds and an estimated \$30 million (depending on bond market conditions) in pending building removal bond proceeds among the five land use jurisdictions. On May 14, the FORA Board will consider distribution of remaining, unassigned funds in response to requests submitted by various agencies, including LAFCO. Please see item 4, below.

## **2. Implementing Agreements are Not Progressing and May Not be Completed by June 30.**

The draft Multi-Agency Implementing Agreement, and individual water and wastewater services agreements with Marina Coast Water District, are not progressing as FORA had anticipated and may not be completed before dissolution. If these agreements are not finalized, the individual local agencies will need to rely on FORA's adopted Transition Plan for guidance. Section 1.1 of the adopted 2018 Transition Plan describes that Transition Plan Implementing Agreements, or, in their absence, the other provisions of the Transition Plan will establish a fair and equitable assignment of assets and liabilities, and provide a schedule of obligations. In summary, FORA dissolution will move forward with or without these agreements.

## **3. Existing Litigation is Not Resolved, Legal Risk is Increasing, and Coordination on Legal Risk is Not Resolved.**

LAFCO has asked FORA to resolve its existing litigation, avoid taking on new risk, assign a successor to litigation that may not be resolved by June 30, and to coordinate on matters of legal risk. These issues are still of concern. Most significantly, FORA has authorized work toward certifying an Environmental Impact Report (EIR) for a proposed Habitat Conservation Plan (HCP) in June. This action increases the legal risk for LAFCO and FORA member agencies. Matters discussed in item #5, below, also have potential to involve LAFCO in future litigation.

Also, existing litigation involving a building demolition contractor's dispute over damaged equipment from removal of high-density concrete is scheduled for mediation in June, but it is possible that resolution will not occur by June 30. FORA has not yet created a plan to assign FORA's litigation role and funding for these and other matters of legal risk.

We expect that some FORA administrative and legal matters may carry over beyond June 30. LAFCO will continue to request that FORA assign its litigation role and funding to the appropriate likely successor agencies that have a logical connection to the subject of potential litigation. The FORA Act limits LAFCO's oversight role in FORA's dissolution. LAFCO may request that FORA take certain actions. However, LAFCO cannot compel FORA to take actions.

## **4. LAFCO's Requests for Additional Litigation Defense Funds and for Post-Dissolution Administrative Task Funds, Have Not Been Granted to Date.**

To date, LAFCO has received \$500,000 for its litigation reserve fund from FORA. LAFCO staff continues to uphold the Commission's direction, as articulated in the March 3, 2020 letter to FORA. The letter requested an additional \$1.5 million for LAFCO's litigation reserve fund, \$100,000 for LAFCO administrative oversight post-June 30, and re-inclusion of funding assurance language in the Multi-Agency Implementing Agreement. FORA staff and counsel have indicated that they do not support these requests. However, LAFCO's requests remain, based on identified litigation risks and post-dissolution administrative oversight funding needs.

On May 14, 2020, the FORA Board may consider allocating \$100,000 to LAFCO (based on generally supportive statements by FORA Administrative Committee members at a prior meeting). FORA has not yet responded to LAFCO's recent invoice of \$10,000 for LAFCO Fee replenishment for administrative tasks through June 30. LAFCO's requests for supplemental litigation reserve funding, and language assuring

LAFCO's funding needs in the Multi-Agency Implementing Agreement have not been granted and do not appear likely to be granted. LAFCO staff and counsel have been discussing strategies to protect LAFCO in the event LAFCO's litigation reserve fund proves insufficient to address litigation matters after July 1. This matter remains under review and discussion.

5. LAFCO's Requests and Concerns related to Transition Plan Tasks, Designation of Successor Agencies for FORA CEQA Lead Agency Projects, Successor Agency Assignment for Existing FORA Contracts with the California Native Plant Society, and Other Stakeholders' Concerns are not Resolved.

Over the last several months, LAFCO – in our statutory role of providing for an orderly dissolution – has submitted several requests to FORA pertaining to:

- Implementing Transition Plan tasks, or amending the adopted Transition Plan tasks to reflect current FORA dissolution plans;
- Identification of FORA lead agency CEQA projects;
- Identification of FORA responsibilities for mitigation measures; and
- Assignment or designation of successor agencies for FORA lead agency projects.

Most recently, LAFCO staff submitted a letter to FORA on April 17, 2020 (**Attachment 1**). Our April 17 letter also transmitted an April 14 letter from the California Native Plant Society (CNPS) to LAFCO (**Attachment 2**). CNPS requested LAFCO assistance in ensuring that FORA name and secure agreements with successor CEQA lead agencies for FORA-approved road development projects (South Boundary Road and General Jim Moore Boulevard), as well as successors for existing FORA contracts with CNPS to protect rare plant reserve areas. In consideration of LAFCO's communications with FORA over the past few months and CNPS's letter, LAFCO's April 17 letter to the FORA Board requested that FORA address successor agency assignments of FORA CEQA lead agency status projects and the existing FORA contracts with CNPS by adding language in the 2020 Transition Plan and completing successor agreements. From LAFCO staff's perspective, these are important dissolution actions to assure assignment of FORA's duties and contractual obligations.

The FORA Board received an additional letter from CNPS on April 17 (**Attachment 3**), expressing concerns about naming successors for FORA lead agency road projects and FORA's contracts with CNPS, as well as FORA's email statements about transfer of its lead agency status, and FORA's proposed 2020 Transition Plan language characterizing certain road projects as "in progress construction projects." CNPS's letters are pertinent to LAFCO's oversight role of ensuring that FORA's contracts and agreements are honored and properly administered.

Also, on April 17, Keep Fort Ord Wild submitted a letter to the FORA Board (**Attachment 4**), responding to FORA's April 17 agenda item for consideration of amendments to the adopted 2018 Transition Plan. The letter asserts that FORA should clearly state in its Transition Plan the status of the Fort Ord Reuse Plan going forward after FORA sunsets, and identify the agency or agencies that will be responsible for enforcing the Reuse Plan and its programs, policies, and CEQA mitigations post-FORA dissolution. The letter also asserts that FORA must make a CEQA determination before acting on the Transition Plan, provide public notice prior to making a CEQA determination/decision, and take a second vote on the proposed amendments if the first vote is not unanimous. Staff notes that Section 1.1 of the 2018 Transition Plan includes ambiguous wording as to the status of the Fort Ord Reuse plan post-dissolution, stating that the "Transition Plan assigns all assets and liabilities relating to FORA's programs, policies, and mitigation measures of the Reuse Plan to the extent they survive the dissolution of FORA." Staff views the requests in Keep Fort Ord Wild's letter as substantive policy matters that must be addressed with the FORA Board and requests a written summary of FORA's responses to the issues raised.

The Carpenters Union Local 605 transmitted a letter to the FORA Board on April 8 (**Attachment 5**) requesting that FORA: 1) retain Transition Plan language directing FORA to record the FORA Master Resolution; 2) record the FORA Master Resolution, which includes requirements for paying prevailing wages to workers on former Fort Ord construction projects; and 3) remove language stating the draft Multi-Agency Transition Plan Implementing Agreement would supersede 2001 Implementation Agreements between FORA and its member agencies. FORA counsel confirmed recordation of the FORA Master Resolution on April 14. However, the Carpenters Union remains concerned about proposed Transition Plan

language stating that the Multi-Agency Implementing Agreement would supersede 2001 Implementation Agreements between FORA and its member agencies. As mentioned under item #2, above, it is currently unclear if the Multi-Agency TPIA will be approved. If FORA and its member agencies enter into a new agreement that replaces a previous agreement, LAFCO would need to ensure that the new agreement is honored and properly administered, in accordance with LAFCO's statutory role. The extent to which doing so could present an ongoing administrative burden, or involve LAFCO in future litigation, is unknown and is under discussion with counsel.

It is currently unclear whether and how FORA plans to address the issues raised in these recent letters. FORA is in the process of amending its adopted 2018 Transition Plan to reflect FORA's current understandings of its dissolution-related needs and goals. The FORA Board deferred action on a proposed set of Transition Plan amendments on the April 17 FORA Board agenda, and directed staff to discuss the various comments with LAFCO and others prior to the FORA Board meeting on May 14. FORA staff has indicated that the FORA Board may also consider agreements assigning FORA CEQA lead agency successors on May 14.

#### NEXT STEPS:

Given the requests and concerns expressed in the letters above, and elsewhere in this report, along with FORA postponing consideration of Transition Plan amendments until next month, staff is postponing LAFCO's public hearing on the dissolution of FORA until the June 22 regular meeting. This timing will allow FORA more time to address the identified issues and finalize documents related to its dissolution, and will afford LAFCO time to include these additional FORA actions as part of the public hearing record.

At the Commission's public hearing, staff will bring forward FORA's adopted Transition Plan as amended, along with any finalized implementing agreements, and a draft resolution making determinations on the orderly dissolution of FORA. LAFCO's oversight role of the FORA dissolution will officially end on December 31, 2020, since the FORA Act, which established LAFCO's oversight role, will be repealed on that date.

Throughout the FORA dissolution process, staff is continuing to work closely with FORA and its member agencies. Our objective is to collaborate with FORA representatives to address LAFCO and Monterey Bay community concerns and to achieve an orderly and efficient dissolution.

Respectfully Submitted,



Kate McKenna, AICP  
Executive Officer

#### Attachments:

- 1) Letter from LAFCO to FORA Board of Directors dated April 17, 2020
- 2) Letter from the Law Offices of Stamp | Erickson dated April 14, 2020 on behalf of CNPS
- 3) Letter from the Law Offices of Stamp | Erickson dated April 17, 2020 on behalf of CNPS to FORA Board of Directors
- 4) Letter from the Law Offices of Stamp | Erickson dated April 17, 2020 on behalf of Keep Fort Ord Wild to FORA Board of Directors
- 5) Letter from the Carpenters Union Local 605 dated April 8, 2020 to FORA Board of Directors

CC: Josh Metz, FORA Executive Officer  
Molly Erickson, Esq., Stamp | Erickson, Attorneys at Law  
Sean Hebard, Field Representative, Carpenters Local 605

May 1, 2020

Via email

Jane Parker, Chair  
Board of Directors  
Fort Ord Reuse Authority

Subject: Plant Reserve 1North, CNPS contracts, and proposed projects for South Boundary Road and General Jim Moore Boulevard

Dear Chair Parker and members of the FORA Board of Directors:

I represent the California Native Plant Society, Monterey Bay Chapter (CNPS) in this matter. CNPS is and has been steadfastly committed to the habitat protected by contract between CNPS, FORA and Del Rey Oaks (DRO) and also by CEQA mitigation. CNPS writes this letter to emphasize certain facts regarding the South Boundary Road widening and realignment project, the General Jim Moore project, and the proposed intersection or roundabout project at South Boundary Road and General Jim Moore Boulevard. The environmental assessment/initial study (EA/IS) certified by FORA in 2010 stated that the habitat preserve area is “adjacent to the Del Rey Oaks Resort” which was to be developed adjacent to the northern boundary of the habitat parcel. The EA/IS maps show that the proposed South Boundary Road realignment would put a wide multi-lane roadway directly through the habitat area. FORA did not consult with CNPS prior to adopting the EA/IS.

This letter focuses on the requirement that before FORA can proceed with its South Boundary Road project FORA must successfully negotiate with CNPS to agree “to relocate a currently identified habitat preserve area further south.” (2010 EA/IS, p. 3-2.) If FORA cannot renegotiate the location then FORA cannot proceed with the realignment and widening project as approved and must pursue other options. This requirement was stated in FORA’s EA/IS. This letter reaffirms that CNPS has not agreed to relocate the habitat preserve area.

Executive Summary

CNPS reaffirms its comments regarding the map presented by FORA to CNPS in December 2019. The map showed the proposed South Boundary Road project and what FORA proposed as new boundaries of Plant Reserve 1North. CNPS expressed concerns and opposition to the new boundaries at the time, CNPS has expressed them since then, and CNPS does so again in this letter.

Historic overview: the habitat reserve parcel.

In 1998 and 1999, Plant Reserve 1North was protected by an agreement between FORA, Del Rey Oaks and CNPS. The agreement was executed in 1998 and

modified by negotiated written agreement in 1999. Terms of the contract include as follows:

- The contract requires “the permanent protection” of the habitat, and that “the area will be protected from fragmentation and degradation in perpetuity.”
- The contract expressly states that “the boundaries must avoid road widening that would affect the reserve” and that “any future widening which would affect the habitat would require renegotiation of this agreement.”
- “No development would be permitted in the plant reserve.”
- The agreement specified that a buffer must ensure no impacts on the plant reserve from the future development to the north of the dirt road that is at the northern boundary of what came to be called parcel E29a.1.

The FORA-DRO-CNPS contract is based on and reinforced in part by CEQA mitigation 3 of the final EA/IS for the General Jim Moore Boulevard project, then called the North-South Road/Highway 218 Improvements Project. Mitigation 3 was amended and strengthened in direct response to CEQA comments from the CNPS in a letter dated December 4, 1998. Mitigation 3 addressed preservation of “maritime chaparral habitat, located in the vicinity of the northeast corner of North-South Road and South Boundary Road, along with an adequate buffer to assure that golf course drainage will not impinge on the habitat, shall be preserved in perpetuity as a CNPS native plant area” and that “Requirements for this mitigation area are specified as follows. The habitat area shall be protected from fragmentation and degradation in perpetuity. No spraying or irrigation drainage shall be directed toward the habitat area. No development shall be permitted in the plant reserve . . .”

In 2003, as part of the process to transfer lands, the Army released a document called Finding of Suitability for Early Transfer, called a FOSET, in draft form. FOSET-003 was finalized in July 2004. FOSET-003 transferred some Army land to FORA, including land that was intended for Del Rey Oaks. What the Army had called “parcel E29a” was a large parcel located north of South Boundary Road. FOSET-003 transferred the bulk of parcel E29a to FORA. Knowing of the FORA-DRO-CNPS agreement and the mitigation, the Army carved out from parcel E29a the habitat reserve area at the northeast corner of South Boundary Road and General Jim Moore Boulevard corner. The small parcel was named parcel E29a.1, and it was not included in the FOSET-003 transfer. FOSET-003 specifically addresses the small parcel when it describes the “habitat reserve area” that was not part of the FOSET-003 transfer. FOSET-003 directly addresses the habitat reserve area at three different pages of the FOSET-003 document, as follows:

- “Included within Parcel E29a is a 5-acre habitat reserve area that is not included in this transfer.” (FOSET-003, p. 1.)
- The large parcel E29a “includes a habitat area that is not part of the transfer.” (FOSET-003, Table 1, row 1.)
- FOSET-003 site map Plate 1 shows the E29a parcel and the carved-out smaller parcel that later came to be called E29a.1. Plate 1 places the label “habitat area” on the entire parcel E29a.1. Plate 1 is attached to this letter as Exhibit A.

A U.S. Army Corps of Engineers report dated August 2004 documents a walkabout of the “5-acre parcel known as ‘DRO Habitat Area’.” The memo attached to the report refers to the “5 acre DRO Group Habitat area” and the attached map is labeled “Habitat site walk” and has a yellow outline around the “habitat area” that was parcel E29a.1. The map also labeled the parcel on the aerial photograph as “Habitat Area.” The 2004 report is attached to this letter as Exhibit B.

The document database for the Fort Ord cleanup parcel describes parcel E29a.1 as 4.66 acres and that the “Parcel Name” is “Habitat Reserve Area.” The database is accessible online at <https://fortordcleanup.com/documents/administrative-record/>.

In 2010, FORA certified an environmental document for the South Boundary Road widening project that expressly acknowledges the fully protected status of the reserve.

In 2010 FORA prepared and certified the above-referenced EA/IS for the FORA South Boundary Road realignment and widening project. The realigned road would go directly through the protected habitat area. The EA/IS requires that FORA must “renegotiate” the location of the habitat reserve area with CNPS before FORA can proceed with the South Boundary Road project, and if FORA cannot renegotiate the location then FORA cannot proceed with the project. The EA/IS language reflects the terms in the FORA-CNPS contract that require “the permanent protection” of the habitat, that the reserve “area will be protected from fragmentation and degradation in perpetuity,” that “the boundaries must avoid road widening that would affect the reserve,” that “any future widening which would affect the habitat would require renegotiation of this agreement,” and that “No development would be permitted in the plant reserve.” The EA/IS language also reflects the adopted CEQA mitigation 3 of the General Jim Moore Boulevard project. There is no dispute that a renegotiated agreement is required before FORA can proceed with the road widening project. FORA did not consult with CNPS before FORA prepared and adopted the EA/IS.

In 2018 and 2019, FORA again confirmed the terms and intent of the FORA-DRO-CNPS contract when FORA made specific written and oral statements to the Monterey County Superior Court.

In the brief dated November 2018 that FORA filed as part of the CEQA litigation involving South Boundary Road, FORA counsel Jon Giffen and Crystal Gaudette stated the FORA position as follows:

- “The EA/IS also addresses and provides for Project impacts upon the “reserve” created by agreement between FORA and the California Native Plant Society (CNPS), generally recognizing that the proposed project alignment can only proceed if a modification to the reserve can be negotiated with CNPS.”
- The modification to the reserve and the renegotiated contract was a “mitigation.”
- “[T]he CNPS preserve must remain untouched unless the agreement regarding that preserve is successfully renegotiated.”

On February 11, 2019, FORA counsel Crystal Gaudette represented to Superior Court Judge Marla O. Anderson in open court as follows:

- The FORA EA/IS “says squarely that FORA is going to have to reach an agreement with the California Native Plant Society or – and that’s the purpose of alternative two, that if it can’t, then it [FORA] would proceed with the second alternative project analyzed under the Initial Study.”

These statements and others show the position of and understanding by FORA that a modification to the agreement must be negotiated with CNPS in order for the proposed road realignment to proceed.

In December 2019 FORA made material misrepresentations when FORA proposed a new location of Plant Reserve 1North.

FORA did not attempt to contact CNPS regarding the South Boundary Road project for many years. When CNPS learned of the FORA approvals of the South Boundary Road, the CNPS president contacted the FORA Board of Directors in writing and in person at board meetings starting in 2017. FORA did not meaningfully respond until 2019.

In a letter from FORA to CNPS dated December 2, 2019, FORA made various inaccurate and self-serving claims, including that the reserve boundaries are shown in the EA/IS figure 2-3 and EA/IS sheet C8 for the South Boundary Road realignment. (Dec. 2, 2019 ltr., p. 5.) Not so. They show the proposed boundaries, as evidenced by context and other records. Figure 2-3 and sheet C8 do not show the current boundaries. The new FORA claim is not consistent with a proposal in the same December 2, 2019 letter that shows a proposed drawing of the relocated reserve labeled “HABITAT AREA NEW PARCEL,” which states that the area would be a new



location. The new claim also is inconsistent with representations made in the EA/IS and other records that the habitat reserve is located “adjacent to the Del Rey Oaks Resort,” which means that the reserve boundaries include the northerly portion of parcel E29a.1 which is the area that is adjacent to the Del Rey Oaks resort site. If the reserve were located where FORA newly claimed in December 2019, then there would have been no need to “relocate” the reserve to the south as the 2010 EA/IS mandates. The new FORA claim also is inconsistent with the FORA-DRO-CNPS agreements, the CEQA mitigations, the written and oral representations of FORA counsel, the public records of Del Rey Oaks, FORA and the Army, and other records. Let there be no mistake: The proposal in the EA/IS was for a proposed relocation of the plant reserve. FORA sought a relocation in order to allow FORA to construct the FORA-preferred road widening and realignment. The proposed relocated boundaries were not discussed with CNPS at the time of the EA/IS and were not presented and agreed to by CNPS then or at any point since then. To the contrary, CNPS has repeatedly expressed its opposition to the proposed “relocated” boundaries and has expressed its opposition in writing and in meetings with FORA and DRO officials.

To make matters worse, FORA recently has demonstrated that the South Boundary Road project construction would have significant biological impacts even if the reserve were to be “relocated” as FORA has proposed. The map at page 6 of the FORA letter dated December 2, 2019 shows a proposal for a relocated reserve labeled “HABITAT AREA NEW PARCEL” that FORA claims would be 2.25 acres. (The pages of the FORA letter are not numbered; the map is the penultimate page of the letter proper. The map is attached to this letter as Exhibit C.) The map shows a “HABITAT AREA NEW PARCEL” with red diagonal lines. The map shows two overlays on the red area: a construction work impact area of 11,588 square feet in blue overlay and a grading impact area of 12,224 square feet in green overlay. The construction impacts in blue and the grading impacts in green would directly affect at least 0.55 acres, according to the FORA information, including the habitat and the rare and protected species known to occur in the blue and green areas.

CNPS has not agreed to a “relocation” of Plant Reserve 1North.

CNPS has not and does not agree to a relocation of the reserve as proposed by the “new parcel” boundaries presented by FORA. In the spirit of cooperation, CNPS has explained its concerns on the matter, and again here CNPS states that its reasons include and are not limited to the following.

- Relocating the reserve would be inconsistent with the FORA-DRO-CNPS contract terms and the General Jim Moore Boulevard project mitigation 3 requirements for “permanent” protection, that “The habitat area shall be protected from fragmentation and degradation in perpetuity,” and that “No development shall be permitted in the plant reserve.”

- The proposed size of 2.25 acres is a materially smaller area than the historic maps and references by the Army, Del Rey Oaks and FORA to the habitat area/reserve. The historic records discussing the habitat area refer to an area that is larger than 2.25 acres. The actual size of the proposed reserve would be at most 1.7 acres, rather than 2.25 acres, as explained below.
- At least a quarter of what FORA has proposed as the “new parcel” would be irreparably harmed by the project. FORA has admitted there would be development in the reserve; construction and grading are development. FORA says there would be construction impacts and grading impacts in and on at least 0.55 acres of the proposed 2.25 acre reserve. That would reduce the habitat reserve to 1.7 acres at most, due to the unlikely assumption that the remaining area would be unharmed by the project grading, construction, and operation. A 1.7 acre reserve is not consistent with the specific language of the 1998 and 1999 agreements and of CEQA mitigation 3 for the General Jim Moore project. The agreement and mitigation specified that the reserve would be at least 2.0 acres that would be “permanently protected and “protected from fragmentation and degradation in perpetuity” and that “no development would be permitted in the plant reserve.”
- The proposed smaller size and proposed relocated boundaries would violate the contract term in which FORA committed to “No further fragmentation and degradation in perpetuity” of the reserve. The FORA proposal would cause further fragmentation of the reserve, including the reduction in the total area of the habitat and the decrease of the interior:edge ratio.
- CNPS officials in their expert opinions have stated that:
  - The habitat area is unique for many reasons including slope, soils, orientation, proximate habitat and plants, wildlife, wind direction, and other reasons that biologists do not fully understand. The habitat is found in that particular location for particular reasons. A habitat area cannot be “relocated” like a house or a road. Planting rare native plants never has results as successful as when the native plants grow naturally of their own accord.
  - The proposed construction impacts and grading impacts would have significant and permanent harmful impacts on the plant reserve, even if CNPS were to agree to the proposed relocated area, which CNPS does not. These and other project impacts would degrade and fragment the habitat.

- The proposed project construction and grading would cause significant and permanent impacts of removing an existing knoll at the center of the undeveloped habitat reserve parcel and thus changing the habitat integrity forever. The proposal would require a large amount of grading and cuts that would not be replaced with the same soil, slope and orientation as currently exists.
- The December 2, 2019 proposal shows materially different and potentially misleading topography from previous plans of the parcel which show two knolls and other topography relevant to the habitat. (E.g., EA/IS sheet C8.) This is a serious omission.
- The FORA development proposals have failed to understand the topography and the extent of the potential and likely impacts to the habitat as a result of the proposed grading and other construction impacts.
- The realignment project would destroy the known species of Monterey spineflower and California Endangered Seaside bird's beak at the site. The impacts to sandmat manzanita, coast live oak and other plants typical of uncommon Maritime Chaparral habitat also would be severe. In particular, Seaside bird's beak is a hemi-parasitic plant that taps other plants for nutrients in ways that are poorly understood. These inter-plant relationships are extremely difficult to recreate.
- The proposed relocation of the reserve would cause significant and harmful impacts and changes to the drainage, forestation, and undergrowth of the habitat area.
- The proposed large amount of grading would cause significant and harmful impacts. The removal of native soils damages the soil structure and soil biology, specifically the mycorrhizal relationships between soil fungi and native plant species, particularly manzanitas, which rely on mycorrhizae to augment water and nutrient uptake. Several species of manzanitas occur in the protected habitat in Plant Reserve 1North. Replacement of the soil is not adequate mitigation to restore soil biology.
- The FORA-DRO-CNPS contract requires a buffer zone to avoid impacts on the habitat of the adjacent development to the north, proposed in the past as a resort and golf course. No such buffer has been proposed for the South Boundary Road widening and realignment project, even though the road project would be adjacent to the reserve as proposed, and it is foreseeable that the construction, development, pesticides, herbicides, rodenticides,

vehicular traffic emissions and dust, and other impacts would cause significant adverse harm to the habitat area.

- A “relocation” of the reserve as proposed by FORA would require FORA and Del Rey Oaks to approve a renegotiated contract and, in CNPS officials’ opinion, the FORA proposals for relocation of the existing protected habitat would have significant and unmitigated biological impacts, for all the reasons stated above. Thus, any approval by FORA and Del Rey Oaks of a modified contract would require a prior environmental document under CEQA detailing the impacts of the new smaller and different site boundaries, and mitigating the impacts, along with other CEQA issues. This analysis and mitigation was not part of the 2010 EA/IS.

CNPS urges FORA and Del Rey Oaks to consider a project that realigns South Boundary Road to the north, either along or north of the existing dirt road that runs along the approximate northern boundary of parcel E29a.1. A northerly realignment is feasible, it could be successful in avoiding impacts to the protected habitat to the south of the dirt road, and it could be consistent with the language and intent of the FORA-DRO-CNPS contracts.

#### Summary.

CNPS emphasizes that CNPS has not agreed to a modification to the reserve, that no agreement with FORA has been reached regarding any “relocation” of the reserve, and that FORA’s proposals to date are inconsistent with the purposes of the reserve, the binding agreements and the CEQA mitigations. FORA cannot deliver an approved South Boundary Road project to Del Rey Oaks. Even if CNPS were to agree to a boundary modification, which CNPS has not agreed to, approval of any such modification would be a discretionary act by FORA and Del Rey Oaks and thus would require prior compliance with CEQA to investigate, disclose, analyze and mitigate the significant and potentially significant environmental impacts of the boundary change.

#### Offer to meet.

CNPS offers to meet with you with the goal of resolving this matter. FORA controls the schedule. CNPS does not control the schedule. If you would like to meet, please contact me at [erickson@stamlaw.us](mailto:erickson@stamlaw.us).

#### Request.

CNPS asks FORA to rescind its approvals of the EA/IS and the South Boundary Road project. If in the future an agency wants to pursue an alternative road project, that agency would be the project proponent and as should comply with CEQA and all contracts with CNPS. CNPS asks for the courtesy of a written response.

Thank you.

Sincerely,

STAMP | ERICKSON

*/s/ Molly Erickson*

Molly Erickson

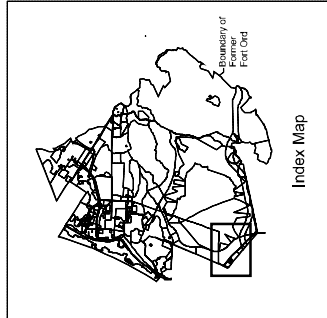
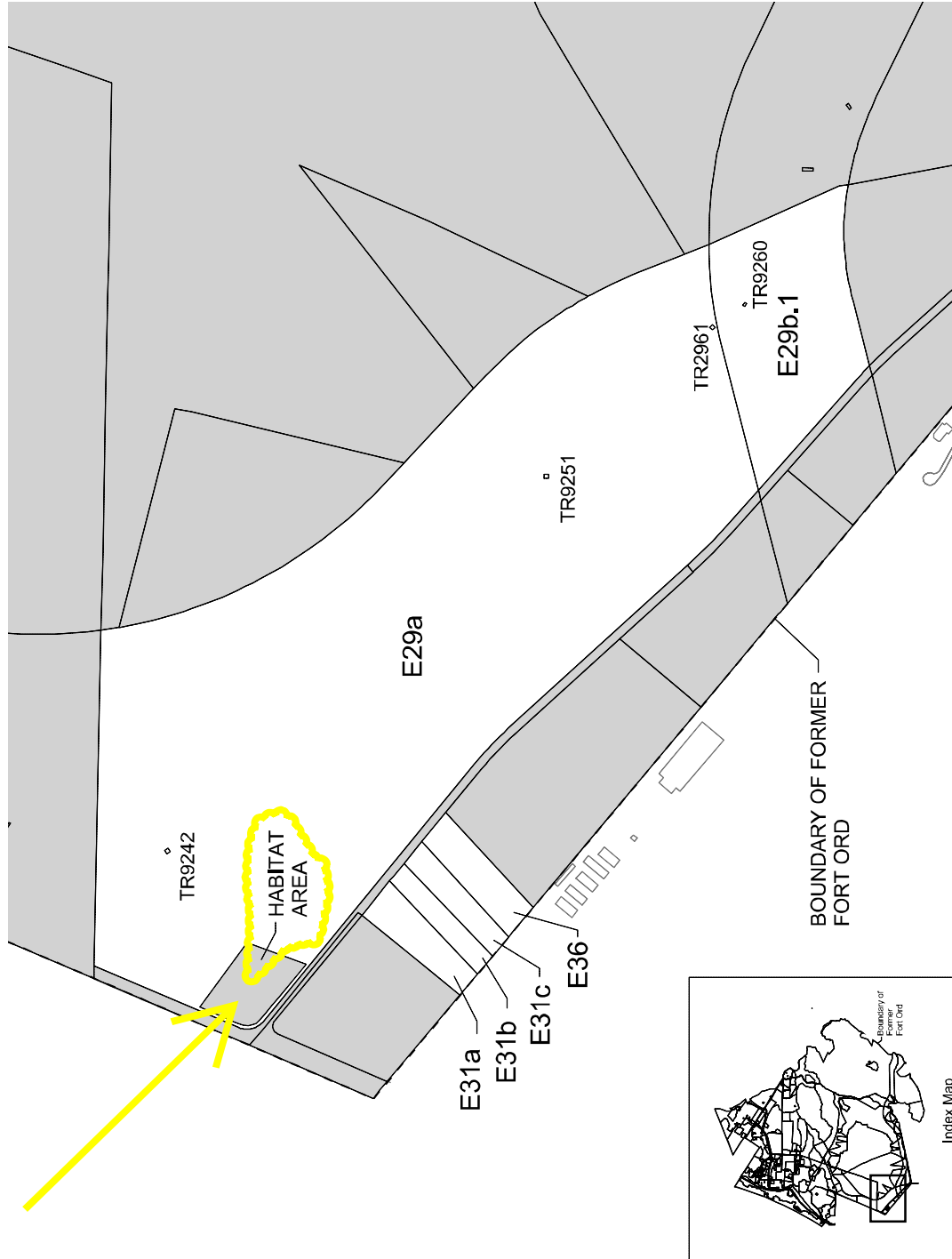
Attachments: Exhibits A, B and C, as described above, highlighted in pertinent parts

cc: Mayor Kerr and members of the city council, Del Rey Oaks  
Kate McKenna, Executive Officer, LAFCO of Monterey County  
Debbie Hale, Executive Director, Transportation Agency of Monterey County

# Exhibit A to May 1, 2020 letter

## EXPLANATION

-  Transfer Parcel with Number
-  Not Part of this Transfer
-  Building with ID Number



**Location Map**  
 Del Rey Oaks FOSET  
 Former Fort Ord  
 Monterey, California  
 DRAWN: JCF  
 CHECKED: JCF  
 DATE: 10/00  
 REVISED DATE: 6/03  
 PLATE: **1**



Parcel Boundaries shown are approximate and are not intended to represent a legal description of the property



**DEPARTMENT OF THE ARMY**  
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO  
CORPS OF ENGINEERS  
1325 J STREET  
SACRAMENTO, CALIFORNIA 95814-2922

REPLY TO  
ATTENTION OF:

AUG 03 2004

CESPK-PM

MEMORANDUM FOR Ms. Gail Youngblood, Fort Ord Office, Army Base Realignment and Closure,  
Monterey, CA 93944

SUBJECT: **Del Rey Oaks 5-acre Parcel Walkabout**

1. REFERENCES:

- a. U.S. Army Corps of Engineers (USACE), Sacramento District, 2001. Site Del Rey Oaks Group After Action Report Geophysical Sampling, Investigation and Removal, Former Fort Ord, Monterey, California. Final. Prepared by USA Environmental, Inc., April.
- b. U.S. Army Corps of Engineers (USACE), 2000. Unexploded Ordnance (UXO) Support During Hazardous, Toxic, and Radioactive Waste (HTRW) and Construction Activities. EP 75-1-2. Prepared by U.S. Army Engineering and Support Center, Huntsville, November.
- c. Parsons, 2004. Del Rey Oaks Walk about Memorandum for Record. August.

2. At the request of the US Army Corps of Engineers, Sacramento District, Parsons conducted a "walkabout – A Schonstedt assisted visual reconnaissance" over a **5-acre parcel known as "DRO Habitat Area"** on 7 June 2004. The walkabout was limited to accessible areas only (**attached map**). Additional details can be found on attached letter from Parsons, 3 August 2004. The area is contained within the Impact Area which was previously used for ordnance training operations. During the walkabout no military munitions (MM) or debris (MD) were found. As result, under EP-75-1-2, the subject area can be categorized as a low probability area to encounter Unexploded Ordnance (UXO). EP-75-1-2 requires the following: (1) a UXO team consisting of a minimum of two qualified UXO personnel (one UXO Technician III and one UXO Technician II) to support construction activities including oversight and monitoring, (2) OE recognition training for all construction workers performing ground disturbing activities, and (3) on-site UXO safety briefings prior to initiation of any ground disturbing activities. The U.S. Army should make necessary arrangements for disposal of any ordnance found in the subject area.

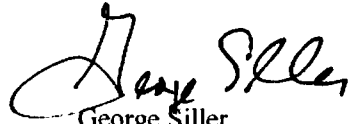
**Exhibit B to May 1, 2020 letter  
p. 2 of 4**

CESPK-PM

SUBJECT: Del Rey Oaks 5-acre Parcel Walkabout

3. The U.S. Army should evaluate ground disturbing activities performed at the subject site after work is completed to determine if additional ordnance safety measures are required.

4. If you have any questions, please contact Mr. Juan Koponen, Project Manager, at (831) 884-9925 ext. 233 or Mr. Clinton Huckins at (831) 884-9925 ext 226.



George Siller  
Program Manager  
U.S. Army Corps of Engineers,  
Sacramento District

CC (w/encls):

PM-M (George Siller) (Juan Koponen)

CO-Monterey (Clinton Huckins)



# PARSONS

Building 4522 - 8th Avenue & Joe Lloyd Way • Ord Military Community, CA 93944

3 August 2004

## MEMORANDUM FOR RECORD, Revised

A site walkabout was performed in accessible areas of the 5 acre DRO Group Habitat area on June 7<sup>th</sup>, 2004. Areas under accessible tree canopies and small pathways with low to moderate growth vegetation were investigated.

The personnel conducting the site walkabout consisted of two UXO QC personnel, one swept accessible areas with a Schonstedt GA52Cx flux-gate magnetometer and the second person carried a Leica Global Positioning System which documented the path walked and checked with the Schonstedt magnetometer. All 12 anomalies encountered were investigated and determined to be Range Related Debris (RRD) consisting of c-ration cans, wire, and assorted miscellaneous scrap. No Military Munitions (MM) or Munitions Debris (MD) were encountered.

As illustrated on the attached site walkabout map, access was restricted due to extremely dense vegetation.

The table shown below lists the MM/MD items that were encountered outside the 5 acre Habitat parcel during prior DRO Group Military Munitions removal action conducted in CY 2000.

OE Type	QTY	Depth	Weight	Nomenclature	Condition	RIA Code	GRID
MD	1	1	0	Rocket, 2.36inch, practice, M7	Expended	0	33 E
MD	0	0	1	FRAGMENTS, UNKNOWN	Expended	0	33 I
MD	0	0	1	FRAGMENT, UNKNOWN	Expended	0	35 I
UXO	1	4	0	Grenade, hand, smoke, M18 series	UXO	1	40 G

The US Army Corps of Engineers requires that construction support be provided on sites where the probability of encountering UXO is low. These requirements are established in EP 75-1-2, Unexploded Ordnance (UXO) Toxic, and Radioactive Waste (HTRW) and Construction Activities, 20 November 2000.

Based on information from previous removal actions in the surrounding area, the level of construction support should include the following: (1) UXO safety support during construction activities including oversight and monitoring, (2) OE recognition training, and (3) on-site UXO safety briefings prior to initiation of any on-site intrusive activities.

Any questions regarding this site walkabout can be addressed by contacting Mike Coon (831) 884-2306 or Andreas Kothleitner (831) 884-2313.

Regards,

Gary Griffith

Exhibit B to May 1, 2020 letter  
p. 4 of 4







**UNITED BROTHERHOOD OF CARPENTERS AND JOINERS**  
**OF AMERICA**

910 2nd Avenue • Marina, CA 93933 • (831) 883-1931 • FAX (831) 883-1902

April 8, 2020

Board Chair Jane Parker and Board Members  
 Fort Ord Reuse Authority  
 920 2<sup>nd</sup> Avenue  
 Marina, CA 93933

**Re: Fort Ord Reuse Authority Transition Plan and Recordation of the Master Resolution**

Dear FORA Chair Parker and Board Members,

On behalf of Carpenters Locals 605, I am writing to comment on the Fort Ord Reuse Authority (FORA) Transition Plan, specifically concerning the need to clarify and maintain the community benefit standards enshrined in the FORA Master Resolution. This letter follows on public comments made by Carpenters Local 605 officer Tony Uzzle at the FORA Board meeting on March 12, 2020.

First, we wish to thank the Board of Directors for reaffirming FORA’s commitment to the maintenance and enforcement of the Master Resolution at its March 12<sup>th</sup> meeting. We appreciate that the proposed Transition Plan that will be presented at the April 9<sup>th</sup> meeting reflects the will of the Board on this matter.<sup>i</sup>

Local 605 is also appreciative of the efforts by the Authority Counsel to have the Master Resolution recorded at the County Recorder’s Office.<sup>ii</sup> To the extent possible in these challenging times, we respectfully urge the Board to take all steps necessary to record the Master Resolution as soon as practicable. Given past instances of prevailing wage and labor compliance issues on Fort Ord projects, every effort should be made to underscore and clarify the existing obligations that apply to Fort Ord development, in order to support the local construction industry, avoid ambiguity, and forestall potential legal challenges which would be to the detriment of the Monterey Bay community.

As you are aware, the California Legislature created the Fort Ord Reuse Authority in 1994 to oversee the reuse and development of the decommissioned Fort Ord military base and tasked FORA with ensuring that development at Fort Ord would benefit the Monterey Bay community. Toward this end, FORA adopted a Master Resolution that includes commitments to build affordable housing, protect the environment, and pay prevailing wages to workers on First Generation Construction.

FORA included the prevailing wage policy in the Master Resolution in order to provide economic opportunity for local laborers and contractors.<sup>iii</sup> The prevailing wage policy (as well as the other policies in the Master Resolution) also reflected the desire of federal legislators to use base redevelopment to generate jobs for the regional economy, help address homelessness in the region, and promote environmental restoration and mitigation.<sup>iv</sup>

The requirements in the FORA Master Resolution were incorporated into the Implementation Agreements executed between FORA and the local jurisdictions/agencies and recorded as deed covenants at the time of transfer.<sup>v</sup> **As courts have noted, the responsibility to comply with the Master Resolution carries over to new owners.**<sup>vi</sup>

Although the Fort Ord Reuse Authority is due to sunset on June 30, 2020, the obligations under the deed covenants and Implementation Agreements do not. Therefore, in 2018, the Board of Directors enacted a Transition Plan that directed staff to record the Master Resolution in its entirety prior to FORA's sunset, should the local jurisdictions fail to take all necessary legal steps to adopt these policies.<sup>vii</sup> As the Board has noted, recording the Master Resolution does not create new obligations but rather is intended to make a clear record of ones that already exist.<sup>viii</sup> In addition, as indicated in a recent report presented to the Local Agency Formation Committee of the County of Monterey, failure to record the Master Resolution would likely result in litigation that would delay or even halt the development of decommissioned land.<sup>ix</sup>

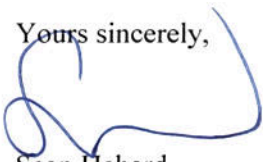
Unfortunately, in early March 2020, FORA staff recommended that the Board reverse its decision to record the Master Resolution.<sup>x</sup> This is extremely alarming. Local 605 is concerned that staff urged the Board to take the drastic step of rescinding the Master Resolution as a result of pressure from developers who are looking for a way to get around commitments attached to the redevelopment of Fort Ord land. Such efforts should be roundly and publicly rejected.

In addition, a Transition Plan Implementation Agreement (TPIA) will be presented to the Board and local agencies and jurisdictions for adoption prior to June 30, 2020. The latest publicly available draft TPIA states that it will supersede the Implementation Agreements referenced in the quitclaim deeds transferring former base lands to local jurisdictions and agencies.<sup>xi</sup> The draft TPIA makes no mention of the obligations contained in the original Implementation Agreements. This is additionally very concerning.

**We strongly urge the Board to expedite recording the Master Resolution and add a clear provision in the TPIA that reaffirms the obligations the local jurisdictions and agencies undertook when they were given former Fort Ord land.**

If you would like to discuss our comments further, please do not hesitate to contact me by phone: (408) 472-5802 or email at shebard@nccrc.org.

Yours sincerely,



Sean Hebard  
Field Representative  
Carpenters Local 605

**Sent by Email and by Post**

cc: FORA Ex-Officio Officers  
FORA Executive Officer Josh Metz  
FORA Deputy Clerk Natalie Van Fleet  
AICP Executive Officer Kate McKenna

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<sup>i</sup> Board Packet, Fort Ord Reuse Authority Board of Directors Meeting, April 9, 2020, p. 132.

<sup>ii</sup> Board Packet, Fort Ord Reuse Authority Board of Directors Meeting, April 9, 2020, p. 17.

<sup>iii</sup> Fort Ord Reuse Authority Prevailing Wage Program, accessed March 2, 2020.

<sup>iv</sup> National Defense Authorization Act for Fiscal Year 1994 (amended);  
Defense Base Closure and Realignment Act of 1990

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Section 2905 (4)(A) 1990 Base Closure Act, as amended by Section 2821 of the Defense Authorization Act for Fiscal Year 2000, Pub. L. 106-65 (1999), Section 2905 1 (A) (C)

<sup>v</sup> E.g., Quitclaim Deed for Parcels E 15.1, L 19.2, L 19.3, L 19.4 on the Former Fort Ord, Monterey, California, # 2005108853, p.16; Implementation Agreement Between Fort Ord Reuse Authority and the City of Seaside, entered into on May 31, 2001, ps 3 an 4 and Exhibit F, p. 19 and 20.

<sup>vi</sup> *Monterey/Santa Cruz County Bldg. and Construction Trades Council v. Cypress Marina Heights LP*, Judgement, California Sixth Appellate District Court of Appeal, H034143, January 10, 2011

<sup>vii</sup> Fort Ord Reuse Resolution No. 18-11, adopted by the Fort Ord Reuse Authority Board of Directors on December 19, 2018.

<sup>viii</sup> Fort Ord Reuse Resolution No. 18-11, adopted by the Fort Ord Reuse Authority Board of Directors on December 19, 2018.

<sup>ix</sup> Item 13, August 27, 2018, Memo from AICP EO Kate McKenna to Board and Commissioners, LAFCO of the County of Monterey, p.2.

<sup>x</sup> Board Packet, Fort Ord Reuse Authority Board of Directors Meeting, March 12, 2020, ps. 41 and 51

<sup>xi</sup> Committee Packet, Fort Ord Reuse Authority Administrative Committee Meeting, March 4, 2020, p.3 and 7-17.

April 17, 2020

Via email

Jane Parker, Chair  
Board of Directors  
Fort Ord Reuse Authority

Subject: Agenda item 6c; Keep Fort Ord Wild objections to new draft transition plan and failure by FORA to adequately consider mitigations, CEQA, and due process

Dear Chair Parker and members of the FORA Board of Directors:

This office represents Keep Fort Ord Wild, which reiterates each and every of its objections and reminds you of KFOR's past comments provided to FORA on the FORA actions with regard to the Reuse Plan, the Reuse Plan EIR, CEQA mitigations, and consistency determinations, including but not limited to the KFOR letters and evidence submitted to FORA on November 8, 2018, October 29, 2018, September 28, 2018, March 9, 2018, December 7, 2017, April 7, 2017, December 22, 2016, July 1, 2016, February 13, 2014, March 6, 2013, and March 12, 2013.

Objections to transition plan

CEQA requires implementation of the Reuse Plan programs, policies and mitigations, and FORA has not taken steps to ensure that implementation. These are "remaining obligations" of FORA that FORA is required to assign and has not assigned. Abandonment of the many approved Reuse Plan programs, policies and mitigations is a project subject to CEQA. For each and every of the reasons described in KFOR letters and the concerns stated by others, the proposed transition plan would result in direct or indirect physical changes in the environment, and the plan does not fit within any CEQA exemption.

As FORA senior staff has stated, FORA was created because of the parochial views of disparate communities, each of which considered its own concerns in a vacuum. Sadly, the FORA board members have continued that behavior – each jurisdiction considers its own concerns in a parochial manner, which has led to many of FORA's failures.

The transition plan should unambiguously state the status of the Reuse Plan going forward after FORA sunsets, and identify the agency(ies) that will be responsible for enforcing the Reuse Plan and its programs, policies, and CEQA mitigations, after FORA sunsets. These are existing powers of FORA that FORA has not identified and assigned.

Examples of Reuse Plan mitigations, programs and policies that land use jurisdictions have not adopted as required.

The city and county plans do not reflect the mitigations and policies required by the Reuse Plan, the Master Resolution, and CEQA. The problem stems from FORA's fundamental failure to implement the Reuse Plan policies and CEQA mitigations and FORA's failure to follow its own Master Resolution. FORA's actions on consistency determinations cannot be relied on because the FORA actions have violated the FORA Master Resolution requirement that states as follows: "Prior to approving any development entitlements, each land use agency shall act to protect natural resources and open spaces on Fort Ord Territory by including the open space and conservation policies and programs of the Reuse Plan, applicable to the land use agency, into their respective general, area, and specific plans." The land use agencies have not adopted the applicable open space and conservation policies into their respective plans, and the FORA acts as to consistency have been improper and inconsistent with the FORA Master Resolution.

The cities of Seaside and Del Rey Oaks have not substantially adopted or incorporated verbatim all applicable requirements of the Reuse Plan into their own general plan and zoning codes. To the contrary, Seaside has not adopted many of the required Reuse Plan policies and CEQA mitigations, as shown in the Reassessment Report and in comments to FORA, and Del Rey Oaks also has failed, as shown in the FORA records.

The oak woodlands mitigation still has not been implemented. The County and Seaside have not adopted the mitigation into their plans applicable to Fort Ord. If the Reuse Plan goes away, it is foreseeable that the County and Seaside will abandon any pretense and implementing the mitigation.

The cities of Del Rey Oaks and Monterey have not adopted the following requirements as stated in the Reuse Plan EIR documents and that are applicable to the land designated to those cities:

Page 4-202. Amend Program A-8.2 to read as follows: "The County shall require installation of appropriate firebreaks and barriers sufficient to prevent unauthorized vehicle access along the border of Polygon 31a and 31b. A fuel break maintaining the existing tree canopy (i.e., shaded fuel break) shall be located within a five acre primary buffer zone on the western edge of Polygon 31b. No buildings or roadways will be allowed in this buffer zone with the exception of picnic areas, trailheads, interpretive signs, drainage facilities, and park district parking. Firebreaks should be designed to protect structures in Polygon 31b from potential wildfires in Polygon 31a. Barriers shall ~~should~~ be designed to prohibit unauthorized access into Polygon 31a." [341-34]

Page 4-204. Amend Program C-2.1 to read as follows:



"Program C-2.2: The County shall ~~encourage~~ cluster ~~ing-of~~ development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas." [328-2]

Page 4-134. Amend Biological Resources Program A-8.1 to read as follows:

"The County shall prohibit development in Polygons 31b, 29a, 29b, 29c, 29d, 29e and 25 from discharging storm water or other water into the ephemeral drainage that feeds into the Frog Pond." [341-24]

Page 4-134. Amend Program A-8.2 to read as follows:

"The County shall ... along the border of Polygons 31a and 31b. A fuel break maintaining the existing tree canopy (i.e. shaded fuel break) shall be located within a five acre primary buffer zone on the western edge of Polygon 31b. No buildings or roadways will be allowed in this buffer zone with the exception of picnic areas, trailheads, interpretive signs, drainage facilities, and park district parking. Firebreaks should be designed to protect structures in Polygon 31b from potential wildfires in Polygon 31a. Barriers shall ~~should~~ be designed to prohibit unauthorized access into Polygon 31a." [341-34]

Page 4-135. Add the following mitigation measure to impact #1.

"Mitigation: Because of the unique character of Fort Ord flora, the County shall use native plants from on-site stock shall be used in all landscaping except for turf areas. This is especially important with popular cultivars such as manzanita and ceanothus that could hybridize with the rare natives. All cultivars shall be obtained from stock originating on Fort Ord". [298-3]

The County and Del Rey Oaks (which took some land that had been designated for the County) have not adopted the following programs and policies applicable to the land in their respective jurisdictions, and Del Rey Oaks has approved large projects (e.g., the resort, the RV park) and has not applied these required mitigations to them:

Program C-2.1: The County shall ~~encourage~~ clustering of development wherever possible so that contiguous stands of oak trees can be maintained in the non-developed natural land areas.

Program C-2.2: The County shall apply ~~certain~~ restrictions for the preservation of oak and other protected trees in accordance with Chapter 16.60 of Title 16 of the Monterey County Code (Ordinance 3420). Except as follows: No oak or madrone trees removed [sic]

Program C-2.3: The County shall require the use of oaks and other native plant species for project landscaping. To that end, the County shall ~~collection and propagation of~~ acorns and other plant material from former Fort Ord oak woodlands to be used for restoration areas or as landscape material.

Program C-2.5: The County shall require that paving within the dripline of preserved oak trees be avoided wherever possible. To minimize paving impacts, the surfaces around tree trunks shall ~~should~~ be mulched, paving materials shall ~~should~~ be used that are permeable to water, aeration vents shall ~~should~~ be installed in impervious pavement, and root zone excavation shall ~~should~~ be avoided. [328-2]

Impact 1 addressed the FORA Reuse Plan project's vast impacts on biological resources.

1. Impact: Loss of Sensitive Species and Habitats Addressed in the Habitat Management Plan (HMP)

The proposed project would result in the loss of up to approximately 2,333 acres of maritime chaparral, zero acres of native coastal strand, two acres of dune scrub, and the potential loss of special-status species associated with these habitats.

Comment letter 298 from the Sierra Club included this comment:

“Because of the unique character of flora of Fort Ord as well as the need to conserve water, native plants from on-site stock should be used in exterior landscaping, and cultivars or manzanita and ceanothus that could hybridize with the rare natives must not be planted. Any annual wildflower plantings should be from seeds collected on site. not from commercial wildflower mixes. Bermuda. Kikuyu. and Ehrhiana grasses must not be used.”

In response, the Final EIR made the following change to the Reuse Plan:

Final EIR Page 4-135. Add the following mitigation measure to impact #1.

"Mitigation: Because of the unique character of Fort Ord flora, the County shall use native plants from on-site stock shall be used in all landscaping except for turf areas. This is especially important with popular cultivars such as manzanita and ceanothus that could hybridize with the rare natives. All cultivars shall be obtained from stock originating on Fort Ord". [298-3]

The cities and county have not adopted this mitigation measure as required, and FORA has not required its implementation. There are many other examples of similar omissions and failures with regard to the Reuse Plan and its EIR requirements.

KFOW reminds you of the FORA Board meeting agenda and packet for November 2016 regarding the Del Rey Oaks RV Park resort. The Board packet and staff report did not discuss the fact that the Reuse Plan includes mitigations with which Del Rey Oaks must comply. Instead, Del Rey Oaks and FORA call the Reuse Plan a "framework for development". In other words, the actions of Del Rey Oaks and FORA show that they want Del Rey Oaks to have only the benefit, rather than also shoulder the accompanying burden of the required mitigations. In fact, Del Rey Oaks has not complied with the Reuse Plan policies applicable to the land it has received or will receive. The jurisdictions' general plans applicable to the territory of Fort Ord are intended to be fully in conformity with the Reuse Plan. Instead, FORA has a pattern and practice of applying a much lower and incorrect standard of substantial evidence. FORA also has a pattern and practice of failing to require the county and cities to timely implement their zoning and other implementing actions.

A CEQA determination is required before acting on the transition plan.

As stated in the KFOW letter to FORA dated November 8, 2018, FORA cannot proceed with action on the transition plan until FORA first makes a CEQA determination. There is no CEQA action stated on the agenda today. The Board cannot find that the action is exempt from CEQA because there is no evidence that FORA provided the public notice required by Master Resolution section 8.03.060, "PUBLIC NOTICE OF ENVIRONMENTAL DECISION":

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

The Master Resolution controls here, because it states that “Where conflicts exist between this Article [Master Resolution] and State [CEQA] Guidelines, the State Guidelines shall prevail except where this Article is more restrictive.” Absent proper notice under the Master Resolution, FORA cannot even proceed with a first vote.

The Fort Ord Reuse Plan is the plan for the future use of Fort Ord adopted pursuant to Section 67675. That future use will continue after FORA sunsets. The plan programs, policies and mitigations are still viable, to a significant extent. The Reuse Plan is the official local plan for the reuse of the base for all public purposes, including all discussions with the Army and other federal agencies, and for purposes of planning, design, and funding by all state agencies. FORA should not abandon the Reuse Plan when FORA sunsets, as the FORA transition plan appears to propose. The approach that FORA proposes is illegal and fraught with foreseeable problems. FORA has admitted that many of the policies and mitigations have not yet been adopted and implemented. It is, as the Legislature directed, the plan for the reuse of Fort Ord. Thus, FORA should ensure that the Reuse Plan and its EIR are binding on all Fort Ord land, and FORA should assign to each land use jurisdiction all applicable programs, policies and mitigations, with specificity, and the land use jurisdiction must accept all of the assignments. The public should be able to review and comment on the proposed specific assignments because the public can then assist FORA by providing comments as to accidental omissions, accidental inclusions, misstatements and other errors. The process is already filled with errors, as shown by the Reassessment Report. Most of those errors have not been corrected. That is the only that the mission can continue – the reuse of Fort Ord in compliance with the mandated Reuse Plan and its adopted CEQA review. FORA has failed to carry out and complete that mission. That is not a reason to abandon the mission now. But that is what FORA’s transition plan proposes. FORA has not proposed to ensure that the Reuse Plan stay in effect after FORA transitions. FORA has not proposed to ensure that the Reuse Plan would be effectively enforced by any particular entity. FORA still has not identified with specificity what is considers a “mitigation” and how it would be enforceable in FORA’s absence. This is a critical issue because of the multiple and inconsistent ways that FORA uses the word “mitigation.”

KFOW and others repeatedly have challenged the FORA notion that the FORA CIP is a Reuse Plan requirement that must be implemented and developed. Instead, they are projects and costs that FORA voluntarily took on, and which FORA is not required to complete or pay for. One example is the South Boundary Road project that is not in the Reuse Plan or the EIR. Rather, FORA proposed a South Boundary Road project approximately ten years after the Reuse Plan was adopted. The circumstances are that Fort Ord development is far behind what was expected in 1997 Reuse Plan. The development that has occurred has gone in a different direction, and the economy and circumstances have materially changed, and even more so now there have been and will be changes of untold magnitude and type due to the coronavirus pandemic. Thus, the big public works projects that FORA has claimed are “necessary” are neither necessary nor wise. It remains unclear what FORA means by “mitigations”. It is not

defined and the jurisdictions and FORA have many different and inconsistent uses and interpretations of the word “mitigations.” Most of the Reuse Plan/EIR mitigations are not capital improvements.

The draft plan fails to address numerous foreseeable situations. For example, a land use jurisdiction that has not adopted a Reuse Plan EIR mitigation, or has not adopted a Reuse Plan policy or program, could and foreseeably would continue not to adopt the mitigation, policy or program. The question remains whether that is an action subject to CEQA if the Reuse Plan has been allowed to go away. If a land use jurisdiction considers a project on Fort Ord that would have been subject to the mitigation, policy or program, but is not subject to it because the jurisdiction failed to adopt it, there is a significant question as to what remedies are available to the other jurisdictions and KFOW if the Reuse Plan is no longer in place.

The whole of the action includes FORA’s abandonment of the Reuse Plan policies and procedures and the EIR mitigations, and the enforcement and implementation thereof. Viewed from that perspective, FORA, once dissolved, will never again be able to protect the environment through its adopted programs, policies and mitigations that were designed to protect the environment. And FORA proposes no other entity to take over those roles. That is a change to the existing baseline and that would affect the environment.

Inadequate notice.

FORA cannot proceed with action on the transition plan until FORA first makes a CEQA determination. The Board cannot find that the action is exempt from CEQA because there is no evidence that FORA provided the public notice required by Master Resolution section 8.03.060, “PUBLIC NOTICE OF ENVIRONMENTAL DECISION”:

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

Please provide to me as soon as possible the evidence that FORA provided this prior notice. The Master Resolution controls here, because it states that “Where conflicts exist between this Article [Master Resolution] and State [CEQA] Guidelines, the State Guidelines shall prevail except where this Article is more restrictive.” Absent proper notice under the Master Resolution, FORA cannot even proceed with a first vote on this item, because the first vote would be invalid and void. FORA has not responded to this request that I made on October 29, and I ask it again here.

Proposed resolution is subject to second vote requirement.

Master Resolution section 2.02.040(b) states that “A resolution, ordinance, or other action of the Board will not be approved or adopted sooner than 72 hours after its introduction, unless approved by unanimous vote of all members present at the time of consideration.” This requirement applies to the action on the transition plan, which is the first time the board will vote on this version of the plan, and this version was introduced less than 72 hours before the Board meeting. These are important rules adopted in the interest of fair public process and justice. Before you act today, each of you should consider that “The provisions of this Master Resolution and all proceedings under this Master Resolution are to be construed so as to give effect to the objectives of the Authority Act, this Master Resolution, and the promotion of justice” (Master Resolution, § 1.01.100(f)) and “This chapter contains the minimum requirements of the protection of the public convenience, safety, health, and general welfare” (Master Resolution, § 1.01.100(a)).

Offer to meet.

As KFOR has offered numerous times in the past, KFOR again offers to meet with you to discuss these issues in the hope of a resolution before FORA acts. You, the FORA Board members, control the schedule. KFOR does not. KFOR urges you to carefully consider all of the information provided before you vote on the CEQA determination and the transition plan.

Summary.

For each of the concerns and issues identified here, in the public process, and in FORA’s records, KFOR urges that you consider all of these issues carefully before you act to adopt any transition plan. The plan is not exempt from CEQA and the newly proposed draft plan would have unanalyzed and unmitigated impacts and unintended consequences. Thank you.

Very truly yours,

STAMP | ERICKSON

*/s/ Molly Erickson*

Molly Erickson

Attachment: July 1, 2016 KFOR letter to FORA board identifying specific problems with regard to the failure to implement Reuse Plan policies, programs and mitigations.

Michael W. Stamp  
Molly Erickson

**STAMP | ERICKSON**  
**Attorneys at Law**

479 Pacific Street, Suite One  
Monterey, California 93940  
T: (831) 373-1214  
F: (831) 373-0242

July 1, 2016

Via E-mail

Frank O'Connell, Chair  
Board of Directors  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

**Subject: Keep Fort Ord Wild's objections to failure by Fort Ord Reuse Authority to adequately enforce the mitigations for the Fort Ord Reuse Plan, including Reuse Plan programs and policies, and the Master Resolution; objections to acceptance of Michael Baker International report on Reassessment Report Categories I and II – July 8, 2014 FORA Board meeting.**

Dear Chair O'Connell and members of the FORA Board of Directors:

This Office represents Keep Fort Ord Wild (KFOR). Keep Fort Ord Wild is a coalition of individuals dedicated to the preservation of trails, recreation, wildlife and habitat on Fort Ord. Keep Fort Ord Wild supports sensible, economically viable, redevelopment of the extensive blight within the urban footprint of the former base. Keep Fort Ord Wild supports conservation of existing undeveloped open space for the enjoyment of current and future generations.

On June 10, 2016, KFOR informed FORA in writing that KFOR objected to the Michael Baker International (MBI) opinion, and provided reasons. KFOR also objected to FORA's failure to adequately monitor and enforce the mitigations required pursuant to the Reuse Plan and its EIR. FORA has an independent duty to enforce the mitigations, independent of FORA consistency determinations. As of the finalizing of this letter at 2 PM on July 1, KFOR has not received a response from FORA.

Keep Fort Ord Wild again expresses its serious concerns about the failure of FORA to adequately enforce the mitigations for the development and redevelopment of the former Fort Ord, including the Fort Ord Reuse Plan policies and programs. The California Environmental Quality Act requires that "A public agency shall provide the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design." (Pub. Resources Code, § 21081.6, subd. (b), emphasis added.)

The Reuse Plan, as modified by the Final EIR, contains policies and programs that are mitigations for the impacts of development of the former Fort Ord. The Reuse

Plan is a document binding on FORA. It is not merely a document to be set on a shelf, or be misread by FORA for FORA's convenience. "The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283.) The mitigations adopted in the Reuse Plan are mandatory. Adopted mitigations "are not mere expressions of hope." (*Lincoln Place Tenants Association v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508.) Once incorporated, mitigation measures cannot be defeated by ignoring them or by "attempting to render them meaningless by moving ahead with the project in spite of them." (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 450.) Yet that is what FORA has tried to do for years.

KFOW has expressed and here reiterates serious concerns, including these:

- **FORA has failed to include Reuse Plan mitigations including policies, programs and other mitigations in the Reuse Plan that FORA relied on – the version “republished” in 2001.** The 2001 “republished” document is the version of the Reuse Plan that FORA and all public agencies rely on; the failure to require public agencies to adopt the Reuse Plan policies and programs that were required in the Reuse Plan, including EIR mitigations intended to address the impacts of the Reuse Plan. These omitted policies, programs and mitigations include, e.g., Seaside hydrology and water quality programs A-1.2, B-1.4 through B-1.7, and C-6.1. These are provided as examples to assist FORA. There are other policies and programs that FORA also has not ensured have been implemented by the jurisdictions, as required by the Reuse Plan and its EIR. The underlying EIR documents consistently imparted an understanding to public officials reviewing the Reuse Plan project, and to the general public, that mitigation measures to address the environmental concerns would accompany the build out of Fort Ord. However, FORA has omitted material mitigation measures from the 2001 Reuse Plan that is the primary version of the Reuse Plan that FORA and the land use agencies rely on. FORA has been regularly violating the mandates of its own Fort Ord Reuse Plan and its EIR. An agency may not say that it is going to implement mitigation measures, then simply defer those measures unilaterally, as it chooses.
- **Although FORA's 2012 Reassessment Report identified some for the policies and programs that the jurisdictions had not adopted, but not all, FORA has not taken prompt and effective steps to remedy the identified problems.** The Reassessment Report identified some of the numerous unmet and unfulfilled Reuse Plan policies, programs and other mitigations at pages 3-34 through 3-41. That was only a partial list. The Reassessment Report acknowledged that “Policies and programs



identified as ongoing are not included in this table.” (Report, p. 3-41.) At the time of the Reassessment Report in 2011, FORA admitted that many of the listed Reuse Plan “policies or programs are not contingent on triggering events, and should be implemented as soon as feasible.” (*Id.* at p. 3-41.) Now, four years later, many of the policies, programs and other mitigations still have not been implemented. These unmet requirements include controversial and important issues including, for example, oak tree protection (e.g., Seaside biological resources program 2.1 and recreation policy C-1), noise (e.g., Seaside noise policies A-1, B-1, B-3 and their implementing programs), pedestrian and bicycle access (e.g., Seaside policy A-1 and its implementing program), trails (Seaside recreation program F-2.1, policies G-1, G-2 and G-4), open space (e.g., Seaside recreation/open space land use policy B-1 and its implementing program, and program D-1.3), residential land use (Seaside policies E-1, E-3, I-1 and programs E-1.1, E-3.2, I-1), homeless (Seaside policy F-1 and implementing programs), streets and roads (e.g., Seaside policy B-1, program B-1.2), and County biological resources policy A-2. As other and additional examples, the City of Marina General Plan fails to include Reuse Plan City of Marina Residential Land Use Objective F, Program F-1 and implementing policies F-1 and F-2 to address the needs of the homeless, Residential Land Use program G-1.3 regarding reduction in barriers to accessibility, Commercial Land Use Policy B-2 and Program B-2.1 regarding prohibition of card rooms or casinos for gambling as acceptable land uses on the former Fort Ord, Recreation/Open Space Land Use Policy A-1 requiring the City of Marina to “protect irreplaceable natural resources and open space at former Fort Ord,” Program B-2.4 and C-1.1, policies D-1, D-1.1, and D-1.2, and Recreation policy B-1, as a few examples. This partial list has been very time-consuming, complex, and resource-intensive to prepare, due to the multiple lengthy and inconsistent documents involved. These are provided as examples. There are other policies and programs that FORA also has not ensured that the jurisdictions have implemented, as required by the Reuse Plan and its EIR. FORA decided to defer and not enforce many of the omissions that the Reassessment Report identified when FORA decided to not proceed with the omissions identified in the Reassessment Report Category III, “Implementation of Policies and Programs.” That category listed Reuse Plan policies and programs determined in an earlier report (the Reassessment Scoping Report) to be incomplete.

- **The Reassessment Report approved by FORA was incomplete. The Reassessment Report failed to identify key Reuse Plan policies and programs including Reuse Plan EIR mitigations and key portions thereof that have not been adopted and implemented by FORA and the jurisdictions.** There are many examples, including, for example, for

Seaside: biological resources policies A-4, B-1, B-2, C-3, D-1, E-1 and the implementing programs to those policies, policy E-2, programs B-3.2 and C-2.1 through 2.6, and D-2.1 and 2.3; commercial land use policies A-1, B-1 through B-3, C-1, D-1, E-1 and E-2, F-1 and F-2, and the implementing programs to those policies; hydrology and water quality policies A-1, B-1, C-1, C-2, C-4 through C-6 and the implementing programs to those policies, and program C-3.1; institutional land use policies A-1, B-1, C-1, D-1, D-2 and the implementing programs to those policies; noise policies B-2, B-4 through B-8, and the implementing programs to those policies, programs B-1.2; pedestrian and bicycle policy B-1 and the implementing programs to those policies; recreation policies A-1, B-1, D-1 through D-4, F-1, G-3, H-1 and the implementing programs to those policies, and program E-1.1; recreation/open space policies A-1, B-1, C-3 and the implementing programs for those policies, and the implementing programs for policies B-1, C-1, C-2, C-3 and D-1; residential land use policies A-1, B-1, C-1, D-1, E-2, G-1, H-1, I-2 and the implementing programs for those policies, and programs E-1.2, E-1.3, E-3.1, F-1.2, H-1.1, I-1.2), streets and roads policies A-1, C-1, C-2, D-1 and the implementing programs for those policies, and programs B-1.1)' and, for the County, commercial land use policy B-1, hydrology and water quality program A-1.2, noise policy B-3, recreation and open space programs B-2.2 and E-1.4, recreation policies E-1.1 through E-1.6 and programs E-2.2 and E-3.1, residential land use programs C-1.1, I-1.1, transit programs A-1.4 and A-1.5. These are examples. There are other policies, programs, and other mitigations that FORA also has not ensured have been implemented by the jurisdictions, as required by the Reuse Plan and its EIR.

- CEQA requires that if a lead agency finds that mitigation measures have been incorporated into the project to mitigate or avoid a project's significant effects, the "agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation." (Pub. Resources Code, § 21081.6, subd. (a)(1).) The Reuse Plan mitigation monitoring and reporting program (MMRP) adopted by FORA in 1997 is inadequate and has not ensured compliance as required. FORA placed in the MMRP only some of the mitigations added by the final EIR. The MMRP did not include all mitigations added by the final EIR and did not include the mitigations that were part and parcel of the draft Reuse Plan as policies and programs. FORA also failed to implement all mitigations, including those listed on the MMRP in the final EIR, as explained in this letter. FORA has acted continually for years as the implementation of BRP

policies or programs is primarily the responsibility of local jurisdictions, instead of the responsibility of FORA. (See, e.g., the statements in the Reassessment Report, at p. 1-7.)

At the same time, while FORA has been failing to fulfill its mandatory duties, FORA and the land use jurisdictions have proceeded to approve projects and make consistency determinations, thus improperly allowing plans and projects to proceed that have not demonstrated compliance with the Reuse Plan policies and programs. FORA has the ability to stop that and has not prevented it from happening. As a result, projects and plans have been approved that do not adequately respect, follow and implement the Reuse Plan and its policies and programs.

This is particularly important now, while the Monterey Downs project is going through the review process by Seaside, the County and FORA. The Monterey Downs project is being processed and reviewed pursuant to Seaside documents, County documents, and FORA documents that are not in compliance with the mitigations, mitigating policies and mitigating programs of the Reuse Plan and its EIR. It also is particularly important now because FORA will sunset in 2020. FORA has failed to ensure that the land use jurisdictions have adopted many key policies, programs, and other protections that were put in place by FORA nearly 20 years ago in certifying the Reuse Plan EIR and adopting the Reuse Plan based on that certification.

The Reuse Plan policies and programs, along with other Reuse Plan EIR mitigations are CEQA mitigations that FORA has a mandatory duty to enforce. FORA has failed on a continuing basis to fulfill that duty.

FORA has made a confusing jumble of what FORA calls its "governing documents." FORA does not use the original documents adopted by FORA. FORA regularly refers to the Reuse Plan that was "republished" in 2001, even though the FORA Board never adopted the 2001 version, there was no environmental review performed on the 2001 version, and the 2001 version was different in material ways from the 1997 Reuse Plan adopted by the FORA Board in 1997. The 2001 "republished" Reuse Plan does not accurately reflect the FORA adopted 1997 Reuse Plan. The 2001 version contains material omissions and misstatements. As one example, the "republished" 2001 plan adds the veterans cemetery, without environmental review. As another example, the "republished" plan includes policies and programs that are materially different from the Reuse Plan and EIR documents approved and adopted by the FORA Board in 1997. (E.g., Biological Resources County policy C-2 and program C-1 [see our March 6, 2014 letter, exhs. J and K].) We have addressed this issue in the past, including, for example, in our March 6, 2014 letter.

To make matters worse, FORA's website provides only the 2001 republished version of the Reuse Plan and what FORA calls a "Final EIR" but which is not the Final EIR. Instead, it is a hodgepodge of the 1996 Draft EIR with some but not all the

changes made in the 1997 Final EIR response to comments as a result of public comments. FORA's webpage for "Base reuse plan" states that "The FORA Base Reuse Plan is made up of four volumes. All files are available in electronic format as Adobe Acrobat files (pdf):" The claim is not accurate because FORA makes only three of the four volumes available, stating that "Volume 3 – Appendices (not yet available for download)."

This problem is exacerbated by FORA's refusal to acknowledge the fundamental problems that KFOW and others have identified in the past. As one example, FORA has repeatedly insisted that the 2001 version of the Reuse Plan is the valid governing document, and that the land use jurisdictions and KFOW should rely on it. However, the 2001 versions of the Reuse Plan and the EIR are not accurate and not complete.

FORA's past acts do not create confidence in FORA's abilities. As one example, in March 2010, the Executive Director proposed making changes to the FORA Master Resolution. The changes were numerous and material. There were many hundreds of changes proposed, including to the language of Chapter 8 of the Master Resolution. Chapter 8 governs the consistency determinations that are required to be made by FORA. More than a hundred word changes were proposed for Chapter 8, primarily changing the word "shall" to the word "may." FORA's Executive Director and Authority Counsel recommended adopting the changes. The FORA Board approved the changes. The changes were significant and material because they changed specific actions that FORA was required to perform – what FORA "shall" do – to permissive actions that FORA "may" fulfill at FORA's discretion.

FORA had no authority to unilaterally change Chapter 8. Chapter 8 had been created when in 1998 FORA approved the settlement agreement with the Sierra Club; pursuant. In 2013, members of the public realized that FORA had made drastic changes to Chapter 8. They alerted the Sierra Club. The Sierra Club promptly put FORA on notice that FORA was in violation of the 1998 settlement agreement that required the original language using the word "shall" throughout. FORA had been required to give the Sierra Club prior notice of the changes to Chapter 8 and perform environmental review (pursuant to CEQA) on the proposed changes. (Settlement Agreement, p. 2, term 4.) FORA had violated both requirements: FORA had failed to notify the Sierra Club and FORA had failed to perform a CEQA review.

As another example of FORA's history of lack of compliance with its own rules, FORA has a pattern and practice of failing to apply the proper standard for its consistency determinations. According to the Master Resolution, the proper test for determining consistency is whether "there is substantial evidence" that the General Plan "is not in substantial conformance" with the Reuse Plan. (Master Resolution, § 8.02.010, emphasis added.) Instead, FORA has looked only to whether there is substantial evidence to support a finding of consistency, and FORA has largely ignored substantial evidence to the contrary – that the plan is not consistent. The FORA staff

memo dated December 19, 2000 stated the very deferential standard used by FORA then and now to make consistency determinations. That memo states in pertinent part as follows: "The standard provided then, is that of substantial compliance between the Reuse Plan and submitted document. The manner in which substantial compliance might be demonstrated is more flexible than a verbatim restating of the Reuse Plan, but would need to be backed up with substantial evidence read into the record, and with findings made relative to the evidence presented." That standard is not consistent with FORA's Master Resolution Chapter 8 or the intent and language of the Reuse Plan and the Reuse Plan EIR. That lenient standard is still used today, according to FORA staff. Instead of doing an independent and stringent analysis of whether consistency should be found, FORA staff defers to the land use jurisdiction to present an argument for consistency. The December 19, 2000 memo reveals this when it says "The basic philosophy behind this approach is that, although FORA has been assigned regulatory authority over these matters by the State Legislature, it is appropriate to place the burden on the jurisdiction making the request to make their best case in favor of consistency." And if there is substantial evidence to support the jurisdiction's argument, then FORA has adopted to the jurisdiction's claim of consistency. As a result of FORA's failure to properly implement its Reuse Plan and its Master Resolution, FORA has applied a loose, lax, and deferential standard of review to the consistency determinations made by the land use agency. That approach is not consistent with the required rigorous analysis of whether "there is substantial evidence" that the plan or project "is not in substantial conformance" with the Reuse Plan, which is the mandatory analysis under the Master Resolution.

The Monterey County General Plan follows the weak language of the draft reuse plan, instead of the adopted and approved Reuse Plan. That weak language that would allow for unmitigated and unanalyzed environmental impacts, and would not achieve the goals and objectives of the adopted Reuse Plan. There are many examples of this. We provide examples here, which are the same examples FORA has ignored in the past when KFOW has provided them. KFOW is prepared to provide other examples, which FORA can easily identify on its own by reviewing the draft reuse plan, the Final EIR, and the adopted 1997 Reuse Plan. As one example, Draft EIR public comment letter 328 was from the Watershed Institute at California State University at Monterey Bay. The Watershed Institute made thoughtful expert comments on the draft reuse plan policies. The Watershed Institute stated that the draft EIR's claim that effects on coast live oak woodland "would be reduced" was "an unjustifiable claim given the inadequacies" of the proposed policies and programs in the draft reuse plan. The Watershed Institute stated that the policy language was "far too weak to provide any reasonable protection, and criticized the draft plan's use of ineffectual words such as "encourage", "wherever possible," and "should be avoided." In response to this and other similar comments, the Final EIR made changes to the text in the reuse plan policies and programs to make the language stronger. For example, the Final EIR replaced the weak language, "the County shall encourage the preservation and enhancement of oak woodland elements," with the stronger language, "The County

shall preserve and enhance the woodland elements." As another example, in response to comments the Final EIR replaced the weak language "the County shall encourage clustering of development," with the stronger language, "the County shall cluster development." The response to comments (which were part of the Final EIR) added stronger language to many policies and programs throughout the reuse plan. The Final EIR version of the plan text showed this improved stronger language. The stronger language was part of the final 1997 Reuse Plan that was adopted by the FORA Board when it certified the EIR. As stated above, the 2010 County General Plan/Fort Ord Master Plan uses the weaker 1996 draft Reuse Plan text and should not be found consistent with the Reuse Plan, and the Reuse Plan should not be amended based on the County General Plan.

FORA adopted the Reuse Plan in 1997, nearly 20 years ago, and since then has failed to ensure that the land use jurisdictions have adopted the Reuse Plan mitigations as required. Instead, FORA has made consistency determinations for plans and projects that are not consistent with the Reuse Plan requirements and mitigations, and allowed those plans and project to proceed. FORA is scheduled to sunset in the year 2020. It is now the second half of the year 2016, and FORA has shown no indication that it is going to change its pattern and practice.

The Reassessment process FORA followed was fundamentally flawed, as KFOW and others have explained in past letters. FORA ignored material changes in circumstances and increases in knowledge such as the unsustainability of the Deep Aquifer, which is the water source for Fort Ord, and the creation of the Fort Ord national Monument. Instead of adapting the Plan to current realities, FORA plowed ahead with the same unsustainable and outdated plan. As we have told FORA in the past, nobody knows how long the Deep Aquifer will last. Nobody knows how much water is in the Deep Aquifer. Only recently has it been acknowledged that the Deep Aquifer is subject to contamination - for example, from the contaminated shallower aquifers or other sources. Under the circumstances, it is irresponsible for FORA to allow any development that is supplied by water from the Deep Aquifer. Fort Ord is getting its water from the overdrafted deep aquifers approximately 800 to 1400 feet below ground. These water sources are unsustainable, because they are not being recharged. Existing Fort Ord development relies on those unsustainable sources. New development at Fort Ord also would rely on these unsustainable water sources. FORA's Reassessment Report failed to investigate or disclose this serious problem.

FORA has taken minor steps following the Reassessment to take some actions, but not nearly the amount of action required to bring FORA and the land use jurisdictions into compliance with the Plan. The Reassessment categories I and II changes have been handled in ways that do not comply with the applicable laws or follow an adequate public process.

The MBI opinion and the FORA staff report of June 8, 2016 failed to disclose the fact that at least several of the consistency determinations were made by the FORA Board during the time that the illegal amendments to Master Resolution Chapter 8 were in place. In March 2010, FORA illegally and improperly amended the chapter 8 requirements to replace many of the “shall” to “may,” thus making permissive what the settlement agreement required to be mandatory. It appears that these changes were made to benefit specific projects, including Monterey Downs. FORA called those changes to the Master Resolution as follows: “Amended March 12, 2010 [Minor corrections throughout the document to add clarity].” When the illegal changes were brought to light by KFOW and the Sierra Club in 2013, the Board reversed the illegal changes. FORA called those changes to the Master Resolution: “Amended April 12, 2013 [ . . . 23 typographical corrections to Chapter 8].” In FORA’s opinion, the fundamental change from “may” to “shall” was a mere “typographic” change. FORA did not review the actions taken by FORA while the illegal language was in effect from 2010 to 2013. Thus, FORA does not know for certain that those determinations were proper or supported. These determinations included the County housing element in 2010, the Seaside housing element in 2011, the Seaside Local Coastal Program in March 2013, and at least two projects, and possibly more.

The 1996 draft Reuse Plan and the 1997 final Reuse Plan did not assign policies and programs to Del Rey Oaks and the City of Monterey because those agencies were not intended to receive land at the former Fort Ord. Later, Del Rey Oaks and the City of Monterey were assigned land that had been intended to go to the County. All the land was at the southern end of the former Fort Ord. The Reuse Plan had assigned Monterey County numerous policies and program to ensure that the land designated for the County, when developed, would be mitigated. FORA has failed to understand this. FORA failed to ensure that the policies applicable to the County were made applicable to Del Rey Oaks (DRO) and the City of Monterey. The applicable Reuse Plan policies have not been adopted by Del Rey Oaks and the City of Monterey. Multiple important and material policies applicable to the County are applicable to DRO and the City, including the water supply policies, the drainage policies, and natural resource protection policies, including the oak woodlands protection policies, and the social issues including affordable housing and recreation and other land use issues. Del Rey Oaks’ land at Fort Ord has oak woodlands, and Monterey’s has dense pine trees. (See Exhibits A and B to this letter.) FORA has taken the apparent position that those trees, resources and habitats on Del Rey Oaks and Monterey lands are not protected by the Reuse Plan policies. FORA’s positions are inconsistent with the Reuse Plan and its EIR and with the fundamentals of good regional planning.

FORA has not directly communicated to DRO and the City about the Reuse Plan policies and programs are applicable to them, according to FORA’s response to my recent California Public Records Act request for those communications. In FORA’s opinion, not even the Reuse Plan objectives – which applied to the County, Marina and Seaside – apply to Del Rey Oaks and Monterey. No past or future FORA consistency

determinations as to DRO and City of Monterey plans and projects are proper due to this material failure. No changes to the Reuse Plan to reflect DRO and City of Monterey plans and projects should be made due to these material omissions. One example of why this is urgent is the Del Rey Oaks City Council approval of an RV park on the former Fort Ord land, without taking any steps to ensure that the project complies with the Reuse Plan. The project does not comply.

These issues were raised in past years by KFOW and by others, including during the Reassessment process and also when considering certification of Fort Ord Master Plan and the County General Plan. KFOW has expressed its concerns on these issues in the past, including but not limited to those provided in comments to FORA on or around June 15, 2012, September 2013, February 13, 2014, March 6, 2014, and March 12, 2014. FORA has on a recurring basis failed to perform its ongoing statutory duties.

#### Conclusion and Request

FORA has a mandatory duty to enforce the Fort Ord Reuse Plan policies and programs and the mitigations of the Reuse Plan. These actions are overdue now. Every day is a continuing violation. This issue requires prompt remedial action. KFOW asks the Board to act promptly. KFOW intends to pursue all available remedies to ensure that FORA fulfills its duties and follows the law. KFOW urges you to carefully review this letter. You control the time frame. We suggest that the Board meet immediately to address this issue, and then tell us promptly what FORA is going to do to address the problems. We offer to meet with you to discuss the problems and hear about your proposed response and action. Thank you.

Very truly yours,

STAMP | ERICKSON

  
Molly Erickson















Jen Simon &lt;jen@fora.org&gt;

Attachment 5

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**April 9 Board Meeting - Agenda Item 8b**

1 message

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**Vicki Nakamura** <vnakamura@mpc.edu>

Thu, Apr 9, 2020 at 4:19 PM

To: Board@fora.org

Cc: David Martin &lt;dmartin@mpc.edu&gt;, Brian Finegan &lt;brian@bfinegan.com&gt;, Michael Harrington &lt;michael@bfinegan.com&gt;, Shawn Anderson &lt;sanderson@mpc.edu&gt;

FORA Board Members:

I have been involved with Fort Ord development issues on behalf of MPC since 1992. I was there when the Agreement with FORA and the County regarding the East Garrison land swap was negotiated. The conflict between MPC and the County over two very different visions for the East Garrison was difficult, and reaching an agreement took several years. But in 2002, an agreement was reached. MPC gave up the East Garrison for land in the Parker Flats area for its future public safety training facility. Included was a 200-acre habitat reserve that surrounded a potential site for a firing range. MPC did not want to manage habitat, this was not something we do, or which we are funded for. But the habitat reserve was part of a regional approach to mitigating development across the base, forming the basis for both the habitat management and habitat conservation plan. MPC has been a partner with the other jurisdictions in this planning effort, which has finally come to fruition in FORA's final year. With FORA's imminent dissolution; however, commitment to this approach has also seemed to evaporate.

The habitat funding allocation decision before the FORA Board has been characterized at the Habitat Working Group meetings as a worst case scenario, in the event a replacement JPA is not formed before FORA sunsets. However, discussions regarding a JPA have ended for now. It seems likely this worst case scenario will go into effect. And, if you approve Alternative 5, with the premise that all land use jurisdictions should get a share, then the purpose of the funds, which was to manage habitat land set aside to mitigate basewide development will have been negated.

Alternative 5 does not acknowledge Monterey County's extensive habitat lands. Alternative 5 leaves out MPC and the other educational institutions. Alternative 5 does not recognize the mutual benefit of these habitat lands to all jurisdictions and their development interests over the long-term.

Thank you for the opportunity to comment.

Vicki Nakamura

**Thursday, May 14, 2020**

**2:00 PM – 5:00 PM**

1. Transition Status Report INFORMATION
2. Bank Account Close-Out ACTION on CONSENT
3. Vacation cash-Out Policy ACTION on CONSENT
4. MOA for CIP Funds and Project Transfers ACTION
5. Joint Community Facilities Agreements (Habitat Funds) ACTION

**Friday, May 22, 2020 (Special Meeting)**

**1:00 PM to 3:00 PM**

1. Sunset Finance Strategy INFORMATION/ACTION
2. Bond Purchase Agreements ACTION
3. MOA for CIP Funds and Project Transfers 2<sup>nd</sup> Vote if Needed ACTION
4. Draft 2020 Transition Plan INFORMATION ONLY

**Thursday, June 4, 2020 (Special Meeting)**

**2:00 PM – 5:00 PM**

1. ESCA/LRA/Documents ACTION

**Thursday, June 11, 2020**

**2:00 PM – 5:00 PM**

1. Consider HCP-EIR Certification ACTION
2. Campus Town Consistency Determination ACTION
3. Transition Status Report INFORMATION
4. Consideration of 2020 Transition Plan ACTION
5. Remaining FORA Funds Allocation INFORMATION/ACTION
  - a. Seaside LRA
  - b. Monterey County Veterans
  - c. Monterey County Admin
  - d. LAFCO
  - e. Others

**Friday, June 19, 2020 (Special Meeting)**

**1:00 PM to 3:00 PM**

1. Consider Certification of EIR 2<sup>nd</sup> Vote (If needed) ACTION
2. Campus Town Consistency Determination 2<sup>nd</sup> Vote (If needed) ACTION
3. Remaining FORA Funds Allocation 2<sup>nd</sup> Vote ACTION
4. Consideration of 2020 Transition Plan 2<sup>nd</sup> Vote (If needed) ACTION

**June 30, 2020 SUNSET**



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

Mr. Joshua Metz  
Executive Officer  
Fort Ord Redevelopment Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

Mr. Craig Malin  
City Manager  
City of Seaside  
440 Harcourt Avenue  
Seaside, CA 93955

Dear Mr. Metz and Mr. Malin:

On behalf of the Secretary of Defense and pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, this letter serves as recognition of the City of Seaside as the successor Local Redevelopment Authority with an effective date of July 1, 2020, for the purposes of implementing the Economic Development Conveyance Agreement with the U.S. Army at the former Fort Ord.

Questions pertaining to this recognition or requests for assistance to guide your implementation activity may be directed to Ms. Liz Chimienti, Office of Economic Adjustment Project Manager, at (703) 901-7644.

Sincerely,

O'BRIEN.PATRIC  
K.J.1231200319

Digitally signed by  
O'BRIEN.PATRICK.J.123120031  
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Date: 2020.04.30 17:42:28 -04'00'

Patrick J. O'Brien  
Director  
Office of Economic Adjustment

cc:  
DASA(IH&P)



# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT ITEMS

<b>Subject:</b>	Account Closure and Consolidation	
<b>Meeting Date:</b>	May 14, 2020	<b>ACTION</b>
<b>Agenda Number:</b>	6e	

### **RECOMMENDATION:**

Approve the closure and consolidation of bank accounts.

### **BACKGROUND:**

The Fort Ord Reuse Authority (“FORA”) policy requires Board approval to open or close a bank account.

In light of FORA’s sunset on June 30, 2020 and upcoming distribution of funds, it would be prudent to close and consolidate bank accounts to make funds accessible for distribution and transfer as required by obligations or agreements. Staff recommends the closure and consolidation to start the financial close out process.

### **FISCAL IMPACT:**

Staff time are included in the approved FORA Mid-Year budgets.

### **COORDINATION:**

Executive Committee.

Prepared by



Helen Rodriguez

Approved by



Joshua Metz

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT ITEMS

<b>Subject:</b>	Vacation Cash-Out Policy Amendment	
<b>Meeting Date:</b>	May 14, 2020	<b>ACTION</b>
<b>Agenda Number:</b>	6f	

### **RECOMMENDATION:**

Approve vacation cash out policy amendment to allow a second cash-out.

### **BACKGROUND:**


Under the Fort Ord Reuse Authority (“FORA”) policy, employees may elect to cash-out up to eighty (80) hours of accrued vacation per fiscal year. Cash-out is allowed once during a fiscal year. In light of FORA’s sunset on June 30, 2020 Staff is requesting the Board to allow Staff to make an additional cash-out to minimize the Staff’s payroll taxes when the cash-out is taken. If Staff were to take the remaining vested vacation cash-out at the same time as final severance is paid, the payroll taxes would be much higher than if cash-out was taken separately.

### **FISCAL IMPACT:**

Cost and Staff time are included in the approved FY 19/20 Mid-Year Budget.

### **COORDINATION:**

Executive Committee.

Prepared by  \_\_\_\_\_  
Helen Rodriguez

Approved by  \_\_\_\_\_  
Joshua Metz

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>		
<b>BUSINESS ITEM</b>		
<b>Subject:</b>	Memoranda of Agreements (“MOA”) for Capital Improvement Program (“CIP”) and General Fund Project Transfers	
<b>Meeting Date:</b>	May 14, 2020	<b>ACTION</b>
<b>Agenda Number:</b>	7a	

**RECOMMENDATION:**

Approve Resolution 20-xx: Authorizing Executive Officer to execute MOAs to support the transfer of three CIP and one General Fund Projects, in the forms attached hereto as exhibits or in substantially similar forms containing such modifications as the Executive Officer may deem necessary or appropriate to carry out the purposes of the MOAs.

1. Memorandum of Agreement Regarding Funding to be Provided for Removal of the City of Marina Stockade and Ancillary Buildings
2. Memorandum of Agreement Regarding Funding to be Provided for the Repair of Stormwater Infiltration Units - Eucalyptus Road
3. Memorandum of Agreement Regarding Funding to be Provided for the South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements
4. Memorandum of Agreement Regarding Funding to be Provided to County of Monterey County for Oak Woodlands Project

**BACKGROUND/DISCUSSION:**

Due to FORA’s pending sunset on June 30, 2020, coupled with FORA Staff reductions, several projects were unable to be completed. Meetings were held between FORA and the jurisdictions to discuss transfer of project responsibility and remaining funds in February and March 2020. FORA has worked with consultants to identify project close out requirements.

At the April 30, 2020 FORA Board Meeting, the Board received a report on the status of FORA’s efforts to transition three on-going CIP projects and one General Fund project to the underlying jurisdictions of the Cities of Del Rey Oaks, Marina and Seaside and Monterey County. During that meeting the funds approved in the 2019/2020 Mid-Year General and CIP Budget update were authorized for transfer. The approval and establishment of the 2019/2020 Mid-Year Budget was a critical step to facilitate the transfer of funds to support these projects.

As identified in the April 30, 2020 Board Report, a MOA between FORA and each recipient of funds is required to be executed prior to fund transfer. FORA has been working with each of the jurisdictions to identify the appropriate terms and conditions to be captured in each MOA. These MOAs will enable the transition of projects from FORA by: defining each party’s responsibilities; outlining the requirements for transfer of authorized funds; acknowledging the transition of lead agency status to the jurisdictions where applicable;

coordinating the transfer of project related data, information and reporting; and closing out and/or reassigning contracts as appropriate. The MOAs for approval between FORA and the underlying jurisdictions have been provided as attachments to this Board Report; and a summary of the terms and status of each MOA is provided below.

**A. Memorandum of Agreement Regarding Funding to be Provided for Removal of the City of Marina Stockade and Ancillary Buildings**

- FORA has requested, and the City of Marina agrees, to undertake the Project to complete the removal of hazardous materials and deconstruction and removal of the Stockade Complex as established in the terms and conditions set forth in the MOA.
- Within seven (7) calendar days after signing the MOA, FORA will transfer and pay to the order of the City, the amount of Two Million Fifty Thousand Dollars (\$2,050,000).
- FORA will close out contracts associated with the Project; and will make good faith and commercially reasonable efforts to arrange for the timely completion of services, delivery of work products, and transfer of information which FORA has authorized.
- Upon execution of the MOA, the City will become the lead agency for the Project and the waste generator with respect to any hazardous materials associated with the Project.
- *MOA Status: reviewed and approved by City of Marina Attorney and FORA Legal Counsel; approved on April 28, 2020 by the City of Marina City Council; execution pending FORA Board approval.*

**B. Memorandum of Agreement Regarding Funding to be Provided for the Repair of Stormwater Infiltration Units - Eucalyptus Road**

- FORA has requested, and the City of Seaside agrees, to undertake repair of the storm water infiltration units installed within Eucalyptus Road as established in the terms and conditions set forth in the MOA.
- Within seven (7) calendar days after signing the MOA, FORA will transfer and pay to the order of the City, the amount of One Million One Hundred Twenty Thousand Dollars (\$1,120,000) to cover the currently estimated cost of the Repairs and Ten Thousand Five Hundred Thirty Dollars (\$10,530) of the funds originally budgeted in connection with design services during the construction stage of the Repairs.
- FORA will close out contracts associated with the Repairs; and will make good faith and commercially reasonable efforts to arrange for the timely completion of services, delivery of work products, and transfer of information which FORA has authorized.
- Upon the full signing of the MOA, the City will carry out the Repairs in compliance with applicable law, including by acting as lead agency if and to the extent that a lead agency may be required under the California Environmental Quality Act.

- *MOA Status: reviewed and approved by City of Seaside Attorney and FORA Legal Counsel; pending approval by City of Seaside City Council; execution pending FORA Board approval.*

**C. Memorandum of Agreement Regarding Funding to be Provided for the South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements**

- FORA will not undertake the construction of Improvements to South Boundary Roadway and the Intersection at General Jim Moore Boulevard. Rather, the City of Del Rey Oaks wishes to undertake these Improvements and FORA is willing to provide funding in support of the Improvements as established in the terms and conditions set forth in the MOA.
  - Within seven (7) calendar days after signing the MOA, FORA will: 1) fund two escrow holding accounts - one for the estimated construction costs of South Boundary Roadway Improvements for Seven Million Two Hundred Thousand Eight Hundred Thirteen Dollars (\$7,269,813), and one for the estimated construction costs of the Intersection at General Jim Moore Boulevard for One Million Fifty Six Thousand One Hundred Sixty Eight Dollars (\$1,056,168); and 2) transfer and pay to the order of the City of Del Rey Oaks the combined design services estimate for the Improvements of Five Hundred Eighteen Thousand Five Hundred Sixty Four Dollars (\$518,564).
  - FORA intends to assign (with the consent of Whitson Engineers Inc.) the existing and open contract work orders with Whitson Engineers associated with the design of the Improvements; and will make good faith and commercially reasonable efforts to arrange for the timely completion of services, delivery of work products, and transfer of information which FORA has authorized.
  - Inasmuch as FORA will not be carrying out the Improvements, but rather will only make funding available to the City as provided in the MOA, responsibility for any further necessary environmental analysis, review, or approvals, implementation and supervision of any mitigation measures or monitoring program adopted in connection with any environmental approvals for the Improvements, coordination with the City of Monterey or any other governmental entities, will be that of the City and not of FORA.
- *MOA Status: a draft MOA has been submitted to counsel for the City of Del Rey Oaks for review and approval; pending approval by City of Del Rey Oaks City Council; execution pending FORA Board approval.*

**D. Memorandum of Agreement Regarding Funding to be Provided to County of Monterey for Oak Woodlands Project**

- a) Monterey County has requested, and FORA agrees to assign, the existing contract and transfer remaining contract dollars associated with the Oak Woodlands Project as established in the terms and conditions set forth in the MOA.
- b) Within seven (7) calendar days after signing the MOA, FORA will transfer and pay to the order of Monterey County, the amount of Eighteen Thousand Seven Hundred

Thirteen Dollars (\$18,713) to complete the tasks and reporting outlined in the contract.

- FORA intends to assign the existing and open contract work orders with Denise Duffy & Associates, Inc. associated with the Oak Woodland Project; and will make good faith and commercially reasonable efforts to arrange for the timely completion of services, delivery of work products, and transfer of information which FORA has authorized.
- *MOA Status: a draft MOA has been submitted to County Counsel's office for review and approval; pending approval by Monterey County Board of Supervisors; execution pending FORA Board approval.*

**FISCAL IMPACT:**


Staff time and expenditures are included in the approved FY 19-20 Mid-Year Budget.

Reviewed by FORA Controller  \_\_\_\_\_

**COORDINATION:**

Authority Counsel, Administrative Committee, land use jurisdictions, Consultants.

Prepared by  \_\_\_\_\_  
Kristie Reimer, RAC

Approved by  \_\_\_\_\_  
Joshua Metz

**ATTACHMENTS:**

- A. Resolution 20-xx: Authorizing Executive Officer to execute MOA to support the transfer of three CIP and one General Fund Projects, in the forms attached hereto as exhibits or in substantially similar forms containing such modifications as the Executive Officer may deem necessary or appropriate to carry out the purposes of the MOAs.
- B. Memorandum of Agreement Regarding Funding to be Provided for Removal of the City of Marina Stockade and Ancillary Buildings
- C. Memorandum of Agreement Regarding Funding to be Provided for the Repair of Stormwater Infiltration Units - Eucalyptus Road
- D. Memorandum of Agreement Regarding Funding to be Provided for the South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements
- E. Memorandum of Agreement Regarding Funding to be Provided to County of Monterey County for Oak Woodlands Project

**FORT ORD REUSE AUTHORITY**  
**Resolution No. 20-\_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY**

*Approving and Authorizing the Execution and Delivery of Memoranda of Agreements  
for the Transfer of Funds and Assignment of Contracts in support of Capital  
Improvement Program and General Fund Projects and Approving Related Actions*

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

- A. The existence of the Fort Ord Reuse Authority (“FORA”) is scheduled to terminate in accordance with state law on June 30, 2020 (“FORA’s Termination Date”).
- B. It is not feasible for FORA to complete all of the plans, building removal work, repairs, and improvements originally conceived in connection with FORA’s General Fund and Capital Improvements Programs before FORA’s Termination Date.
- C. The County of Monterey is willing to undertake the completion of an Oak Woodland Conservation Plan covering certain lands in the City of Seaside and the unincorporated portion of the County of Monterey on the former Fort Ord. On May 13, 2016, FORA’s Board of Directors (the “Board”) awarded a professional services contract for environmental consulting (the “DDA Contract”) to Denise Duffy & Associates, Inc. (“DDA”) in connection with the Project. DDA’s work under the DDA Contract has not yet been completed.
- D. The City of Marina is willing to undertake the removal of certain buildings on former Fort Ord including the former Fort Ord Stockade and ancillary buildings, assume the role of lead agency for the project, and assume the role of waste generator with respect to any hazardous materials associated with the project.
- E. The City of Seaside is willing to undertake repairs to the stormwater infiltration units installed within Eucalyptus Road.
- F. The City of Del Rey Oaks is willing to undertake relocation and/or reconfiguration of the existing intersection of General Jim Moore Boulevard with South Boundary Road and an upgrade of that portion of South Boundary Road located between its intersection with General Jim Moore Boulevard to 200 feet east of its intersection with Rancho Saucito Road together with responsibility for any further necessary environmental analysis, review, or approvals, implementation and supervision of any mitigation measures or monitoring program adopted in connection with any environmental approvals for the improvements, and coordination with the City of Monterey or any other governmental entities. FORA entered into a professional services contract dated November 17, 2017 with Whitson Engineers, Inc. (“Whitson”) for engineering services in connection with the contemplated improvements, which contract was subsequently amended four (4) times (and as so amended may be referred to herein as the “Whitson Contract”). Whitson’s work under the Whitson Contract has not yet been completed.
- G. FORA is willing to make certain funding available to the County and Cities, each on all of the terms and conditions set forth in the respective forms of the Memoranda of Agreements on file with the Secretary.

H. With the consent of each applicable contractor, FORA is willing to assign the DDA Contract to the County of Monterey and the Whitson Contract to the City of Del Rey Oaks.

NOW THEREFORE the Board hereby resolves that:

1. The foregoing recitals are true and correct.
2. The Board hereby approves the Memoranda of Agreements in the respective forms on file with the Secretary. The Executive Officer, acting alone, is hereby authorized and directed to execute and deliver the Memoranda of Agreements for and in the name and on behalf of FORA in such forms, or in substantially similar forms containing such modifications as the Executive Officer may approve as necessary or appropriate to carry out the purposes of the Memoranda of Agreements, such approval to be conclusively evidenced by the execution and delivery by the Executive Officer of the Memoranda of Agreements. Notwithstanding the foregoing, the dollar amounts to be transferred as set forth in the respective forms on file with the Secretary shall not be altered without the specific approval of the Board.
3. The Executive Officer is hereby authorized and directed, for and in the name and on behalf of FORA, to do any and all things and take any and all actions, which he may deem necessary or advisable as contemplated by the Memoranda of Agreements or otherwise in order to effectuate the transfer of the funds and where applicable the assignment of the contracts as contemplated by the Memoranda of Agreements.
4. This Resolution shall take effect from and after the date of its passage and adoption.

Upon motion by \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing Resolution was passed on this 14th day of May, 2020, by the following vote:

AYES:  
NOES:  
ABSTENTIONS:  
ABSENT:

\_\_\_\_\_  
Jane Parker, Chair

ATTEST:

\_\_\_\_\_  
Joshua Metz, Secretary



**MEMORANDUM OF AGREEMENT  
REGARDING FUNDING TO BE PROVIDED FOR REMOVAL OF THE  
CITY OF MARINA STOCKADE AND ANCILLARY BUILDINGS**

This Memorandum of Agreement (“MOA”) is made and entered into effective as of \_\_\_\_\_, 2020, (the “Effective Date”) by and between the Fort Ord Reuse Authority (“FORA”), a California public agency, and the City of Marina (the “City”), a California charter city. FORA and the City are sometimes referred to herein in the singular as a “Party” and collectively as the “Parties.”

**Recitals**

A. Early in 2016, FORA and the City began discussions regarding the removal of certain buildings on former Fort Ord including the former Fort Ord Stockade (the “Stockade”) and ancillary buildings, all as shown on Exhibit A attached hereto and by this reference made a part hereof. The ancillary buildings may collectively with the Stockade be referred to as the “Stockade Complex.” The Stockade Complex is situated on approximately 13.4 acres of land located in the City east of the Marina Equestrian Center between 9th Street and Imjin Parkway on former Fort Ord. The Stockade Complex and the land on which is situated have been transferred by FORA to the City and are now owned by the City.

B. In February 2017, FORA’s Board of Directors (the “Board”) awarded a professional services contract for hazardous materials assessment services to Vista Environmental Consulting. Vista Environmental Consulting has finished a focused hazardous materials assessment of specific buildings/facilities within the Stockade Complex, but delivery of project close-out information remains to be completed.

C. In November 2017, the Board awarded Harris & Associates a contract for project management, preparation of plans, specifications, and estimates (PS&E) documents, and bid preparation services. Harris & Associates’ services have largely been performed, but delivery of project close-out information remains to be completed.

D. In the fall of 2019, FORA authorized The Don Chapin Company to detach and cap specific underground wet utilities at the Stockade Complex. The Don Chapin Company has completed the field/construction work, but delivery of project close-out information remains to be completed.

E. Plans, specifications, and estimates for the abatement and removal of specific buildings/facilities within the Stockade Complex as described in the “Fort Ord Reuse Authority, Hazardous Material and Building Removal Stockade Phase 1, 2 & 3, Request for Sealed Bid Proposals S202-RFP1” (published 10/03/19) including all attachments; serve to define the “Project” for purposes of this MOA. Bids for the Project were solicited, received, and reviewed and on December 11, 2019, FORA issued its “Notice of Intent to Award (S201-RFP-1) Stockade Hazardous Materials and Building Removal” to award a contract for the Project to PARC Environmental.

F. On March 19, 2020, FORA elected not to proceed with the Project and issued a notice rejecting all bids.

G. FORA has not received any stop notices in connection with the Project.

H. FORA's Capital Improvement Program for fiscal year 2019/2020 includes the planned removal of the Project. The Board has recently approved and committed to reserving the amount of Two Million Fifty Thousand Dollars (\$2,050,000) to cover the currently estimated cost of the Project.

I. FORA has now requested that the City undertake the Project and the City is willing to do so, each on all of the terms and conditions set forth in this MOA. Accordingly, the Parties now wish to enter into this MOA to provide for the amount of Two Million Fifty Thousand Dollars (\$2,050,000) to be transferred to the City as funds to carry out the Project.

J. FORA is scheduled to terminate in accordance with state law on June 30, 2020 (FORA's Termination Date").

K. Upon execution of this MOA, the City will become the Lead Agency for the Project and the waste generator with respect to any hazardous materials associated with the Project.

### **Agreement**

In consideration of the mutual terms, covenants and conditions contained herein the Parties agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated into this MOA by this reference.

2. **FORA's Obligations.** Within seven (7) calendar days of the execution of this MOA, FORA will transfer and pay to the order of the City, and the City agrees to accept from FORA, the amount of Two Million Fifty Thousand Dollars ( \$2,050,000) in full satisfaction of any obligation of FORA to provide funding to abate and remove hazardous materials and deconstruct and remove the Stockade Complex. FORA will close out the contracts with Vista Environmental Consulting, Harris & Associates, and The Don Chapin Company (collectively, the "Contractors") and make good faith and commercially reasonable efforts to arrange for the timely completion of services, delivery of work products, and transfer of information which FORA has authorized and for which FORA has made payment but which remain to be performed by the Contractors as of the time of the applicable contract close out; provided, however, that FORA shall not be obligated to incur any out-of-pocket expense in connection with any efforts beyond contract close out and any amounts required to be paid for the completion of services, delivery of work products, and transfer of information not already paid

for by FORA at the time of contract close out shall be the responsibility of the City.

3. **City's Obligations.** The City will use the funds received from FORA to promptly complete the removal of hazardous materials and deconstruction and removal of the Stockade Complex. The City will enter into agreements for the completion of the Project (which agreements shall include requirements to pay prevailing wages in accordance with state law and the FORA Master Resolution), will have final approval of all contractors or consultants employed on the Project, and will be responsible for paying all costs. The City shall timely and fully carry out all responsibilities as Lead Agency for the Project, including without limitation the implementation and supervision of any mitigation monitoring program adopted in connection with any environmental approvals for the Project. Environmental permitting, monitoring, and reporting requirements are identified in the Project plans and specifications listed in Exhibit B. Similarly, as to any hazardous material removed, transported, or disposed of in connection with the Project on or after the Effective Date, the City shall timely and fully carry out all responsibilities as waste generator for the Project, including without limitation by signing manifests for any such hazardous material.

4. **Notification to State Clearinghouse.** Promptly following the execution of this MOA, the Parties shall cooperate in providing appropriate notification to the California Office of Planning and Research's State Clearinghouse that FORA is no longer the Lead Agency for the Project and that the City has assumed that role.

5. **Term.** The term of this MOA shall begin on the Effective Date and continue until FORA's Termination Date, unless terminated earlier as provided herein; provided, however, that the City's obligations to complete the Project in accordance with the terms of this MOA shall remain in full force and effect until final completion of the Project.

6. **Accounting and Records.** FORA (until FORA's Termination Date) and the City shall each maintain and account for the funds related to the Project. Attached as Exhibit B is a list of the contracts, plans, specifications, estimates, bid documents and other records relating to the Project of which the City has already been provided copies. Promptly following the execution of this MOA, FORA will exercise good faith and commercially reasonable efforts to provide the City with copies of available and appropriate documents and records pertaining to the Project which have reasonably been requested by the City in writing. The Parties acknowledge that due to the COVID 19 pandemic, not all private companies are currently open for business and that requests for documents from Vista Environmental Consulting, Harris & Associates, or The Don Chapin Company may not be capable of being responded to before FORA's Termination Date.

7. **Parties' Representatives.** This MOA shall be coordinated between the Parties through the City's Director of Public Works and FORA's Executive Officer.

8. **Advertising & Media Release.** Except as may be required by applicable law (including without limitation the California Public Records Act), FORA shall not release informational material related to this MOA or the Project to the media without first obtaining approval from the

City. FORA shall inform the City of all requests for interviews by media related to this MOA or the Project before such interviews take place; and the City is entitled to have a representative present at such interviews. The City shall provide to FORA language for all press releases concerning the Project.

9. **Indemnification.** Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees.

10. **Termination.** If through any cause either Party fails to fulfill in a timely and proper manner its obligations under this MOA, or violates any of the terms or conditions of this MOA or applicable Federal or State laws and regulations, the non-breaching Party may terminate this MOA upon seven (7) calendar days written notice to the breaching Party. In the event that the Project has not been completed within ten (10) years after the Effective Date of this MOA, then any funds remaining unexpended as of that date shall be distributed as follows: Twenty percent (20%) may be retained by the City and twenty percent (20%) shall be distributed to each of the County of Monterey and the Cities of Del Rey Oaks, Monterey, and Seaside.

11. **Applicable Law.** This MOA shall be construed and interpreted under the laws of the State of California.

12. **Severability.** In the event any part of this MOA is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such part shall be deemed severed from the remainder of the MOA and the remaining provisions shall continue in full force without being impaired or invalidated in any way.

13. **Assignment.** Neither Party may assign this MOA or any part hereof, without written consent and prior approval of the other Party and any assignment without said consent shall be void and unenforceable.

14. **Amendment.** No amendment, modification, alteration, or variation of the terms of this MOA shall be valid unless made in writing and signed by authorized representatives for the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties thereto.

15. **Time of the Essence.** Time is of the essence for each and every provision of this MOA.

16. **Notices.** Any notice required or permitted under this MOA, shall be in writing and shall be deemed served on the date personally delivered or three (3) business days after being sent by certified mail, return receipt requested, addressed as follows, unless otherwise notified in writing of a change of address:

To the City: City Manager  
City of Marina  
211 Hillcrest Avenue  
Marina, CA 93933

To FORA: Executive Officer  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

17. **Authority.** Each Party represents and warrants to the other Party that it is authorized to execute, deliver and perform this MOA, and the terms and conditions hereof are valid and binding obligations of the Party making this representation.
18. **Compliance with Laws.** The Parties agree to comply with all applicable local, state and federal laws and regulations. The City further agrees to comply with all applicable public works contracting requirements.
19. **Venue.** Both Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought thereunder shall be Monterey County, California.
20. **Survival.** All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this MOA shall survive any such expiration or termination.
21. **Relationship of the Parties.** It is understood that this MOA is entered into by and between two public entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association.
22. **Third-Party Beneficiaries.** In order to provide a mechanism for enforcement of the City's obligations under this MOA after FORA's Termination Date (including without limitation the obligation to distribute unexpended funds in the event that the Project is not timely completed), the County of Monterey and the Cities of Del Rey Oaks, Monterey and Seaside are each hereby made an intended third-party beneficiary of this MOA.
23. **Agreement Shall Bind Successors.** The covenants and agreements of this MOA shall inure to the benefit of, and shall be binding upon, each of the Parties and their respective permitted successors and assigns.
24. **Interpretation.** This MOA, as well as its individual provisions, shall be deemed to have been prepared equally by both of the Parties hereto, and shall not be construed or interpreted more favorably for one Party on the basis that the other Party prepared it.
25. **Counterparts.** This MOA may be signed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same agreement. The signature page of

this MOA or any Amendment may be executed by way of a manual or authorized signature. Delivery of an executed counterpart of a signature page to this MOA or an Amendment by electronic transmission scanned pages shall be deemed effective as a delivery of a manually or digitally executed counterpart to this MOA or any Amendment.

26. **Reserved.**

27. **Entire Agreement.** This MOA contains the entire understanding between the Parties and supersedes any prior written or oral understandings and agreements regarding the subject matter of this MOA. There are no representations, agreements, arrangements or understandings, or written, between the Parties relating to the subject matter of this MOA which are not fully expressed herein.

The Parties have executed this MOA on the date(s) written below:

FORT ORD REUSE AUTHORITY

CITY OF MARINA

\_\_\_\_\_  
Joshua Metz  
Executive Officer

\_\_\_\_\_  
Layne Long  
City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Authority Counsel

\_\_\_\_\_  
City Attorney

**EXHIBIT A**

**Stockade Complex Drawings  
(hyperlink provided below)**

[Stockade Drawings](#)

## EXHIBIT B

### STOCKADE DEMOLITION DOCUMENTS TRANSMITTED TO THE CITY OF MARINA (hyperlinks provided where available)

#### Request for Proposal Documents

- [RFP1/S202-RFP1 Stockade Bid Docs Combined File.pdf](#) (Fort Ord Reuse Authority, September 2019)
- [RFP1/S202- Stockade Site Walk Sign In Sheet.pdf](#)
- [RFP1 Addendum 1 - 19-0927.pdf](#)
- [Addendum 2](#)
- [Addendum 3](#)
- [Addendum 4](#)
- [Specifications](#)
- [Drawings](#)
- [Small Business Certification](#)
- [Notice of Intent to Award](#)
- [RFP1/Stockade-Bid Cancellation](#)

#### Background Documents

- [Stockade Pre Demolition Hazardous Materials Survey](#) (Vista Environmental Consulting, June 15, 2017)
- [Site Soil Background-Aggregate-Sampling-Report DRAFT17-0409.pdf](#) (Vista Environmental Consulting, April 10, 2017)

#### Bids

- REI, November 2019 (Hard Copy Provided)
- PARC, November 2019 (Hard Copy Provided)

Additional documents are available for transfer in the event the City of Marina does not already have copies. FORA and the City of Marina are currently finalizing document transfer. The following additional types of documents are available from FORA and may be appropriate for transfer to the City of Marina:

- CIP documents and FORA Board presentations and minutes
- Contractor and consultant contracts and amendments
- Wet utility capping report
- Various drawings and data files, and
- FORA/City of Marina communications as appropriate.



**MEMORANDUM OF AGREEMENT  
REGARDING FUNDING TO BE PROVIDED FOR THE REPAIR OF  
STORM WATER INFILTRATION UNITS - EUCALYPTUS ROAD**

This Memorandum of Agreement (“MOA”), is made and entered into effective as of \_\_\_\_\_, 2020 (the “Effective Date”) by and between the Fort Ord Reuse Authority (“FORA”), a California public agency, and the City of Seaside (the “City”), a California general law city. FORA and the City are sometimes referred to herein in the singular as a “Party” and collectively as the “Parties.”

**Recitals**

**A.** FORA’s Capital Improvement Program for fiscal year 2019/2020 includes repair of storm water infiltration units installed within Eucalyptus Road, as more fully described in the draft final plans attached hereto as Exhibit A (the “Repairs”). FORA’s Board of Directors recently approved the amount of One Million One Hundred Twenty Thousand Dollars (\$1,120,000) to cover the currently estimated cost of the Repairs (the “Budgeted Repair Costs”).

**B.** FORA is scheduled to terminate in accordance with state law on June 30, 2020 (“FORA’s Termination Date”). FORA does not have sufficient time or management resources to successfully execute the completion of the Repairs by FORA’s Termination Date, but the City has such resources and desires to complete the Repairs.

**C.** As FORA’s Termination Date approaches, it is anticipated that approximately Ten Thousand Five Hundred Thirty Dollars (\$10,530) of the funds originally budgeted in connection with design services during the construction stage of the Repairs (the “Budgeted Construction Related Costs”) will remain unexpended.

**D.** FORA has now requested that the City undertake the Repairs and the City is willing to do so, each on all of the terms and conditions set forth in this MOA. Accordingly, the Parties now wish to enter into this MOA to provide for the transfer to the City of (i) the Budgeted Repair Costs and (ii) the unexpended portion of the Budgeted Construction Related Costs (but not to exceed Ten Thousand Five Hundred Thirty Dollars (\$10,530) (which collectively with the Budgeted Repair Costs may be referred to herein as the “Transferred Repair Funds”), each for use by the City as funds to carry out the Repairs.

**E.** Upon the full signing of this MOA, the City will carry out the Repairs in compliance with applicable law, including by acting as lead agency if and to the extent that a lead agency for the Repairs may be required under the California Environmental Quality Act.

**Agreement**

In consideration of the mutual terms, covenants and conditions contained herein the Parties agree as follows:

1. **Recitals.** The Recitals set forth above are to the best of the knowledge of the Parties true and correct and are incorporated into this MOA by this reference.

2. **FORA's Obligations.** Within seven (7) calendar days of the full signing of this MOA, FORA will transfer and pay to the order of the City, and the City agrees to accept from FORA, the Transferred Repair Funds, in full satisfaction of any obligation of FORA to provide funding to complete the Repairs.

3. **City's Obligations.** The City will use the Transferred Repair Funds to promptly complete the Repairs on Eucalyptus Road Infiltrators, which will ultimately become the property of the City. The City will enter into agreements for the completion of the Repairs (which agreements shall include requirements to pay prevailing wages in accordance with state law and the FORA Master Resolution), will have final approval of all contractors or consultants, designs and methods employed in making the Repairs, and will be responsible for paying all costs as well as retaining any cost savings. The City shall timely and fully carry out all responsibilities, if any, as lead agency for the Repairs.

4. **Notification to State Clearinghouse.** Promptly following the full signing of this MOA, the Parties shall cooperate in providing appropriate notification to the California Office of Planning and Research's State Clearinghouse that FORA is not the lead agency for the Repairs and that, to the extent that a lead agency for the Repairs may be required under applicable law, the City has assumed that role.

5. **Term.** The term of this MOA shall begin on the Effective Date and continue until FORA's Termination Date, unless terminated earlier as provided herein; provided, however, that the City's obligations to complete the Repairs in accordance with the terms of this MOA shall remain in full force and effect until final completion of the Repairs, as evidenced by the recording of a Notice of Completion in the Official Records of Monterey County.

6. **Accounting and Records.** FORA (until FORA's Termination Date) and the City shall each maintain and account for the funds related to the Repairs. Attached as Exhibit B is a list of the documents relating to the Repairs of which the City has already been provided electronic copies. Promptly following the full signing of this MOA, FORA will exercise good faith and commercially reasonable efforts to provide the City with copies of available and appropriate records pertaining to the Repairs which have reasonably been requested by the City in writing.

7. **Parties' Representatives.** All work under this MOA shall be coordinated between the Parties through the City's Manager and FORA's Executive Officer.

8. **Reserved.**

9. **Indemnification.** Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees.

10. **Termination.** If through any cause either Party fails to fulfill in a timely and proper manner its obligations under this MOA, or violates any of the terms or conditions of this MOA or applicable Federal or State laws and regulations, the non-breaching Party may terminate this MOA

upon seven (7) calendar days written notice to the breaching Party. In the event that the Repairs have not been completed within ten (10) years after the Effective Date of this MOA, then any funds remaining unexpended as of that date shall be distributed as follows: Twenty percent (20%) may be retained by the City and twenty percent (20%) shall be distributed to each of the County of Monterey and the Cities of Del Rey Oaks, Marina, and Monterey.

11. **Applicable Law.** This MOA shall be construed and interpreted under the laws of the State of California.

12. **Severability.** In the event any part of this MOA is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such part shall be deemed severed from the remainder of the MOA and the remaining provisions shall continue in full force without being impaired or invalidated in any way.

13. **Assignment.** Neither Party may assign this MOA or any part hereof, without written consent and prior approval of the other Party and any assignment without said consent shall be void and unenforceable.

14. **Amendment.** No amendment, modification, alteration or variation of the terms of this MOA shall be valid unless made in writing and signed by authorized representatives for the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties thereto.

15. **Time of the Essence.** Time is of the essence for each and every provision of this MOA.

16. **Notices.** Any notice required or permitted under this MOA, shall be in writing and shall be deemed served on the date personally delivered or three (3) business days after being sent by certified mail, return receipt requested, addressed as follows, unless otherwise notified in writing of a change of address:

To the City: City Manager  
City of Seaside  
440 Harcourt Avenue  
Seaside, CA 93955

w/ Email copy to [cityattorney@ci.seaside.ca.us](mailto:cityattorney@ci.seaside.ca.us)

To FORA: Executive Officer  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

17. **Authority.** Each Party represents and warrants to the other Party that it is authorized to execute, deliver and perform this MOA, and the terms and conditions hereof are valid and binding obligations of the Party making this representation.

18. **Compliance with Laws.** The Parties agree to comply with all applicable local, state and federal laws and regulations. The City further agrees to comply with all applicable public works contracting requirements.

19. **Venue.** Both Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought thereunder shall be Monterey County, California.

20. **Survival.** All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this MOA shall survive any such expiration or termination.

21. **Relationship of the Parties.** It is understood that this MOA is entered into by and between two public entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association.

22. **Third-Party Beneficiaries.** In order to provide a mechanism for enforcement of the City's obligations under this MOA after FORA's Termination Date, the County of Monterey is hereby made an intended third-party beneficiary of this MOA until recordation of the Notice of Completion referred to in Paragraph 5 hereinabove.

23. **Reserved.**

24. **Interpretation.** This MOA, as well as its individual provisions, shall be deemed to have been prepared equally by both of the Parties hereto, and shall not be construed or interpreted more favorably for one Party on the basis that the other Party prepared it.

25. **Counterparts.** This MOA may be signed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same agreement. The signature page of this MOA or any Amendment may be executed by way of a manual or authorized signature. Delivery of an executed counterpart of a signature page to this MOA or an Amendment by electronic transmission scanned pages shall be deemed effective as a delivery of a manually or digitally executed counterpart to this MOA or any Amendment.

26. **Reserved.**

27. **Entire Agreement.** This MOA contains the entire understanding between the Parties and supersedes any prior written or oral understandings and agreements regarding the subject matter of this MOA. There are no representations, agreements, arrangements or understandings, or written, between the Parties relating to the subject matter of this MOA which are not fully expressed herein.

*[signatures appear on following page(s)]*

The Parties have executed this MOA on the date(s) written below:

FORT ORD REUSE AUTHORITY

CITY OF MARINA

\_\_\_\_\_  
Joshua Metz  
Executive Officer

\_\_\_\_\_  
Craig Malin  
City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

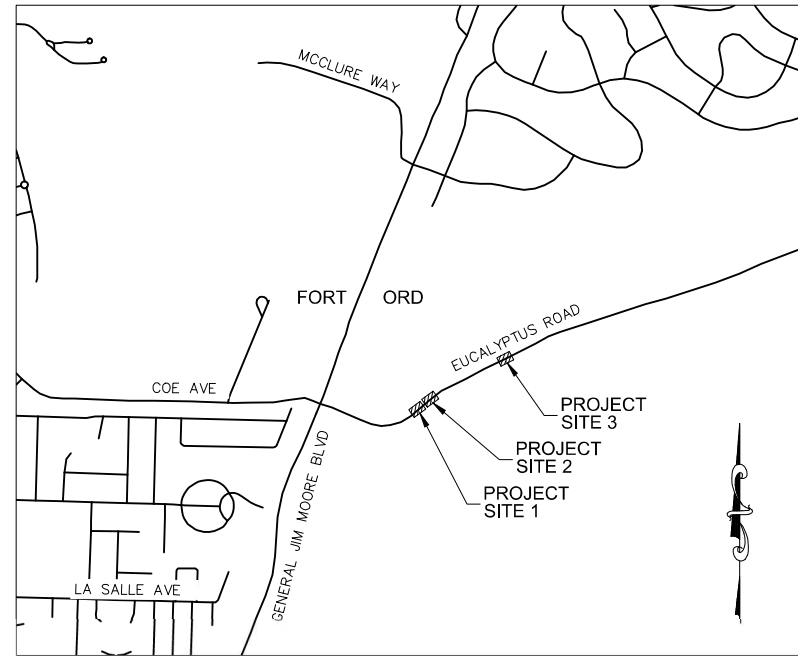
\_\_\_\_\_  
Jon Giffen  
Authority Counsel

\_\_\_\_\_  
Sheri Damon  
City Attorney

# FORT ORD REUSE AUTHORITY EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS

CITY OF SEASIDE, MONTEREY COUNTY, CALIFORNIA

## EXHIBIT A to MOA Regarding Funding to be Provided for the Repair of Storm Water Infiltration Units - Eucalyptus Road



**LOCATION MAP**  
NOT TO SCALE

### PROJECT CONTACT INFORMATION

**OWNER:**  
SCOTT OTTMAR, PE  
CITY OF SEASIDE  
PHONE: (831) 899-6885  
EMAIL: SOTTMAR@CI.SEASIDE.CA.US

**CIVIL ENGINEER:**  
DAVID PEZZINI, PE  
HARRIS & ASSOCIATES  
PHONE: (831) 256-7620  
EMAIL: DAVID.PEZZINI@WEAREHARRIS.COM

**PROJECT MANAGER:**  
PETER SAID  
FORT ORD REUSE AUTHORITY  
PHONE: (831) 883-3672  
EMAIL: PETER@FORA.ORG

**CONSTRUCTION MANAGER:**  
DANA VAN HORN, PE  
HARRIS & ASSOCIATES  
PHONE: (831) 789-8670  
EMAIL: DANA.VANHORN@WEAREHARRIS.COM

### INDEX OF DRAWINGS

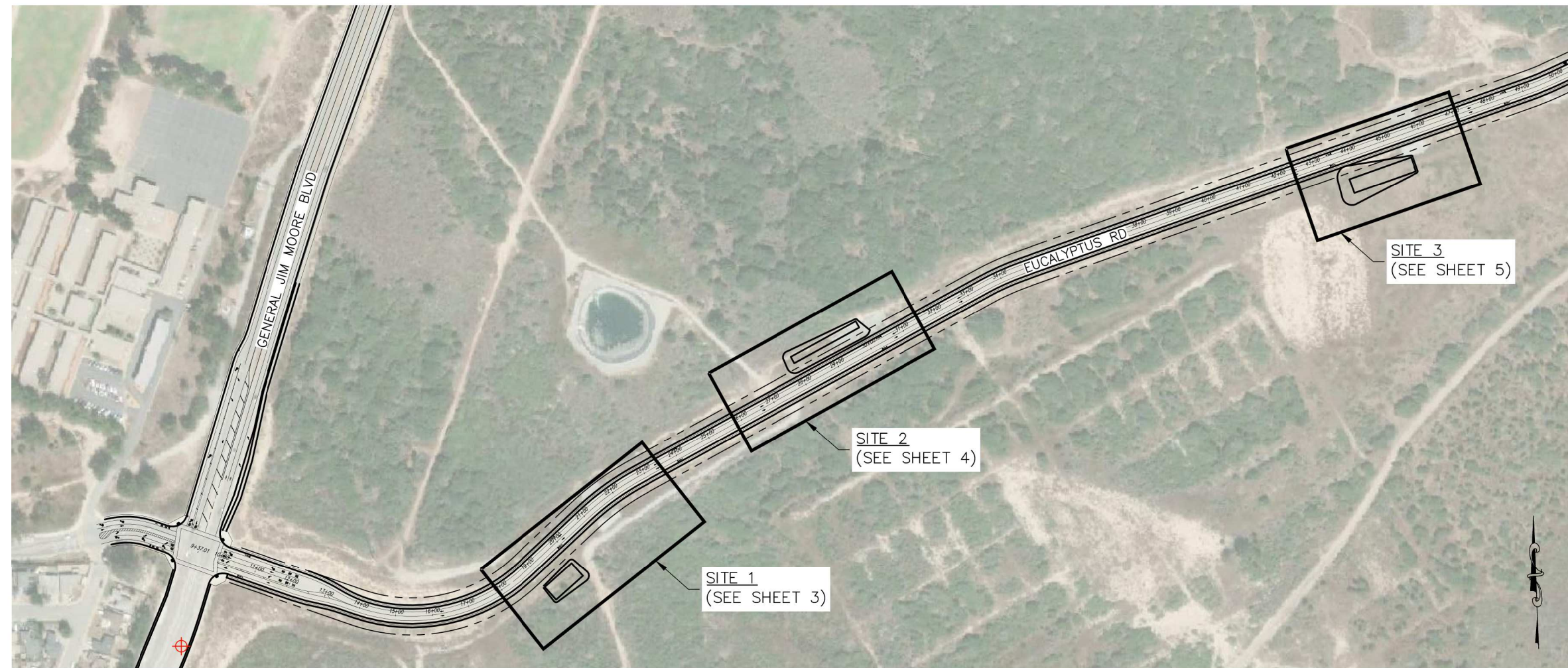
SHEET #	DRAWING #	DESCRIPTION
1	T-01	TITLE SHEET
2	N-01	NOTES AND ABBREVIATIONS
3	C-01	SITE 1 - PLAN AND PROFILE
4	C-02	SITE 2 - PLAN AND PROFILE
5	C-03	SITE 3 - PLAN AND PROFILE
6	CD-01	BIORETENTION BASIN CROSS SECTIONS
7	CD-02	CONSTRUCTION DETAILS
8	CD-03	STORMTECH MC-4500 DETAILS
9	EC-01	EROSION CONTROL PLAN

### BENCHMARK

⊕ A MAGNETIC AND BRASS WASHER STAMPED "BESTOR ENGINEERS" SET IN THE EASTERN PAVED SHOULDER OF GENERAL JIM MOORE BLVD. APPROXIMATELY 260' SOUTHERLY OF THE CENTERLINE OF EUCALYPTUS ROAD. ELEVATION: 332.31 (NGVD29)

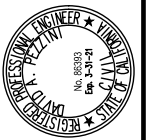
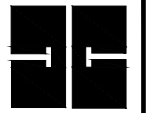
### STANDARD PLANS

STATE OF CALIFORNIA, STANDARD PLANS FOR CONSTRUCTION, 2018 ISSUED BY CALIFORNIA DEPARTMENT OF TRANSPORTATION.



**VICINITY MAP**  
NOT TO SCALE

**HARRIS & ASSOCIATES**  
450 Lincoln Avenue, Suite 103 Salinas, CA 93901



**EUCALYPTUS ROAD INFILTRATION  
UNIT REPAIRS  
TITLE SHEET**

CITY OF SEASIDE MONTEREY COUNTY CALIFORNIA

Date	Revisions
1/24/2020	AS SHOWN
	DESIGN: DP
	DRAWN: HW
	APPROVED:
	JOB NO: 1601201003

DRAWING NUMBER: **T-01**  
SHEET NUMBER: **1 OF 9**

ENGINEERING ESTIMATES & FEASIBILITY IN PREPARATION FOR PROCUREMENT OF A POTENTIAL CONSTRUCTION CONTRACT: DOCUMENT EXEMPT FROM PUBLIC DISCLOSE UNTIL CONTRACT IS FULLY OBTAINED.

Printed - 1/24/2020 11:45:29 AM :: Saved - 1/24/2020 8:15:53 AM :: K:\Projects\Fort Ord Reuse Authority\Eucalyptus Road\12-clap\Draw\01\_EUCALYPTUS.dwg :: Hfery.Whele



Know what's below.  
Call before you dig.

Plotted - 1/24/2020 11:48:33 AM :: Saved - 1/24/2020 9:15:53 AM :: K:\Projects\Veri Ord Renew Authority\Eucalyptus Road\12-CAD\DWG\101\_EUCALYPTUS.dwg :: H:\Herry\Herry

**I. GENERAL NOTES**

- 1. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS AND THESE PLANS.
- 2. THE CONTRACTOR SHALL GIVE INSPECTORS, FIVE (5) WORKING DAYS ADVANCE NOTICE FOR INSPECTION SERVICES.
- 3. ALL REVISIONS TO THESE PLANS MUST BE REVIEWED AND APPROVED IN WRITING BY THE DESIGN ENGINEER PRIOR TO CONSTRUCTION OF AFFECTED ITEMS, REVISIONS SHALL BE ACCURATELY SHOWN ON REVISED PLANS.
- 4. ALL STREET, SIDEWALK AND HAUL ROUTES SHALL BE KEPT CLEAN AND CLEAR OF DEBRIS, DIRT AND DUST IN A MANNER ACCEPTABLE TO FORA.
- 5. EXCAVATIONS SHALL BE ADEQUATELY SHORED, BRACED AND SHEATHED SO THAT THE EARTH WILL NOT SLIDE OR SETTLE AND SO THAT EXISTING IMPROVEMENTS WILL BE FULLY PROTECTED FROM DAMAGE. ANY DAMAGE RESULTING FROM A LACK OF ADEQUATE SHORING, BRACING AND SHEATHING, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR AND HE SHALL COMPLETE NECESSARY REPAIRS OR RECONSTRUCTION AT HIS OWN EXPENSE. WHERE THE EXCAVATION FOR A CONDUIT TRENCH, AND/OR STRUCTURE IS FIVE (5) FEET OR MORE IN DEPTH, THE CONTRACTOR SHALL PROVIDE SHEATHING, SHORING AND BRACING IN CONFORMANCE WITH THE APPLICABLE CONSTRUCTION SAFETY ORDERS OF THE DIVISION OF INDUSTRIAL SAFETY OF THE STATE OF CALIFORNIA. THE CONTRACTOR SHALL COMPLY WITH OSHA REQUIREMENTS AT ALL TIMES.
- 6. THE CONTRACTOR SHALL PROVIDE DUST CONTROL FOR THE PROJECT SITE AT ALL TIMES. THE SITE SHALL BE SPRINKLED AS NECESSARY TO PREVENT DUST NUISANCE. IN THE EVENT THE CONTRACTOR NEGLECTS TO USE ADEQUATE MEASURES TO CONTROL DUST, FORA RESERVES THE RIGHT TO TAKE WHATEVER MEASURES ARE NECESSARY TO CONTROL DUST AND CHARGE THE COST TO THE CONTRACTOR.
- 7. DURING CONSTRUCTION, STREETS SHALL BE CLEANED AS OFTEN AS REQUIRED TO REMOVE ANY ACCUMULATION OF MUD AND DEBRIS RESULTING FROM THIS CONSTRUCTION.
- 8. IF IMPORT OR EXPORT OF DIRT IS NECESSARY, THE CONTRACTOR SHALL OBTAIN APPROVAL FOR THE HAULING ROUTE(S) FROM CITY OF SEASIDE. HAULING ROUTE(S) SHALL NOT GO THROUGH CSUMB CAMPUS. CONTRACTOR TO COORDINATE WITH THE CITY OF SEASIDE. THE HAULING ROUTES SHALL BE STRICTLY ADHERED TO BY THE CONTRACTOR AND ALL SUBCONTRACTORS. DIRT HAULING PERMIT REQUIRED.
- 9. ALL CONSTRUCTION STAKING SHALL BE THE CONTRACTOR'S RESPONSIBILITY.
- 10. SHOULD IT APPEAR THAT THE WORK TO BE DONE OR ANY MATTER RELATIVE THERETO IS NOT SUFFICIENTLY DETAILED OR SPECIFIED IN THE CONSTRUCTION DOCUMENTS, THE CONTRACTOR SHALL NOTIFY FORA'S PROJECT MANAGER, BEFORE PROCEEDING WITH THE WORK IN QUESTION.
- 11. WHEN SPECIFICATIONS OR STANDARDS FROM DIFFERENT AUTHORITIES DIFFER FOR THE SAME SUBJECT MATTER, THE MORE STRINGENT SHALL GOVERN. IF THERE ARE ITEMS THAT CONTRADICT EACH OTHER IN THE BID DOCUMENTS AND THE CONTRACTOR DID NOT CLARIFY PRIOR TO THE BID, THEN THE STRICTER AND/OR BETTER QUALITY, SHALL APPLY.
- 12. UPON SATISFACTORY COMPLETION OF THE WORK, THE ENTIRE WORK SITE SHALL BE CLEANED UP AND LEFT WITH A SMOOTH AND NEATLY GRADED SURFACE FREE OF CONSTRUCTION WASTE AND RUBBISH OF ANY NATURE OR ANYTHING LARGER THAN 3 INCHES BY THE CONTRACTOR. EXCLUDES LANDSCAPING & TREES NOT DESIGNATED FOR REMOVAL.
- 13. CONTRACTOR SHALL COORDINATE WORK WITH MONTEREY BAY AIR RESOURCES DISTRICT (MBARD) PRIOR TO START. ALL WORK SHALL BE DONE IN COMPLIANCE WITH MBARD.
- 14. CONSTRUCTION SHALL BE LIMITED TO BETWEEN THE HOURS OF 7:00 A.M. AND 5:00 P.M., MONDAY THRU FRIDAY. ANY DEVIATIONS FROM THIS SCHEDULE WILL REQUIRE APPROVAL 48 HOURS IN ADVANCE BY FORA.
- 15. THE CONTRACTOR SHALL ERECT A TEMPORARY CONSTRUCTION FENCE ALONG THE PROJECT SITE TO SECURE THE SITE AS REQUIRED.
- 16. IN ORDER TO MINIMIZE CONSTRUCTION NOISE IMPACTS, ALL ENGINE DRIVEN CONSTRUCTION VEHICLES, EQUIPMENT AND PNEUMATIC TOOLS SHALL BE REQUIRED TO USE EFFECTIVE INTAKE AND EXHAUST MUFFLERS; EQUIPMENT SHALL BE PROPERLY ADJUSTED AND MAINTAINED; ALL CONSTRUCTION EQUIPMENT SHALL BE EQUIPPED WITH MUFFLERS IN ACCORDANCE WITH OSHA STANDARDS. CONTRACTOR SHALL COMPLY WITH CITY OF SEASIDE NOISE ORDINANCE REQUIREMENTS AT ALL TIMES.
- 17. THE CONTRACTOR SHALL NOTIFY FORA'S PROJECT MANAGER, IN WRITING, AT LEAST 48 HOURS PRIOR TO COMMENCING WORK OF ALL DIFFERENCES BETWEEN THE FIELD CONDITIONS AND THE DESIGN INDICATED ON THE PLANS. COMMENCEMENT OF THE RELATED WORK SHALL BE SUBJECT TO THE WRITTEN APPROVAL OF FORA BEFORE ALTERED WORK IS STARTED VIA REQUEST FOR INFORMATION OR CHANGE. UNAUTHORIZED WORK WILL BE AT THE CONTRACTOR'S RISK & EXPENSE AND MAY BE REQUIRED TO BE REPAIRED OR REPLACED IF NOT AUTHORIZED BY FORA, AT CONTRACTOR'S EXPENSE.
- 18. THE CONTRACTOR SHALL PROVIDE A QUALIFIED SUPERVISOR ON THE JOB SITE AT ALL TIMES DURING CONSTRUCTION.
- 19. THE CONTRACTOR SHALL COMPLY WITH ALL STATE, COUNTY, AND CITY LAWS AND ORDINANCES, REGULATIONS OF THE DEPARTMENT OF INDUSTRIAL RELATIONS, O.S.H.A., AND COMMISSION ON HEALTH AND SAFETY AND WORKER'S COMPENSATION RELATING TO SAFETY AND CHARACTER OF WORK, EQUIPMENT AND LABOR PERSONNEL.
- 20. THE STORING OF GOODS, EQUIPMENT AND/OR MATERIALS ON THE PUBLIC

SIDEWALK AND/OR A PUBLIC STREET SHALL NOT BE ALLOWED UNLESS A SPECIAL PERMIT IS ISSUED BY FORA OR FORA'S REPRESENTATIVE.

- 21. THE CONTRACTOR SHALL OBTAIN ALL REQUIRED INSPECTION AND PERMITS, AND PROVIDE NOTICES REQUIRED BY THE CITY.

**II. EXISTING CONDITIONS**

- 1. EXISTING TOPOGRAPHIC INFORMATION SHOWN ON THESE PLANS IS BASED ON RECORD DOCUMENTS, AERIAL PHOTOGRAPHY, AND SUPPLEMENTAL TOPOGRAPHY BY WHITSON ENGINEERS.
- 2. CONTRACTOR SHALL REVIEW THE PLANS AND SPECIFICATIONS AND CONDUCT FIELD INVESTIGATIONS AS REQUIRED TO VERIFY EXISTING CONDITIONS AT THE PROJECT SITE.
- 3. INFORMATION REGARDING EXISTING SUBSURFACE IMPROVEMENTS AND UTILITIES SHOWN ON THESE PLANS WAS TAKEN FROM RECORD DATA KNOWN TO THE DESIGN ENGINEER AND IS NOT MEANT TO BE A FULL CATALOG OF EXISTING CONDITIONS. CONTRACTOR SHALL CONDUCT FIELD INVESTIGATIONS AS REQUIRED TO VERIFY THE LOCATION, SIZE, AND ELEVATION OF ALL EXISTING SUBSURFACE IMPROVEMENTS AND UTILITIES (WHETHER SHOWN ON THESE PLANS OR NOT) PRIOR TO THE COMMENCEMENT OF WORK. CONTRACTOR SHALL NOTIFY THE DESIGN ENGINEER IMMEDIATELY UPON DISCOVERY OF ANY DISCREPANCIES BETWEEN EXISTING CONDITIONS IN THE FIELD AND INFORMATION SHOWN ON THESE PLANS.
- 4. ALL UNDERGROUND UTILITIES MAY NOT BE SHOWN. THOSE SPECIFICALLY SHOWN ON PLANS ARE APPROXIMATE LOCATIONS. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY EXACT LOCATION AND DEPTH OF UTILITIES THROUGH POTHOLING IN THE FIELD.
- 5. CONTRACTOR SHALL CALL "UNDERGROUND SERVICE ALERT" (U.S.A.) AT 811 AT LEAST 48 HOURS BEFORE ANY EXCAVATION OR GRADING WORK.
- 6. IF THE CONTRACTOR FAILS TO INVESTIGATE KNOWN OR UNKNOWN EXISTING SUBSURFACE IMPROVEMENTS PRIOR TO ANY CONSTRUCTION ACTIVITIES AND UNFORESEEN CONDITIONS ARISE, ALL COSTS AND SCHEDULE IMPACTS WILL BE BORNE BY THE CONTRACTOR.
- 7. MUNITIONS AND EXPLOSIVES OF CONCERN (MEC) MAY BE OBSERVED AT THE WORK SITE DURING CONSTRUCTION OPERATIONS. THE CONTRACTOR SHALL STOP ALL CONSTRUCTION ACTIVITIES IF MEC OR MEC-LIKE ITEMS ARE OBSERVED. PLEASE REFER TO SPECIFICATION SECTION 01 14 00 FOR MEC WORK RESTRICTIONS.

**III. UTILITIES**

- 1. CONTRACTOR SHALL MAKE ARRANGEMENTS AT LEAST THREE (3) WORKING DAYS IN ADVANCE WITH APPROPRIATE UTILITY COMPANIES PRIOR TO ANY DISCONNECTION, ABANDONMENT OF, OR WORK WITH THE LINES AND APPURTENANT STRUCTURES OF THE UTILITIES LISTED BELOW:  
STORM DRAIN - CITY OF SEASIDE  
SANITARY SEWER - MCWD  
WATER - MCWD  
ELECTRICAL - PG&E  
TELEPHONE - AT&T  
GAS - PG&E

**IV. ABANDONMENT OF EX UTILITY PIPES AND/OR CONDUITS**

- 1. EXISTING UTILITY PIPES AND/OR CONDUIT TO BE CAPPED AND ABANDONED IN PLACE WHERE NOTED.
- 2. ABANDON EXISTING INFILTRATION UNITS BY FILLING IN WITH A MIXTURE OF 3-SACK CEMENT AND APPROVED EXCAVATED MATERIAL FROM THE NEAREST BIORETENTION BASIN AREA

**V. SEDIMENTATION AND POLLUTION CONTROL**

- 1. CONTRACTOR SHALL FOLLOW ALL REQUIREMENTS OF THE PROJECT STORM WATER POLLUTION PREVENTION PLAN (SWPPP), WASTE DISCHARGER IDENTIFICATION (WDID) NUMBER 3 27C361618, APPROVED ON AUGUST 05, 2011.
- 2. CONTRACTOR SHALL HIRE A QUALIFIED SWPPP PRACTITIONER (QSP) TO IMPLEMENT ALL PHASES OF THE PROJECT UNDER THE SWPPP INCLUDING, BUT NOT LIMITED TO, UPDATING THE SWPPP AS NECESSARY, SUBMITTING THE NOTICE OF INTENT (NOI), NOTICE OF TERMINATION (NOT), SAMPLING AND MONITORING, AND REPORTING MONITORING REPORTS TO THE REGIONAL WATER QUALITY CONTROL BOARD. PROVIDE QSP CERTIFICATE TO FORA.
- 3. A COPY OF THE SWPPP SHALL REMAIN ON-SITE THROUGHOUT CONSTRUCTION.
- 4. CONTRACTOR SHALL IMPLEMENT ALL SEDIMENTATION AND POLLUTION CONTROL MEASURES SHOWN ON THE EROSION CONTROL PLANS AND DETAILS INCLUDED IN THESE IMPROVEMENT PLANS.
- 5. ALL FINES IMPOSED AND REPAIRS REQUIRED FOR NOT FOLLOWING THE SWPPP SHALL BE PAID BY THIS CONTRACTOR.

**VI. RECORD DRAWINGS**

- 1. THE RECORD DRAWING SHALL BE "REDLINED" ON A SET OF CONSTRUCTION PRINTS AND INDICATE THE FOLLOWING:
  - a. IDENTIFY LOCATION, SIZE, MATERIAL AND TYPE OF UTILITY THAT WAS ABANDONED OR LEFT IN PLACE AND THE CONDITION THEREOF.
  - b. NOTE THE LOCATION AND ELEVATION (OR APPROXIMATE DEPTH RELATIVE TO FINISH GRADE) OF ANY EXISTING UTILITIES.

- 2. CONTRACTOR SHALL DELIVER REDLINED PRINTS TO THE DESIGN ENGINEER WITH A COPY TO FORA.
- 3. THE DESIGN ENGINEER INCORPORATES CONTRACTOR'S INFORMATION INTO RECORD DRAWINGS AND SUBMITS THEM TO FORA.

**VII. STATEMENT OF RESPONSIBILITY**

- 1. CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY FORA & ITS REPRESENTATIVES AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.
- 2. CONTRACTOR SHALL COMPLY WITH ALL STATE, COUNTY AND CITY LAWS AND ORDINANCES; AND REGULATIONS OF THE DEPARTMENT OF INDUSTRIAL RELATIONS, O.S.H.A. AND INDUSTRIAL ACCIDENT COMMISSION RELATING TO SAFETY AND CHARACTER OF WORK EQUIPMENT AND LABOR PERSONNEL.

**VIII. UNAUTHORIZED CHANGES AND USES**

- 1. THE DESIGN ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO THESE PLANS. ALL CHANGES TO THE PLANS MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THESE PLANS.

**IX. PROJECT NOTES**

- 1. CONTRACTOR SHALL SECURE ENTRY GATE AT EUCALYPTUS ROAD AND GENERAL JIM MOORE BLVD AT ALL TIMES. KEEP THE ACCESS IN FRONT OF THE GATE OPEN FOR EMERGENCY VEHICLES.
- 2. EUCALYPTUS ROAD IS CURRENTLY CLOSED TO THE PUBLIC VEHICULAR TRAFFIC BUT PEDESTRIANS AND BICYCLISTS USE THE ROAD. CONTRACTOR SHALL KEEP ROADWAY CLEAR OF DEBRIS AND OTHER HAZARDS TO PEDESTRIANS AND BICYCLISTS.
- 3. STAGING AREA IS LIMITED TO 150 FEET FROM EDGE OF EUCALYPTUS ROAD TO THE UNPAVED AREAS. NO MORE THAN 1/2 OF EUCALYPTUS ROAD CAN BE USED AS A STAGING AREA. STAGING AREA IS LIMITED TO 20 FEET EAST AND WEST OF THE FINAL GRADES NOTED ON THE DRAWINGS.

**X. SOIL MANAGEMENT**

- 1. PROJECT MUST COMPLY WITH THE CITY OF SEASIDE MUNICIPAL CODE CHAPTER 15.34 "DIGGING AND EXCAVATION ON THE FORMER FORT ORD". THE PROGRAMMATIC ON-CALL CONSTRUCTION SUPPORT PLAN (CSP), ROADWAYS AND UTILITIES, SEASIDE MUNITIONS RESPONSE AREA (11/05/19), OR UPDATED VERSION THEREOF, IS INTENDED TO SUPPORT SEASIDE'S DIGGING AND EXCAVATION ORDINANCE CONSTRUCTION SUPPORT REQUIREMENTS FOR INTRUSIVE ACTIVITIES RELATED TO ROADWAY AND UTILITY PROJECTS TO ENSURE EACH EVENT DISTURBING 10 CUBIC YARDS OR MORE OF SOIL IS (1) COORDINATED WITH A UNEXPLODED ORDNANCE (UXO) SUPPORT CONTRACTOR, AS REQUIRED, AND (2) IN ACCORDANCE WITH RIGHT-OF-ENTRY AGREEMENTS, RIGHT-OF-WAY AGREEMENTS, PROPERTY DEEDS, AND CITY OF SEASIDE COVENANT TO RESTRICT USE OF PROPERTY (CRUP). ALL REQUIREMENTS AND REPORTING AS DEFINED IN THE PROGRAMMATIC ON-CALL CSP MUST BE COMPLIED WITH DURING ALL STAGES OF CONSTRUCTION.

**ABBREVIATIONS**

AB	AGGREGATE BASE	GB	GRADE BREAK
AC	ASPHALT CONCRETE	GV	GAS VALVE
ADA	AMERICANS WITH DISABILITIES ACT	HDPE	HIGH DENSITY POLYETHYLENE
AVE	AVENUE	HMA	HOT MIX ASPHALT
BC	BEGIN CURVE / BACK OF CURB	HP	HIGH POINT
BW	BACK OF WALK	IN	INCHES
C&G	CONCRETE CURB & GUTTER	INV	INVERT
CB	CATCH BASIN	IP	IRON PIPE
CL	CENTERLINE	JT	JOINT TRENCH
CLR	CLEAR	LF	LINEAR FEET
CMP	CORRUGATED METAL PIPE	LN	LANE
CONC.	CONCRETE	LT	LEFT
CONF	CONFORM	MAX.	MAXIMUM
CONT.	CONTINUOUS	MIN.	MINIMUM
CR	CURB RETURN / CURB RAMP	MON	MONUMENT
CY	CUBIC YARD	(N)	NEW
DI	DRAINAGE INLET	NF	NOT FOUND
DIA., Ø	DIAMETER	N.I.C.	NOT IN CONTRACT
DIM	DIMENSION	NTS	NOT TO SCALE
DR	DRIVE	O.C.	ON CENTER
DS	DOWNSTREAM	OG	ORIGINAL GRADE
DWG.	DRAWING	PB	PULL BOX
DWY/DW	DRIVEWAY	PCC	PORTLAND CEMENT CONCRETE
EA	EACH	PG&E	PACIFIC GAS AND ELECTRIC
EG	EXISTING GRADE	P/L	PROPERTY LINE
EP	EDGE OF PAVEMENT	PVC	POLYVINYL CHLORIDE
EX, EXIST, (E)	EXISTING	R	RADIUS
FG	FINISHED GRADE	ROW / R/W	RIGHT OF WAY
FH	FIRE HYDRANT	RCP	REINFORCED CONCRETE PIPE
FL	FLOWLINE	RD	ROAD
FOC	FACE OF CURB	RET	RETAINING
FO	FIBER OPTIC	R&R	REMOVE AND REPLACE
FT	FEET	RR	RAILROAD
G	GAS	RT	RIGHT
		S	SLOPE

**LEGEND**

	EXISTING INFILTRATION UNIT
	EXISTING ELECTRICAL SERVICE
	EXISTING ELECTRICAL BOXES
	EXISTING FENCE
	EXISTING SILT FENCE
	EXISTING UTILITY POLE
	EXISTING PG&E TOWER
	EXISTING STORM DRAIN MANHOLE
	EXISTING STORM DRAIN INLET
	EXISTING STORM DRAIN PIPE
	PROPOSED STORM DRAIN PIPE

ENGINEERING ESTIMATES & FEASIBILITY IN PREPARATION FOR PROCUREMENT OF A POTENTIAL CONSTRUCTION CONTRACT: DOCUMENT EXEMPT FROM PUBLIC DISCLOSE UNTIL CONTRACT IS FULLY OBTAINED.

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**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS**

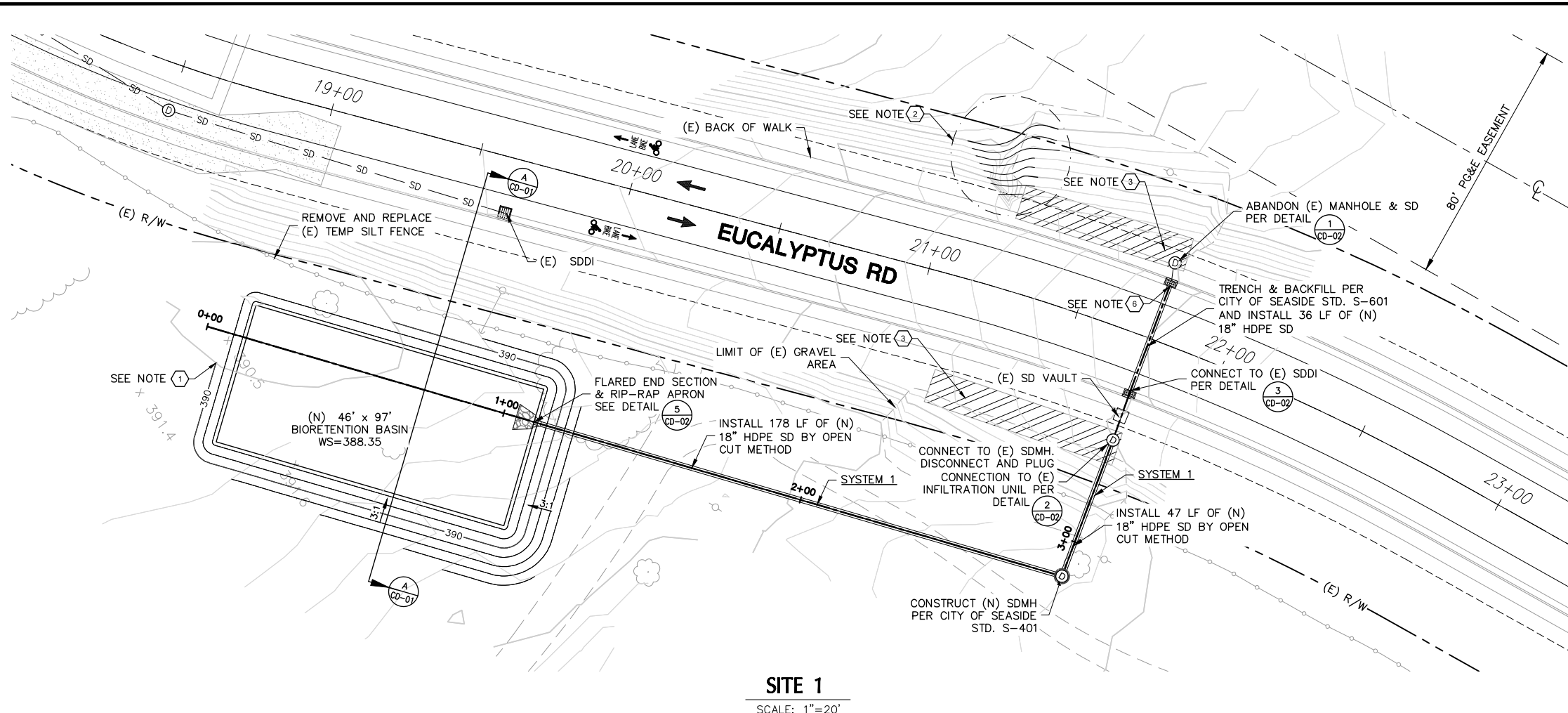
**NOTES AND ABBREVIATIONS**

CITY OF SEASIDE MONTEREY COUNTY CALIFORNIA

Date: 1/24/2020	Scale: NOT TO SCALE	Design: DP	Drawn: HW	Approved:	Job No: 1601201003
Revisions					

DRAWING NUMBER: **N-01**  
SHEET NUMBER: **2** OF **9**

Plotted - 1/24/2020 11:46:04 AM :: Saved - 1/24/2020 8:02:40 AM :: K:\Projects\Fort Ord Reuse Authority\Sanctuary Road\12-CDP\Drawings\CDL.dwg :: Hilary.Wheeler

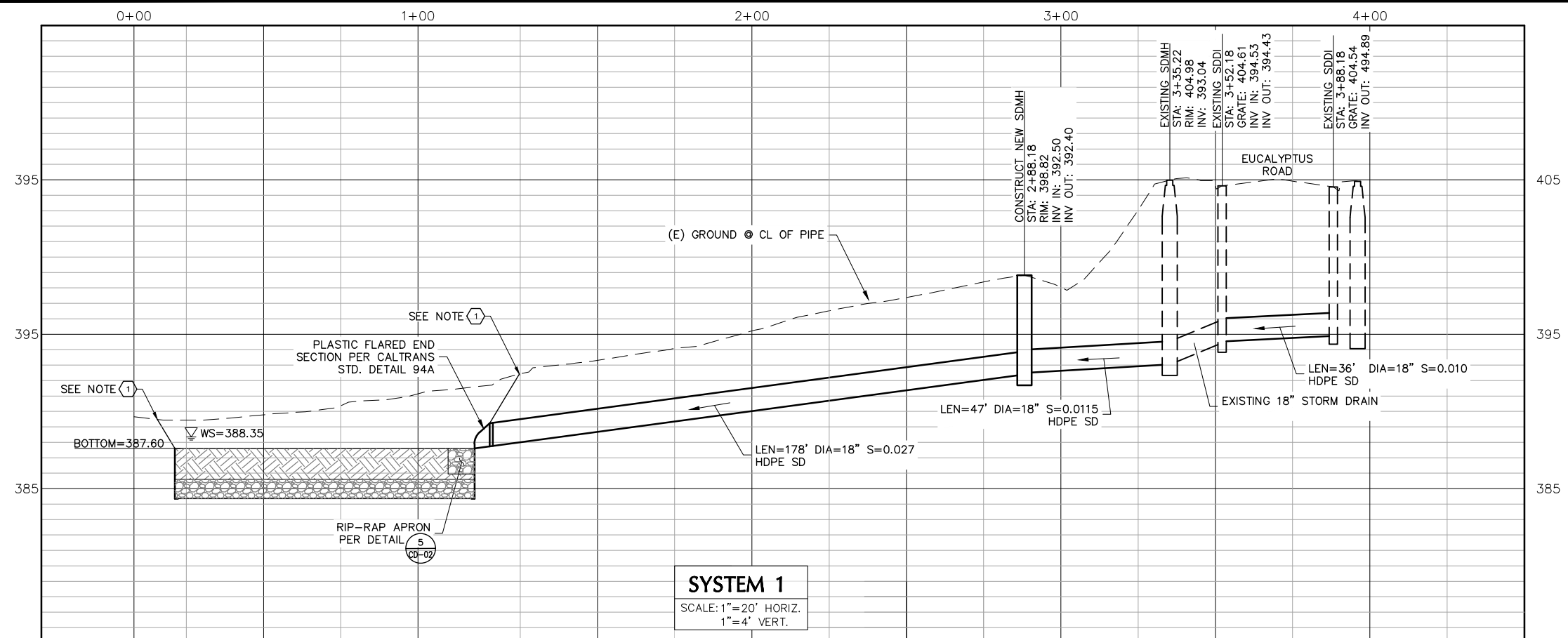
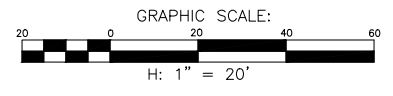


**SITE 1**  
SCALE: 1"=20'

- CONSTRUCTION NOTES:**
- 1 LIMIT OF WORK. GRADE TO MATCH EXISTING GROUND
  - 2 REPAIR ERODED AREA BY FILLING WITH SOIL, COMPACTED TO 90% RELATIVE COMPACTION. SLOPE SHALL BE 3:1 MIN.
  - 3 ABANDON EXISTING INFILTRATION UNITS BY FILLING THE UNITS WITH A 3-SACK SAND-CEMENT SLURRY. EXCAVATED MATERIAL MAY BE USED WITH WRITTEN APPROVAL OF THE CITY ENGINEER.
  - 4 CAUTION: OVERHEAD LINES
  - 5 REMOVE EXISTING VEGETATION AND DISC GROUND PRIOR TO GRADING.
  - 6 DISCONNECT AND PLUG EXISTING STORM DRAIN CONNECTION AND CONNECT NEW STORM DRAIN PER DETAIL

**DIRT QUANTITIES:**  
CUT = 820 CY  
FILL = 0 CY

ENGINEERING ESTIMATES & FEASIBILITY IN PREPARATION FOR PROCUREMENT OF A POTENTIAL CONSTRUCTION CONTRACT. DOCUMENT EXEMPT FROM PUBLIC DISCLOSE UNTIL CONTRACT IS FULLY OBTAINED.



**SYSTEM 1**  
SCALE: 1"=20' HORIZ.  
1"=4' VERT.

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**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS**  
**SITE 1 - PLAN AND PROFILE**  
CITY OF SEASIDE MONTEREY COUNTY CALIFORNIA

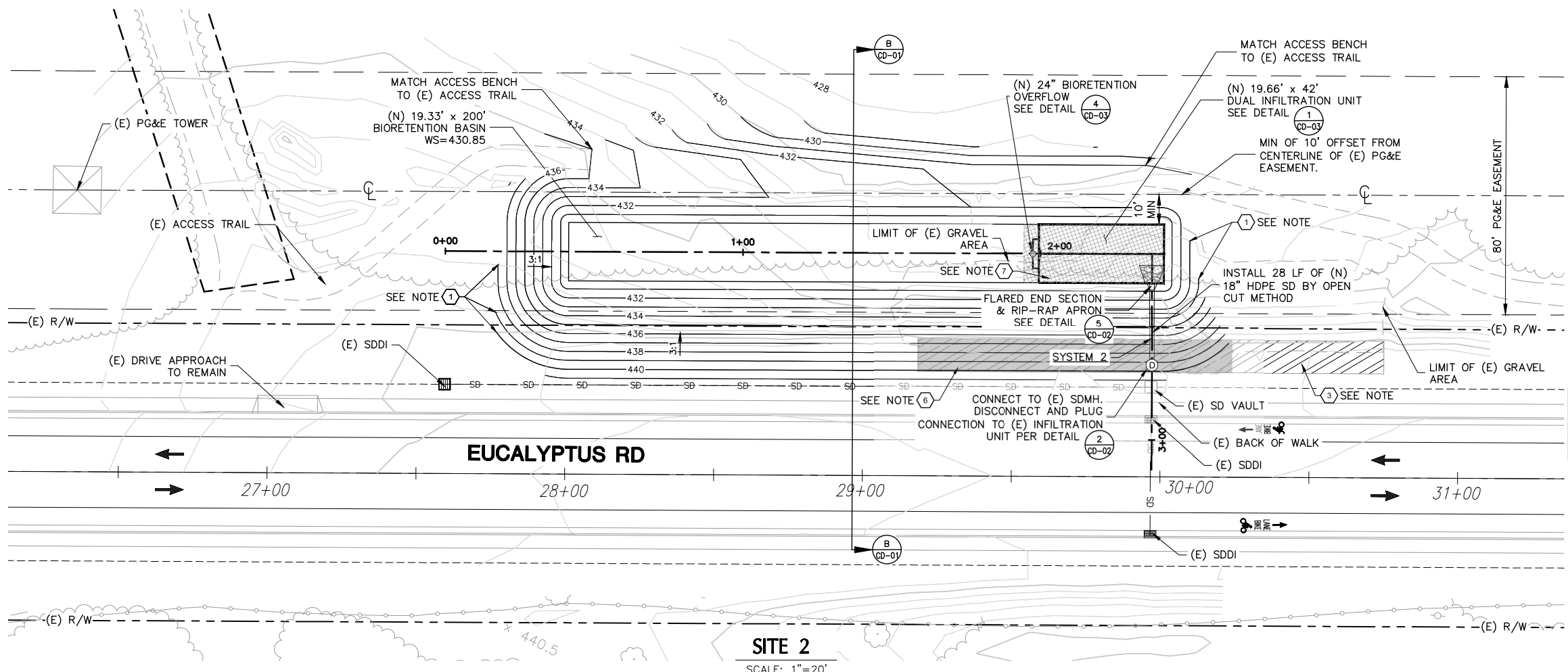
No.	Revisions

Date: 1/24/2020  
Scale: 1"=20'  
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Approved: [Signature]  
Job No: 1601201003

DRAWING NUMBER: **C-01**  
SHEET NUMBER: **3** OF **9**



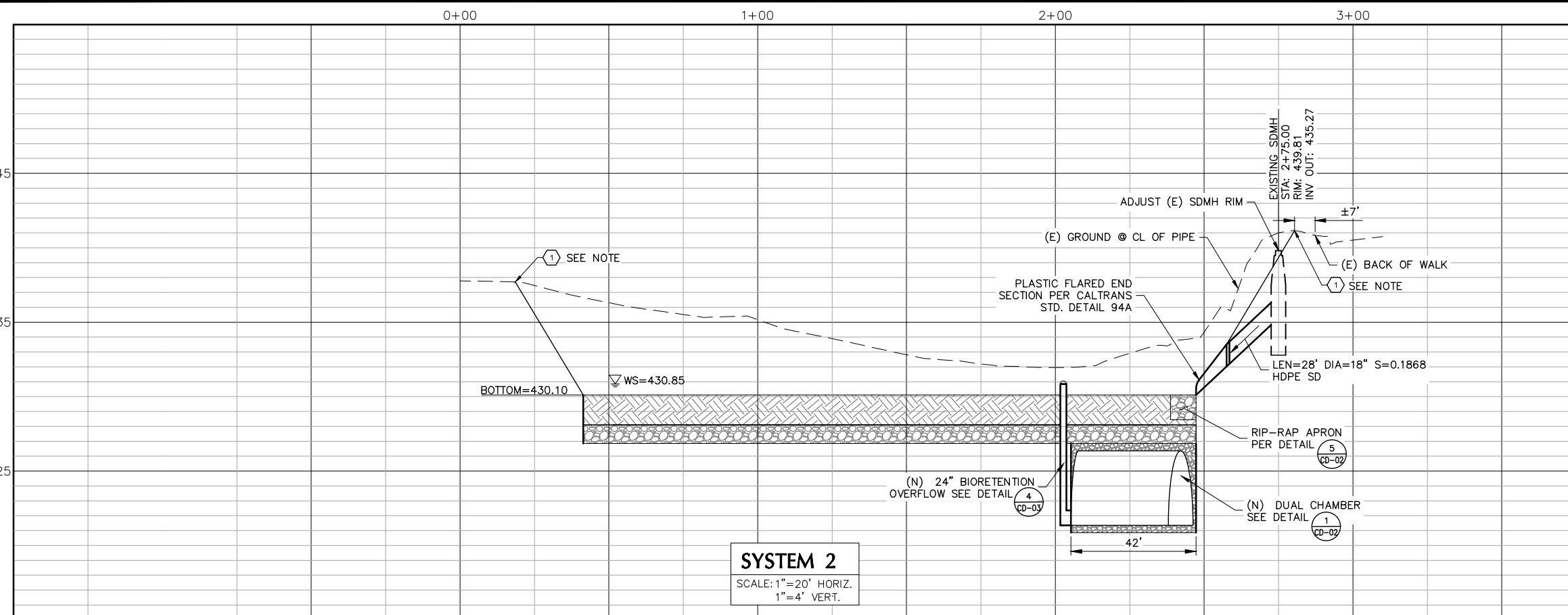
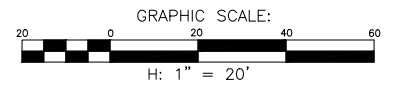
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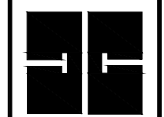
- CONSTRUCTION NOTES:**
- LIMIT OF WORK. GRADE TO MATCH EXISTING GROUND
  - REPAIR ERODED AREA BY FILLING WITH SOIL, COMPACTED TO 90% RELATIVE COMPACTION. SLOPE SHALL BE 3:1 MIN.
  - ABANDON EXISTING INFILTRATION UNITS BY FILLING THE UNITS WITH A SAND SLURRY. EXCAVATED MATERIAL MAY BE WITH A MIXTURE OF 3-SACK CEMENT IS ALLOWED WITH WRITTEN APPROVAL OF THE CITY ENGINEER.
  - CAUTION: OVERHEAD LINES
  - REMOVE EXISTING VEGETATION AND DISC GROUND PRIOR TO GRADING.
  - REMOVE (E) INFILTRATION UNIT AS NECESSARY FOR GRADING OF BASIN. CONTRACTOR SHALL PROVIDE A MINIMUM OF 3' OF COVER OVER EXISTING INFILTRATION UNITS TO ALLOW FOR INFILTRATION UNIT ABANDONMENT.
  - DO NOT DRIVE ON THE AREA OVER PROPOSED INFILTRATION UNITS.

**DIRT QUANTITIES:**  
 CUT = 1,070 CY  
 FILL = 152 CY

ENGINEERING ESTIMATES & FEASIBILITY IN PREPARATION FOR PROCUREMENT OF A POTENTIAL CONSTRUCTION CONTRACT. DOCUMENT EXEMPT FROM PUBLIC DISCLOSE UNTIL CONTRACT IS FULLY OBTAINED.



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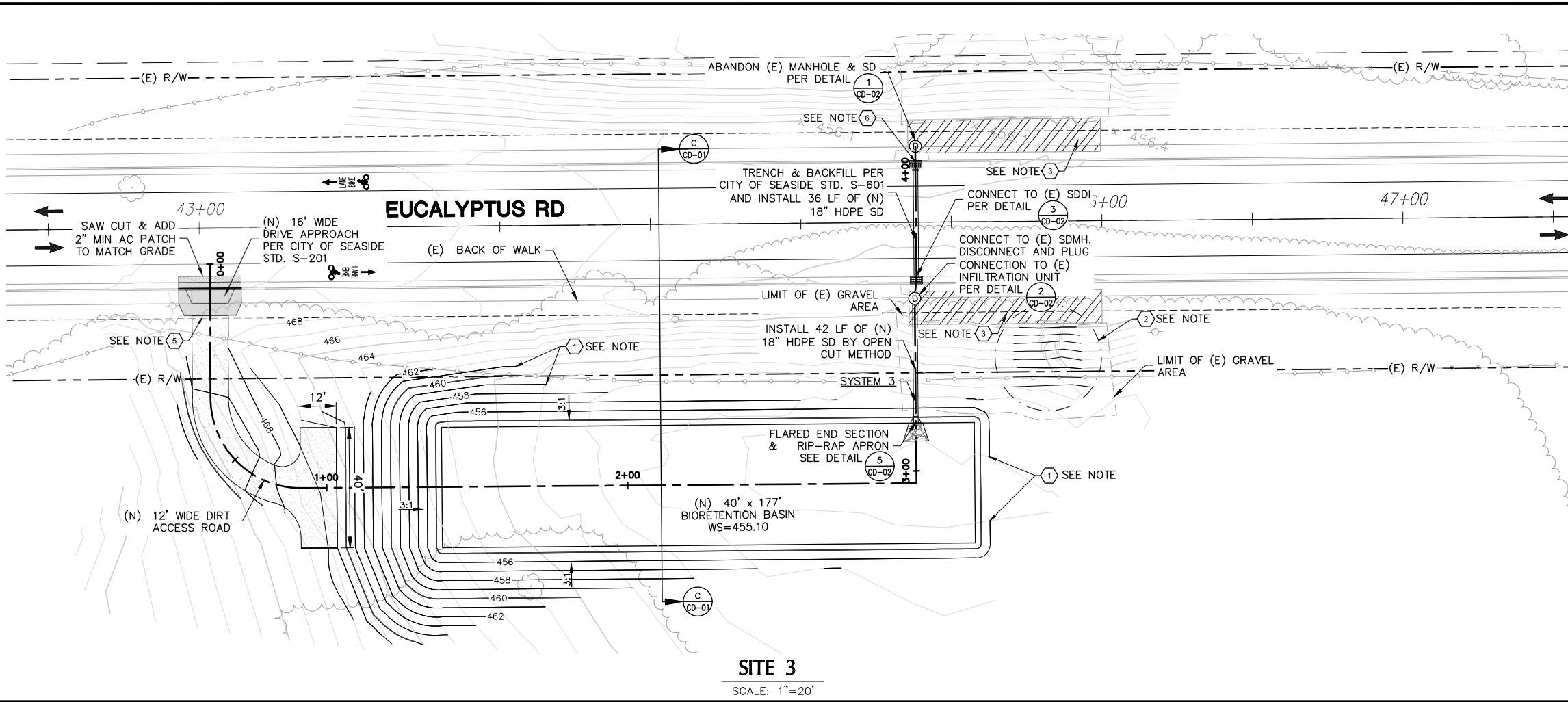


**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS**  
**SITE 2 - PLAN AND PROFILE**  
 CITY OF SEASIDE MONTEREY COUNTY CALIFORNIA

Revisions	No.	Date	Scale	Design	Drawn	Approved	Job No.

Date: 1/24/2020  
 Scale: 1"=20'  
 Design: DP  
 Drawn: HW  
 Approved: [Signature]  
 Job No: 1601201003

DRAWING NUMBER: **C-02**  
 SHEET NUMBER: **4 OF 9**



**SITE 3**  
SCALE: 1"=20'

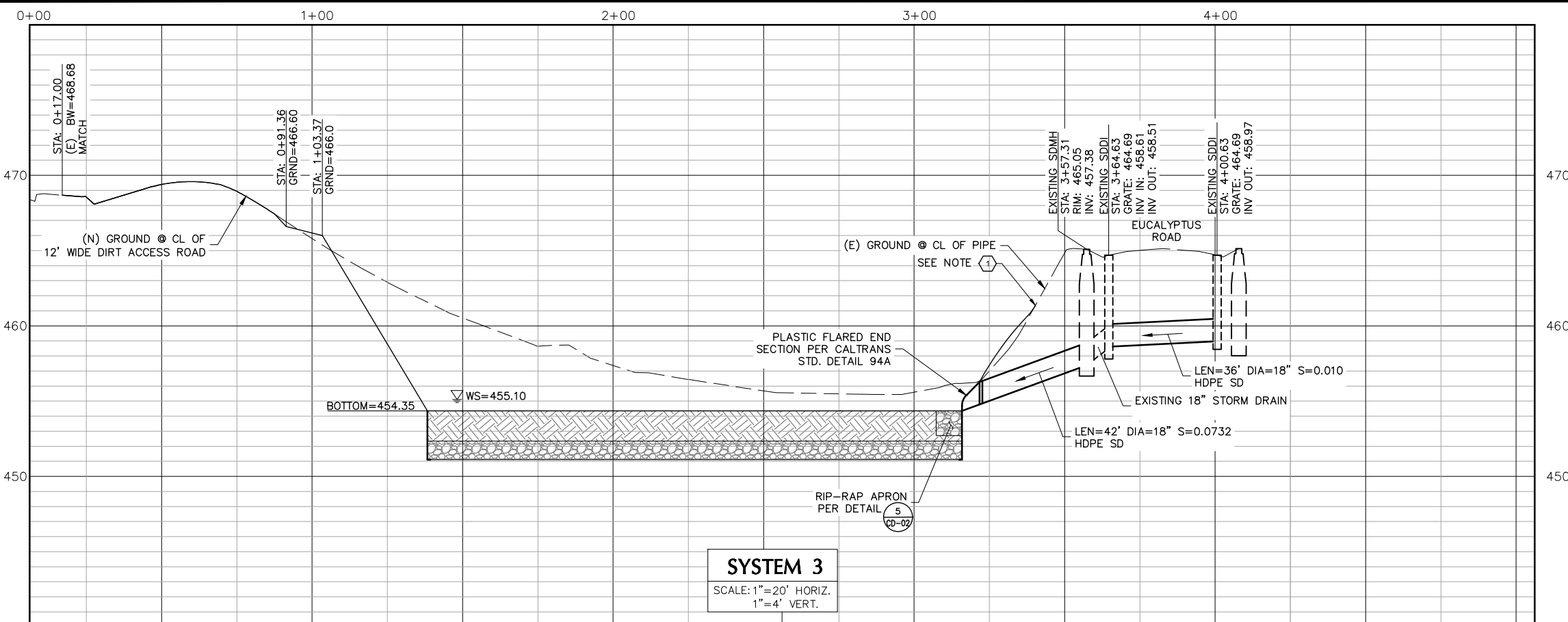
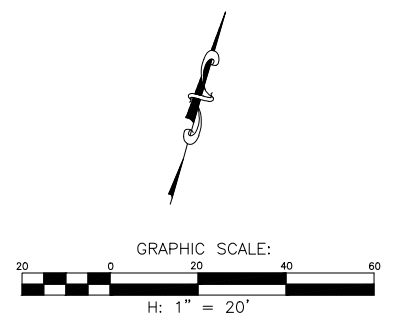
**CONSTRUCTION NOTES:**

- 1 LIMIT OF WORK. GRADE TO MATCH EXISTING GROUND
- 2 REPAIR ERODED AREA BY FILLING WITH SOIL, COMPACTED TO 90% RELATIVE COMPACTION. SLOPE SHALL BE 3:1 MIN.
- 3 ABANDON EXISTING INFILTRATION UNITS BY FILLING THE UNITS WITH A SAND SLURRY. EXCAVATED MATERIAL MAY BE WITH A MIXTURE OF 3-SACK CEMENT IS ALLOWED WITH WRITTEN APPROVAL OF THE CITY ENGINEER.
- 4 CAUTION: OVERHEAD LINES
- 5 REMOVE EXISTING VEGETATION AND DISC GROUND PRIOR TO GRADING.
- 6 DISCONNECT AND PLUG EXISTING STORM DRAIN CONNECTION AND CONNECT NEW STORM DRAIN PER DETAIL

**DIRT QUANTITIES:**

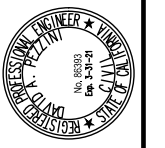
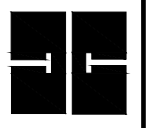
CUT = 1,427 CY  
FILL = 22 CY

ENGINEERING ESTIMATES & FEASIBILITY IN PREPARATION FOR PROCUREMENT OF A POTENTIAL CONSTRUCTION CONTRACT. DOCUMENT EXEMPT FROM PUBLIC DISCLOSURE UNTIL CONTRACT IS FULLY OBTAINED.



**SYSTEM 3**  
SCALE: 1"=20' HORIZ.  
1"=4' VERT.

**HARRIS & ASSOCIATES**  
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**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS**  
**SITE 3 - PLAN AND PROFILE**  
CITY OF SEASIDE MONTEREY COUNTY CALIFORNIA

Revisions	No.	Date	By	Check

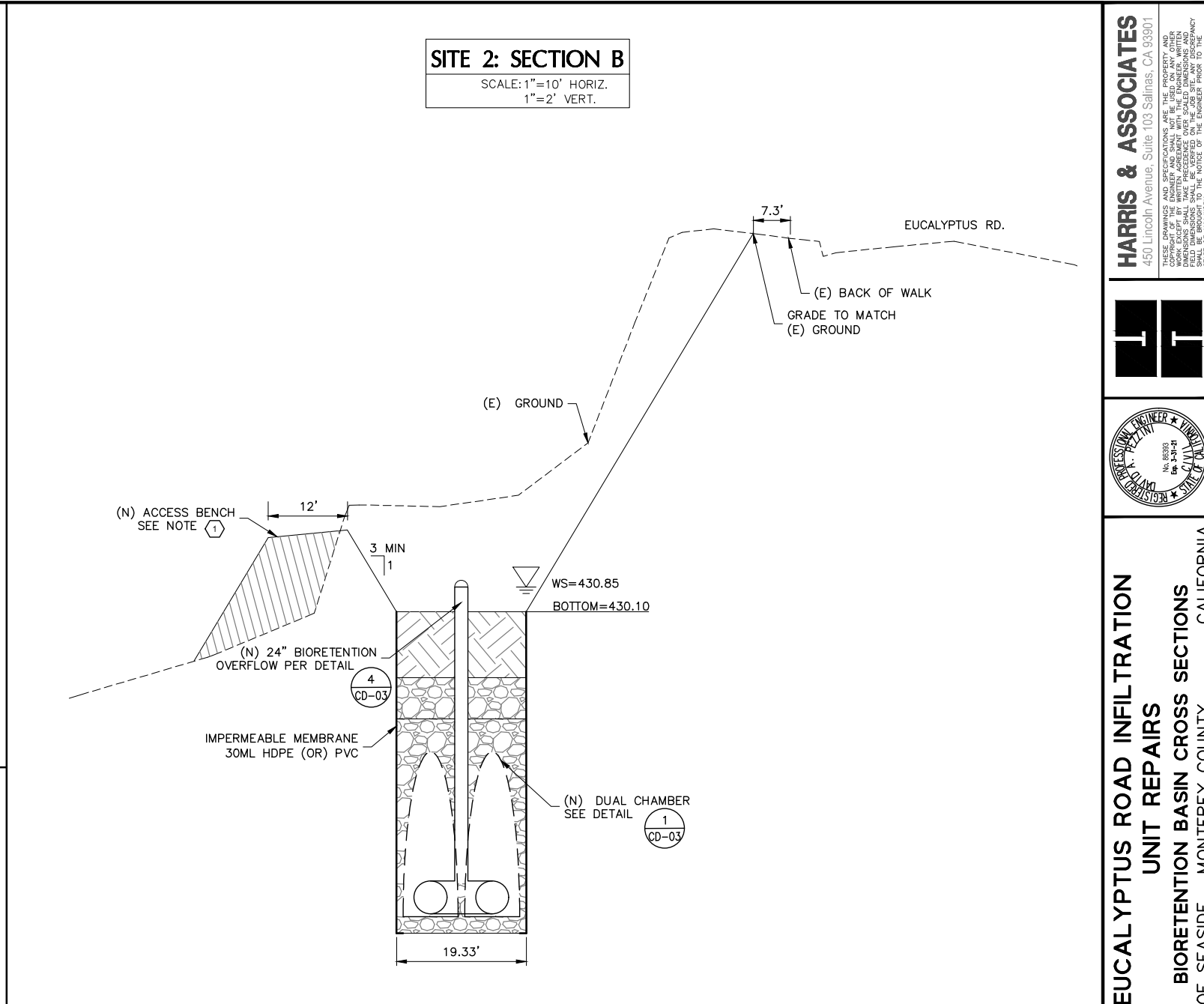
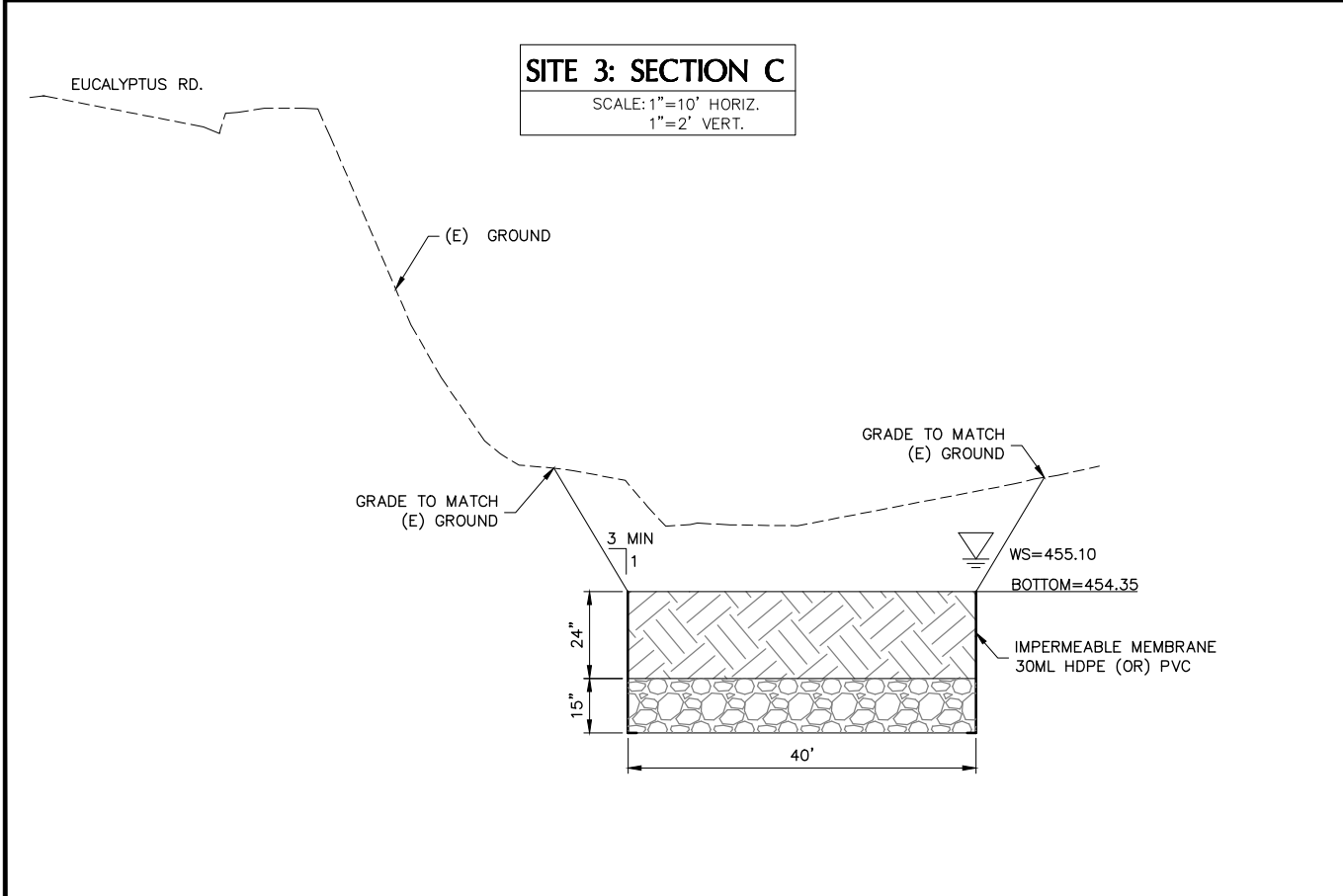
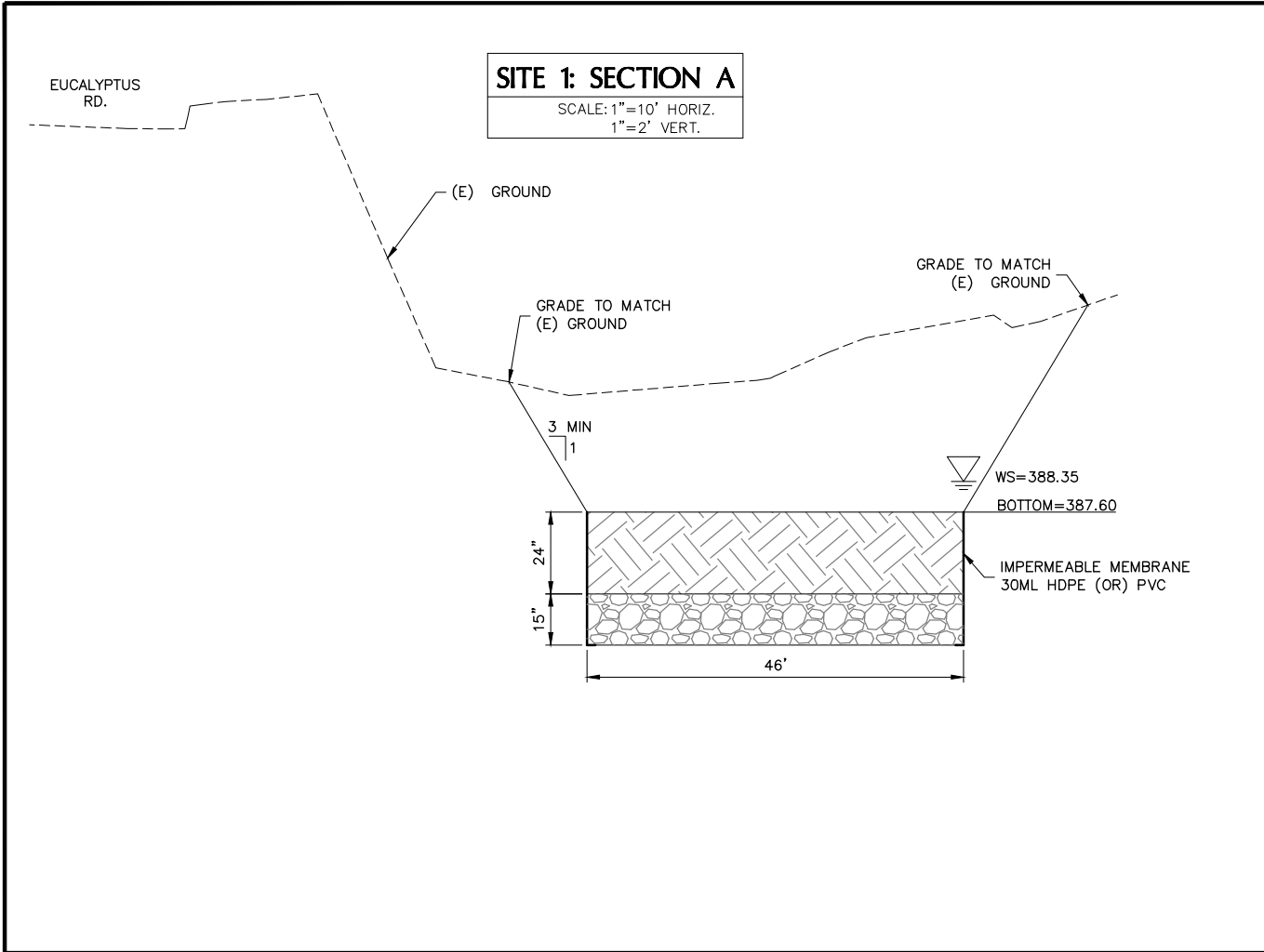
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Approved: [Signature]  
Job No: 1601201003

DRAWING NUMBER:  
**C-03**

SHEET NUMBER:  
**5 OF 9**

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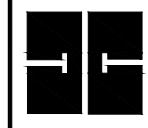
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**CONSTRUCTION NOTES:**

① ACCESS BENCH SHALL BE COMPACTED TO 90% RELATIVE COMPACTION WITH EXCAVATED MATERIAL.

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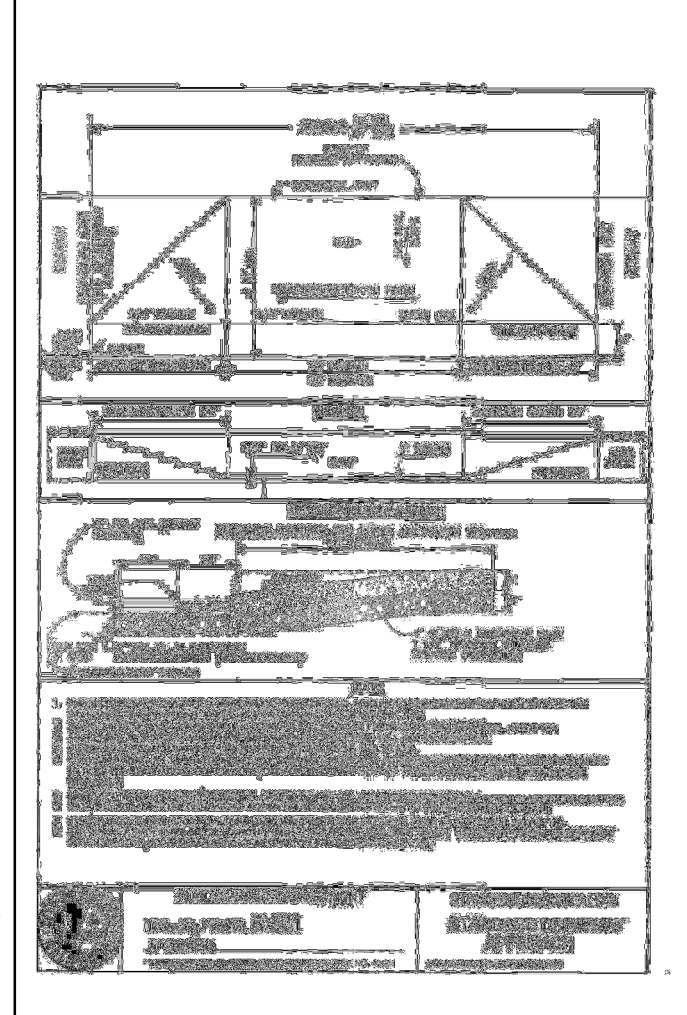
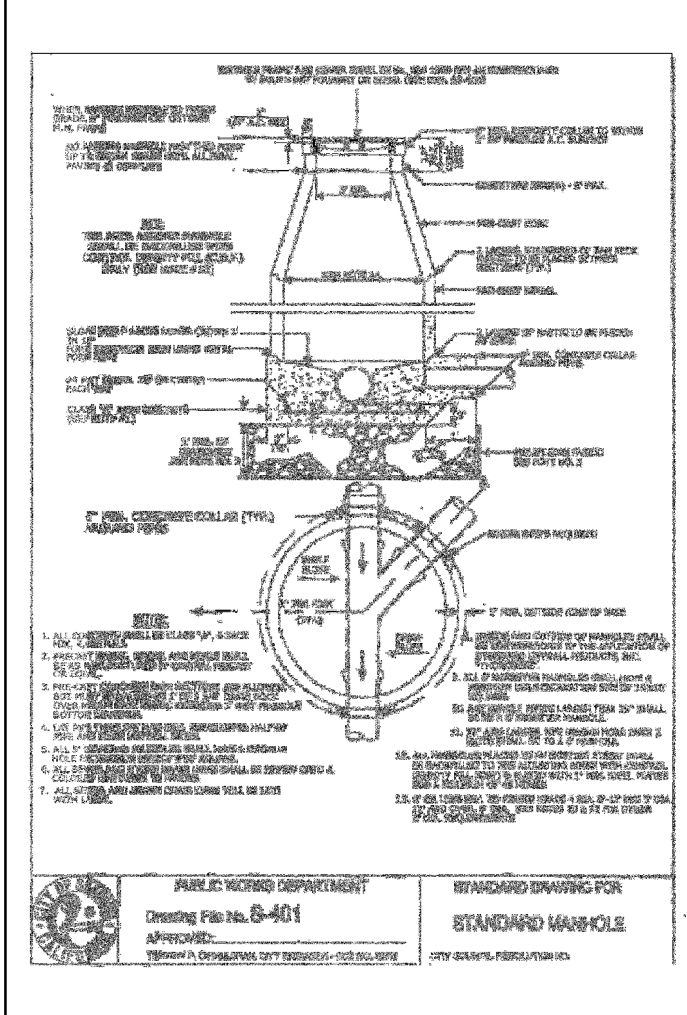
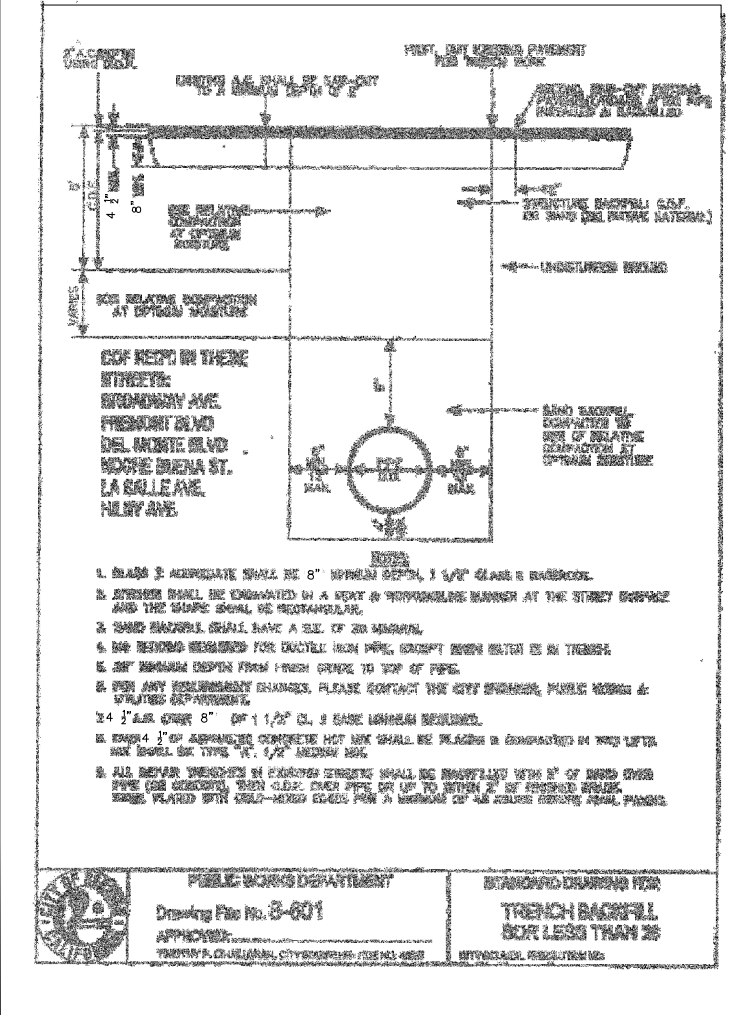
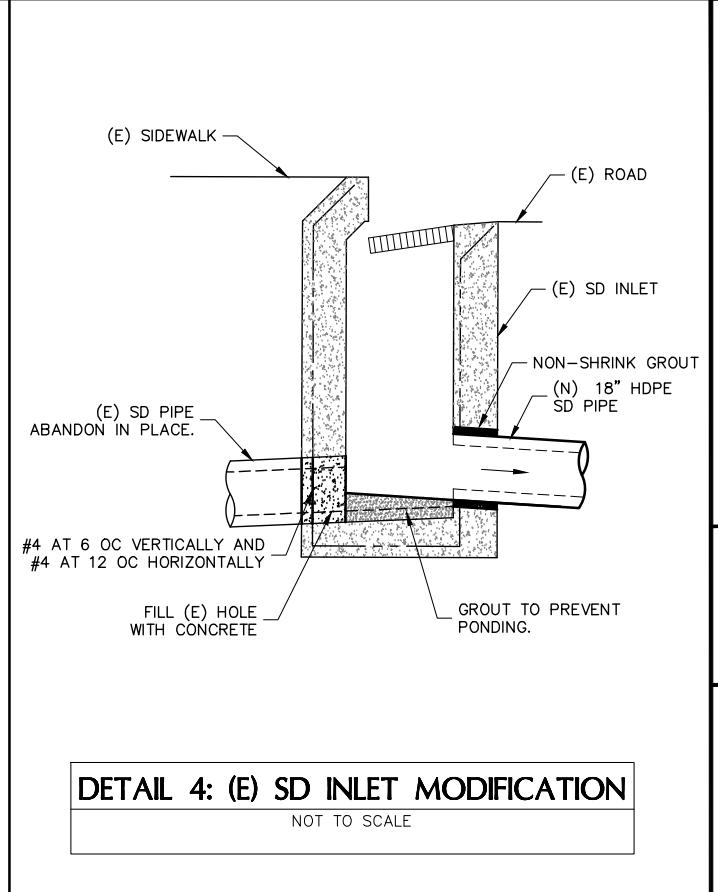
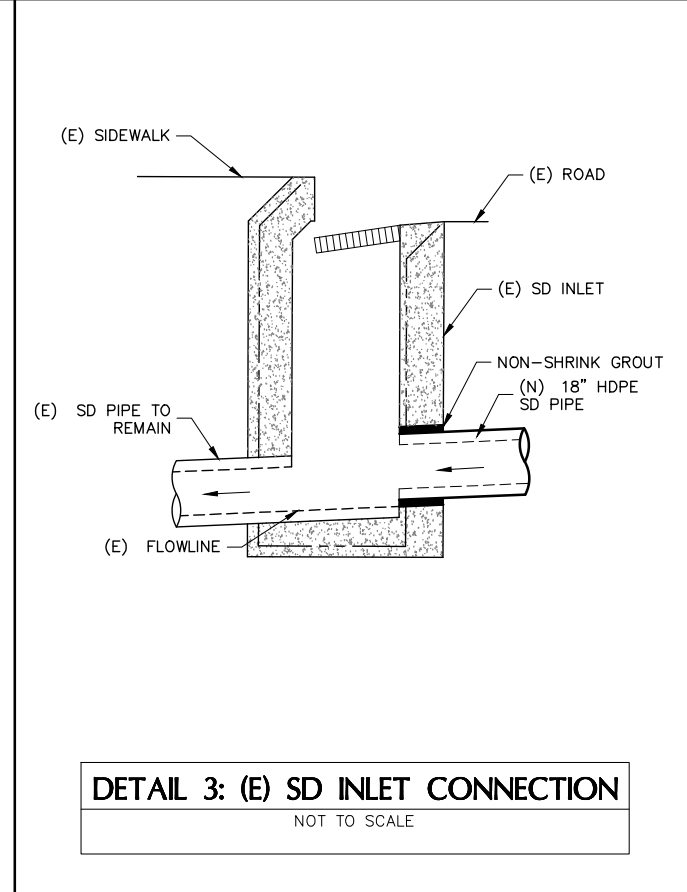
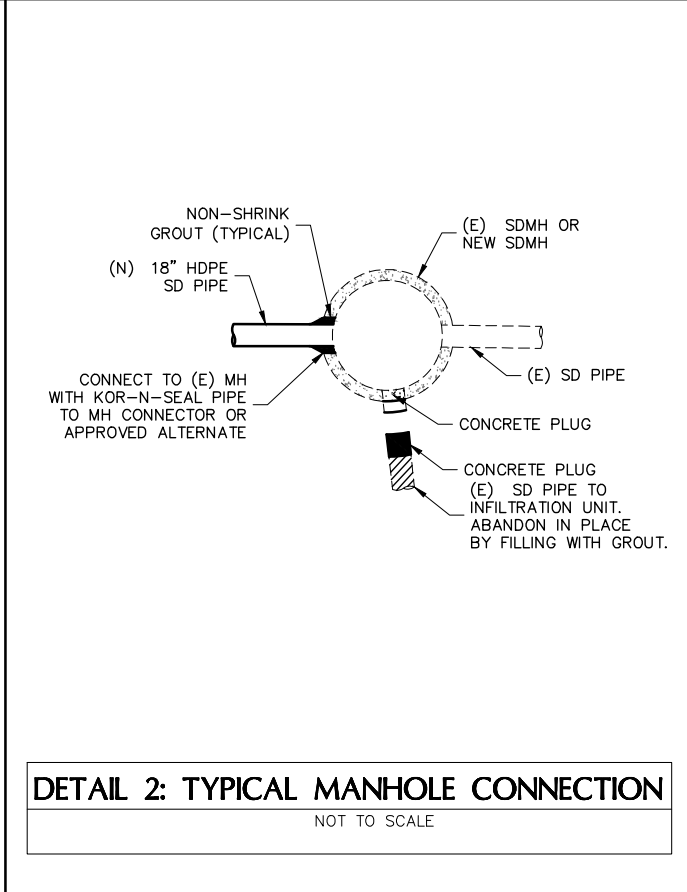
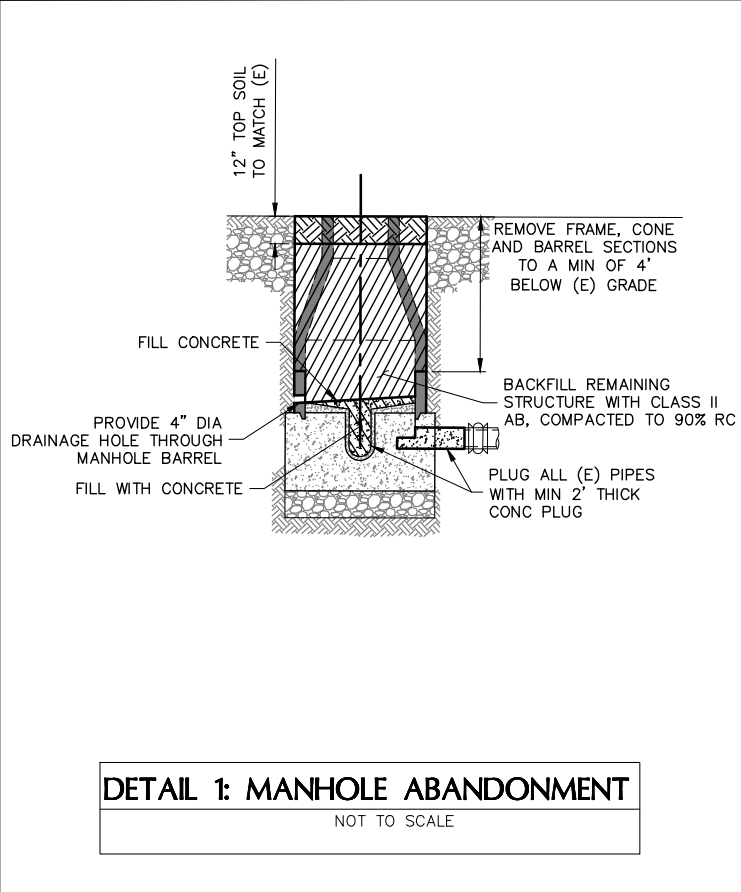
**EUCALYPTUS ROAD INFILTRATION  
 UNIT REPAIRS  
 BIORETENTION BASIN CROSS SECTIONS**  
 CITY OF SEASIDE MONTEREY COUNTY CALIFORNIA

Revisions	No.	Date	Scale	Design	Drawn	Approved	Job No.

Date: 1/24/2020  
 Scale: AS SHOWN  
 Design: DP  
 Drawn: HW  
 Approved: [Signature]  
 Job No: 1601201003

**DRAWING NUMBER: CD-01**  
**SHEET NUMBER: 6 OF 9**

Printed - 1/24/2020 11:51:25 AM :: Saved - 1/24/2020 11:46:27 AM :: K:\Projects\Ford Ore Reuse Authority\Eucalyptus Road\12-CADD\Drawings\SECTIONS AND DETAILS.dwg :: Hiley, Wain



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450 Lincoln Avenue, Suite 103 Salinas, CA 93901

**REGISTERED PROFESSIONAL ENGINEER**  
No. 68303  
Exp. 3/31/21  
CIVIL

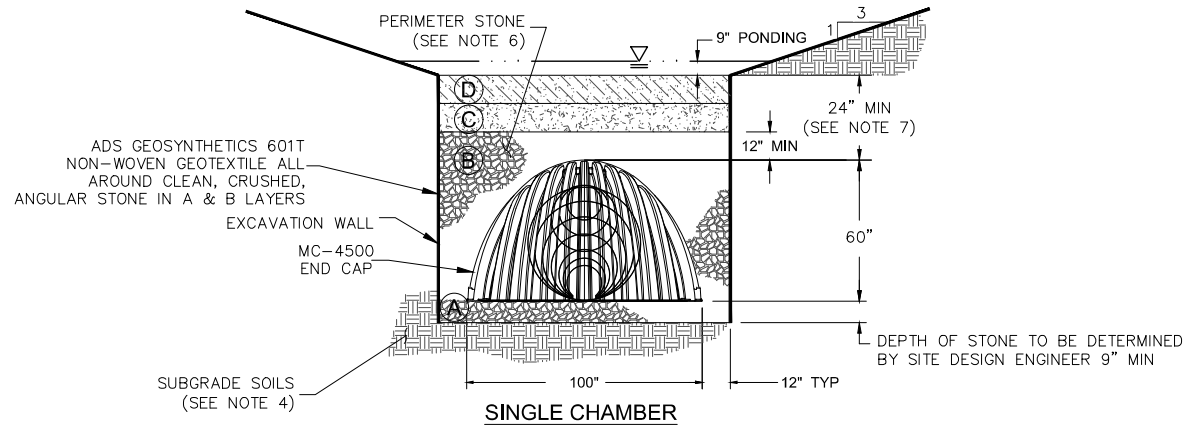
**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS CONSTRUCTION DETAILS**  
CITY OF SEASIDE, MONTEREY COUNTY, CALIFORNIA

No.	Revisions

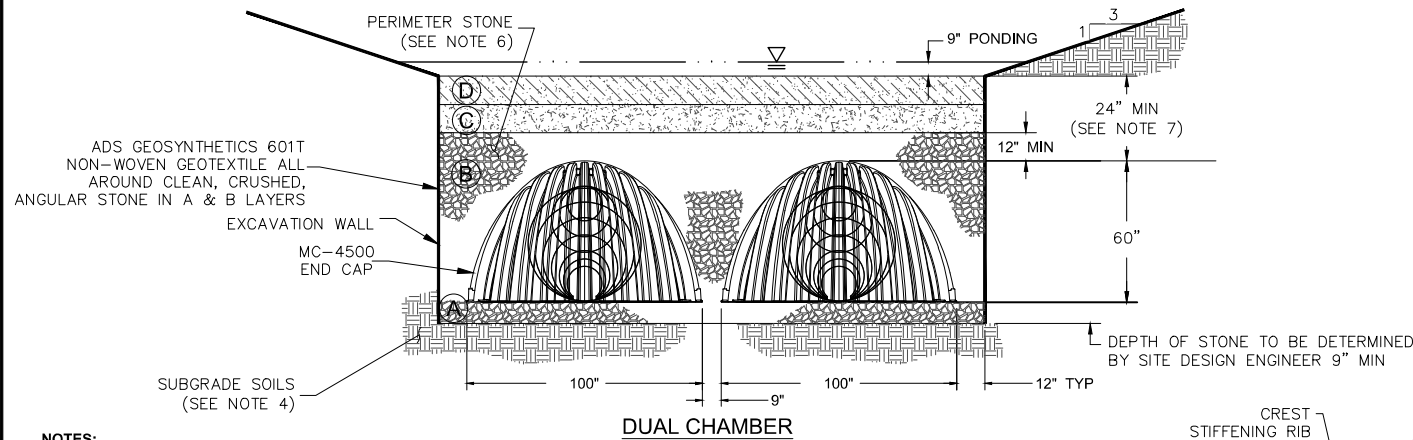
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Approved: [Signature]  
Job No: 1601201003

DRAWING NUMBER: **CD-02**  
SHEET NUMBER: **7 OF 9**

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**SINGLE CHAMBER**

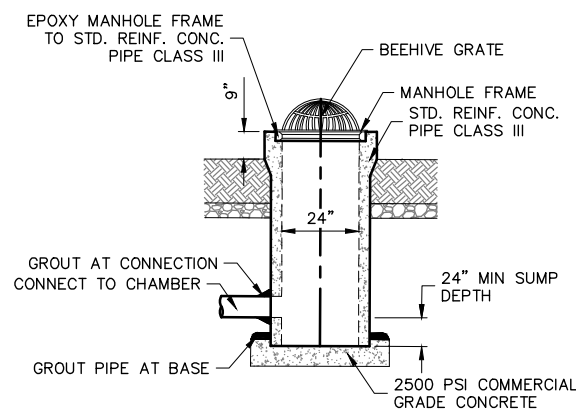


**DUAL CHAMBER**

**NOTES:**

- MC-4500 CHAMBERS SHALL CONFORM TO THE REQUIREMENTS OF ASTM F2418 "STANDARD SPECIFICATION FOR POLYPROPYLENE (PP) CORRUGATED WALL STORMWATER COLLECTION CHAMBERS".
- MC-4500 CHAMBERS SHALL BE DESIGNED IN ACCORDANCE WITH ASTM F2787 "STANDARD PRACTICE FOR STRUCTURAL DESIGN OF THERMOPLASTIC CORRUGATED WALL STORMWATER COLLECTION CHAMBERS".
- "ACCEPTABLE FILL MATERIALS" TABLE ABOVE PROVIDES MATERIAL LOCATIONS, DESCRIPTIONS, GRADATIONS, AND COMPACTION REQUIREMENTS FOR FOUNDATION, EMBEDMENT, AND FILL MATERIALS.
- THE SITE DESIGN ENGINEER IS RESPONSIBLE FOR ASSESSING THE BEARING RESISTANCE (ALLOWABLE BEARING CAPACITY) OF THE SUBGRADE SOILS AND THE DEPTH OF FOUNDATION STONE WITH CONSIDERATION FOR THE RANGE OF EXPECTED SOIL MOISTURE CONDITIONS.
- PERIMETER STONE MUST BE EXTENDED HORIZONTALLY TO THE EXCAVATION WALL FOR BOTH VERTICAL AND SLOPED EXCAVATION WALLS.
- ONCE LAYER 'C' IS PLACED, ANY SOIL/MATERIAL CAN BE PLACED IN LAYER 'D' UP TO THE FINISHED GRADE. MOST PAVEMENT SUBBASE SOILS CAN BE USED TO REPLACE THE MATERIAL REQUIREMENTS OF LAYER 'C' OR 'D' AT THE SITE DESIGN ENGINEER'S DISCRETION.
- TO BOTTOM OF FLEXIBLE PAVEMENT. FOR UNPAVED INSTALLATIONS WHERE RUTTING FROM VEHICLES MAY OCCUR, INCREASE COVER TO 30".

**1 MC-4500 OR APPROVED EQUAL CROSS SECTION**



**4 BIO RETENTION OVERFLOW**

MATERIAL LOCATION	DESCRIPTION	AASHTO MATERIAL CLASSIFICATIONS	COMPACTION / DENSITY REQUIREMENT
<b>D</b> FINAL FILL: FILL MATERIAL FOR LAYER 'D' STARTS FROM THE TOP OF THE 'C' LAYER TO THE UNPAVED FINISHED GRADE ABOVE	SOIL MIX (BSM); PER SPECIFICATIONS	N/A	PREPARE PER SITE DESIGN ENGINEER'S PLANS. PAVED INSTALLATIONS MAY HAVE STRINGENT MATERIAL AND PREPARATION REQUIREMENTS.
<b>C</b> INITIAL FILL: FILL MATERIAL FOR LAYER 'C' STARTS FROM THE TOP OF THE EMBEDMENT STONE ('B' LAYER) TO 24" (600 mm) ABOVE THE TOP OF THE CHAMBER.	CALTRANS CLASS 2 PERMEABLE MATERIAL	AASHTO M145 <sup>1</sup> A-1, A-2-4, A-3 OR AASHTO M43 <sup>1</sup> 3, 357, 4, 467, 5, 56, 57, 6, 67, 68, 7, 78, 8, 89, 9, 10	BEGIN COMPACTIONS AFTER 24" (600 mm) OF MATERIAL OVER THE CHAMBERS IS REACHED. COMPACT ADDITIONAL LAYERS IN 12" (300 mm) MAX LIFTS TO A MIN. 95% PROCTOR DENSITY FOR WELL GRADED MATERIAL AND 95% RELATIVE DENSITY FOR PROCESSED AGGREGATE MATERIALS.
<b>B</b> EMBEDMENT STONE: FILL SURROUNDING THE CHAMBERS FROM THE FOUNDATION STONE ('A' LAYER) TO THE 'C' LAYER ABOVE.	CLEAN, CRUSHED, ANGULAR STONE	AASHTO M43 <sup>1</sup> 3, 4	NO COMPACTION REQUIRED.
<b>A</b> FOUNDATION STONE: FILL BELOW CHAMBERS FROM THE SUBGRADE UP TO THE FOOT (BOTTOM) OF THE CHAMBER.	CLEAN, CRUSHED, ANGULAR STONE	AASHTO M43 <sup>1</sup> 3, 4	PLATE COMPACT OR ROLL TO ACHIEVE A FLAT SURFACE. <sup>2, 3</sup>

**NOTE:**

- THE LISTED AASHTO DESIGNATIONS ARE FOR GRADATIONS ONLY. THE STONE MUST ALSO BE CLEAN, CRUSHED, ANGULAR. FOR EXAMPLE, A SPECIFICATION FOR #4 STONE WOULD STATE: "CLEAN, CRUSHED ANGULAR NO. 4 (AASHTO M43) STONE".
- STORMTECH COMPACTION REQUIREMENTS ARE MET FOR 'A' LOCATION MATERIALS WHEN PLACED AND COMPACTED IN 9" (230 mm) (MAX) LIFTS USING TWO FULL COVERAGES WITH A VIBRATORY COMPACTOR.
- WHERE INFILTRATION SURFACES MAY BE COMPROMISED BY COMPACTION, FOR STANDARD DESIGN LOAD CONDITIONS, A FLAT SURFACE MAY BE ACHIEVED BY RAKING OR DRAGGING WITHOUT COMPACTION EQUIPMENT. FOR SPECIAL LOAD DESIGNS, CONTACT STORMTECH FOR COMPACTION REQUIREMENTS.

**2 STORMTECH ACCEPTABLE FILL MATERIALS**

**NOMINAL CHAMBER SPECIFICATIONS**

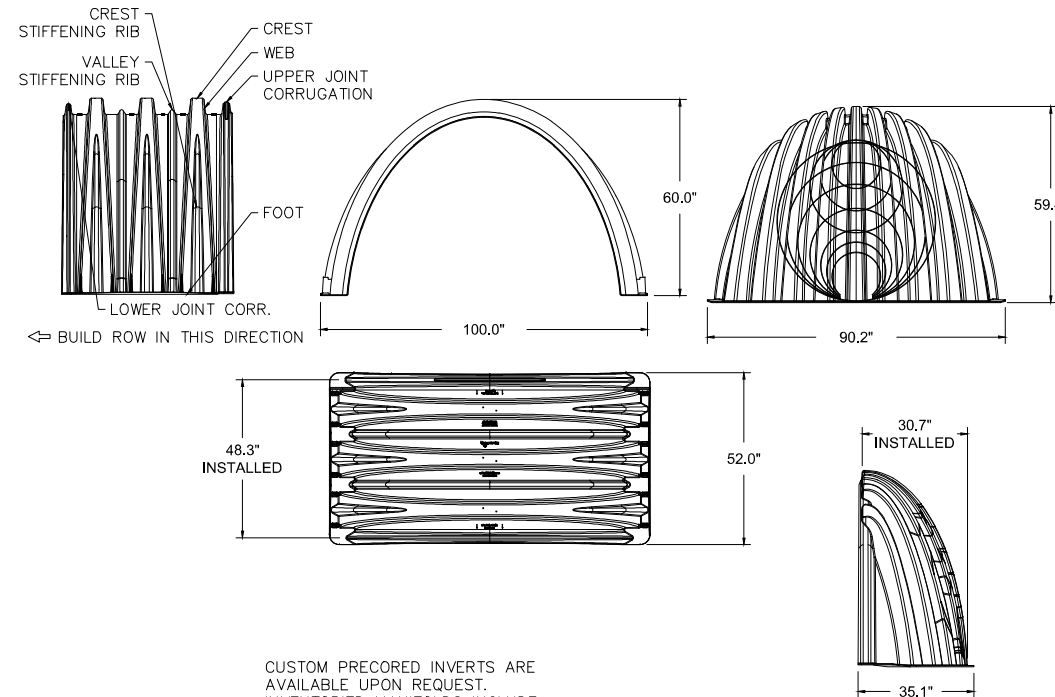
SIZE (W X H X INSTALLED LENGTH)	100.0" X 60.0" X 48.3"
CHAMBER STORAGE	106.5 CUBIC FEET
MINIMUM INSTALLED STORAGE*	162.6 CUBIC FEET
WEIGHT	130.0 lbs.

**NOMINAL END CAP SPECIFICATIONS**

SIZE (W X H X INSTALLED LENGTH)	90.2" X 59.4" X 30.7"
END CAP STORAGE	35.7 CUBIC FEET
MINIMUM INSTALLED STORAGE*	108.7 CUBIC FEET
WEIGHT	135.0 lbs.

\*ASSUMES 12" STONE ABOVE, 9" STONE FOUNDATION AND BETWEEN CHAMBERS, 12" STONE PERIMETER IN FRONT OF END CAPS AND 40% STONE POROSITY.

STUBS AT BOTTOM OF END CAP FOR PART NUMBERS ENDING WITH "B" STUBS AT TOP OF END CAP FOR PART NUMBERS ENDING WITH "T" END CAPS WITH A WELDED CROWN PLATE END WITH "C" END CAPS WITH A PREFABRICATED WELDED STUB END WITH "W"



CUSTOM PRECORED INVERTS ARE AVAILABLE UPON REQUEST. INVENTORIED MANIFOLDS INCLUDE 12-24" (300-600 mm) SIZE ON SIZE AND 15-48" (375-1200 mm) ECCENTRIC MANIFOLDS. CUSTOM INVERT LOCATIONS ON THE MC-4500 END CAP CUT IN THE FIELD ARE NOT RECOMMENDED FOR PIPE SIZES GREATER THAN 10" (250 mm). THE INVERT LOCATION IN COLUMN 'B' ARE THE HIGHEST POSSIBLE FOR THE PIPE SIZE.

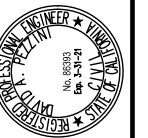
**3 TECHNICAL SPECIFICATIONS**

PART #	STUB	B	C
MC4500REPE06T	6"	42.54"	---
MC4500REPE06B	6"	---	0.86"
MC4500REPE08T	8"	40.50"	---
MC4500REPE08B	8"	---	1.01"
MC4500REPE10T	10"	38.37"	---
MC4500REPE10B	10"	---	1.33"
MC4500REPE12T	12"	35.69"	---
MC4500REPE12B	12"	---	1.55"
MC4500REPE15T	15"	32.72"	---
MC4500REPE15B	15"	---	1.70"
MC4500REPE18TC	18"	29.36"	---
MC4500REPE18TB	18"	---	1.97"
MC4500REPE18BC	18"	---	1.97"
MC4500REPE18BW	18"	---	1.97"
MC4500REPE24TC	24"	23.05"	---
MC4500REPE24TB	24"	---	2.26"
MC4500REPE24BW	24"	---	2.26"
MC4500REPE30BC	30"	---	2.95"
MC4500REPE36BC	36"	---	3.25"
MC4500REPE42BC	42"	---	3.55"

NOTE: ALL DIMENSIONS ARE NOMINAL

NOTE: STORM CHAMBERS SHALL BE STORMTECH MC-4500 OR APPROVED EQUAL.

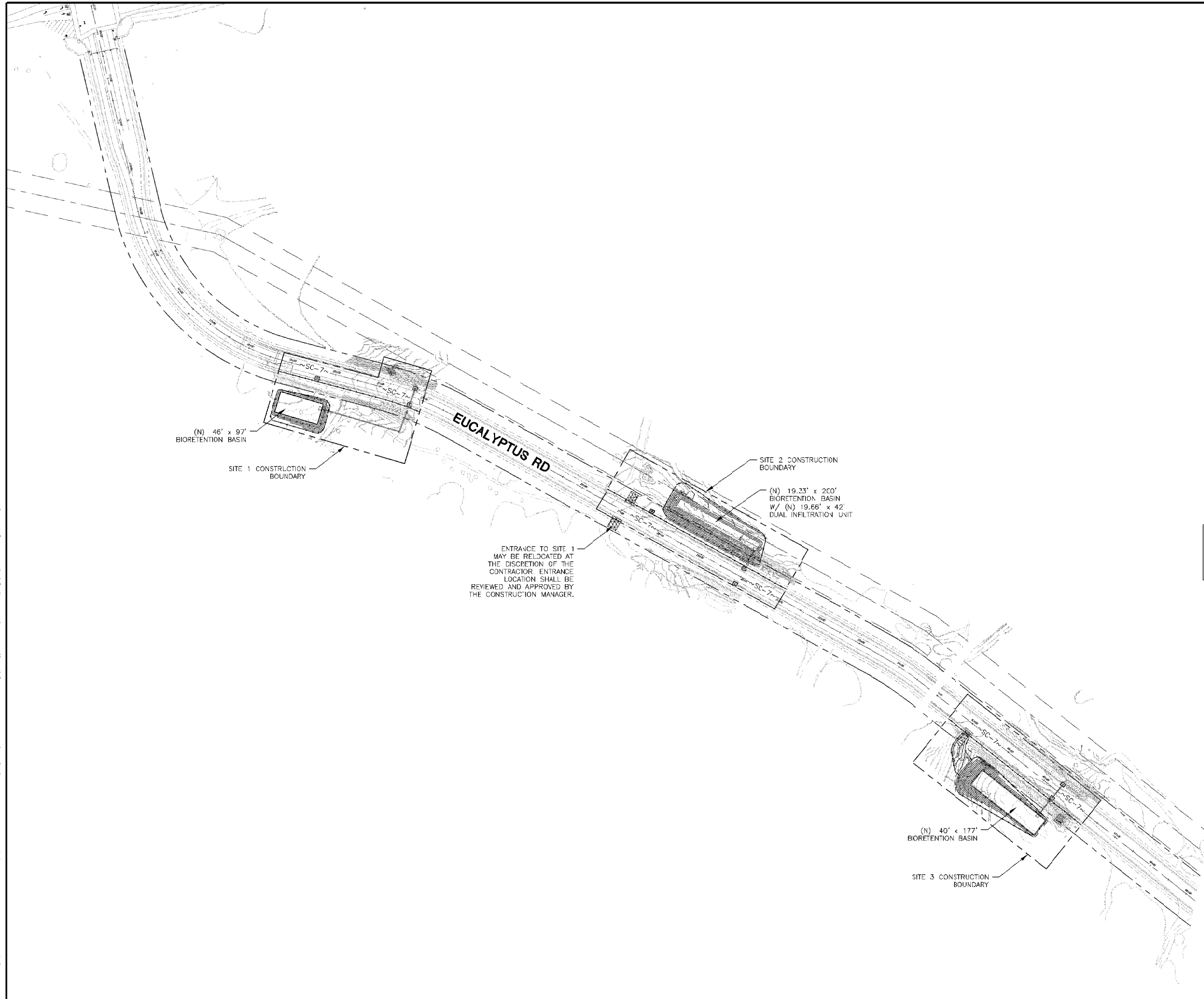
**HARRIS & ASSOCIATES**  
 450 Lincoln Avenue, Suite 103 Salinas, CA 93901



**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS**  
**STORMTECH MC-4500 DETAILS**  
 CALIFORNIA  
 MONTEREY COUNTY  
 CITY OF SEASIDE

Date: 1/24/2020	Scale: NOT TO SCALE	Design: DP	Drawn: HW	Approved: [Signature]	Job No: 1601201003
DRAWING NUMBER: CD-03					
SHEET NUMBER: 8 OF 9					

Plotted - 1/6/2020 11:35:15 AM :: Saved - 1/6/2020 10:54:18 AM :: K:\Projects\Fort Ord Reuse Authority\Eucalyptus Road\12-CADD\DWG\1P\EROSION.dwg :: Hilary Wilson



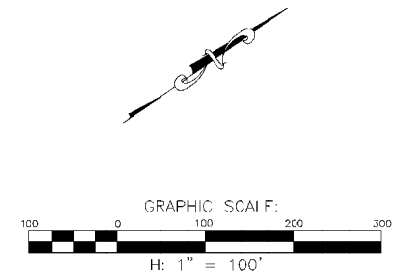
**LEGEND:**

SYMBOL	CALTRANS BMP #	DESCRIPTION
○	SC-1, SC-5, SC-6	FIBER ROLLS
—	SC-1	SILT FENCE
~SC-7~	SC-7	STREET SWEEPING
□	SC-10	INLET PROTECTION
▨	SC-10	STABILIZED CONSTRUCTION ENTRANCE/EXIT OR TIRE WASHER

**EROSION CONTROL NOTES:**

1. EROSION CONTROL BMP'S SHOWN ON THIS PLAN ARE REPRESENTATIVE OF THE INTENT OF EROSION CONTROL PROTECTIVE MEASURES. INSTALLATION, LOCATION AND FREQUENCY OF BMP'S SHALL FOLLOW THE RECOMMENDATIONS OF THE CALTRANS BMP MANUAL AND SOUND JUDGEMENT.
2. UNDERGROUND INFILTRATION CHAMBERS: INSTALL SILT FABRIC ON THE CATCH BASIN IMMEDIATELY UPSTREAM OF INFILTRATION CHAMBERS SO THAT SEDIMENT DOES NOT ENTER CHAMBERS DURING CONSTRUCTION. REMOVE PLUG AFTER SITE HAS BEEN STABILIZED, AND NOT UNTIL WRITTEN APPROVAL BY THE ENGINEER IS RECEIVED.
3. IMMEDIATELY PRIOR TO THE FINAL CONTRACT ACCEPTANCE, INSPECT AND REMOVE ALL TRASH, DEBRIS, AND SEDIMENT WHICH HAS ACCUMULATED IN THE STORM WATER FACILITIES, INCLUDING CATCH BASINS.

ENGINEERING ESTIMATES & FEASIBILITY IN PREPARATION FOR PROCUREMENT OF A POTENTIAL CONSTRUCTION CONTRACT: DOCUMENT EXEMPT FROM PUBLIC DISCLOSURE UNTIL CONTRACT IS FULLY OBTAINED.



**HARRIS & ASSOCIATES**  
450 Lincoln Avenue, Suite 103 Salinas, CA 93901



**EUCALYPTUS ROAD INFILTRATION UNIT REPAIRS**  
**EROSION CONTROL PLAN**  
CITY OF SEASIDE, MONTEREY COUNTY, CALIFORNIA

Letter: 1/6/2020	No.	Notes:
Scale: 1" = 50'		
Design: DP		
Drawn: HW		
Approved:		
Job No: 1607201003		

**EC-01**  
**9 OF 9**

## EXHIBIT B

### to MOA REGARDING FUNDING TO BE PROVIDED FOR THE REPAIR OF STORM WATER INFILTRATION UNITS - EUCALYPTUS ROAD

#### Project Documents to Transfer from FORA to City of Seaside

**Jurisdiction:** City of Seaside  
**Project:** Repair of Stormwater Infiltration Units - Eucalyptus Road

CATEG	AUTHOR	DATE	TITLE	ELECTRONIC COPY AVAILABLE
<b>Original Design - Eucalyptus Roadway Improvement</b>				
C&D		Various	Design Drawings - Phase 1, 2, 3 (pdf versions)	✓
			Selected Sheets - Eucalyptus Roadway - Phase 3	
C&D		2011	Record Drawings - Sheets 6, 7 and 8	✓
<b>Environmental Documentation</b>				
The following documents are found on the FORA website <a href="https://www.fora.org/Board/2014/Packet/Additional/031414Item8a-AttachF11-1/Attachment%20H.pdf">https://www.fora.org/Board/2014/Packet/Additional/031414Item8a-AttachF11-1/Attachment%20H.pdf</a>				
FORA/PMC & C&I		2005	Environmental Assessment/Initial Study for General Jim Moore Boulevard and Eucalyptus Roadway Improvement	✓
FORA		2005	Appendix D: Finding of No Significant Impact (FONSI) / Negative Declaration (ND)	✓
<b>Failure Analysis</b>				
Parikh		6/30/2017	Preliminary Geotechnical Memorandum for Eucalyptus Road Infiltrators	✓
<b>City of Seaside Communication</b>				
FORA		3/19/2019	Letter, Meeting Minutes of meeting between Seaside and FOR A on March 11, 2019 regarding Eucalyptus Road Infiltrator Repair Project	✓
Rick Riedl, City Seaside		11/6/2019	Letter: Eucalyptus Infiltrator Repair Project, Review of 60% Design Documents from Harris & Associates	✓
FORA		12/10/2019	Letter: Eucalyptus Roadway Infiltrator Repair Project, Response to Comments	✓

**ELECTRONIC  
COPY  
AVAILABLE**

<b>CATEG</b>	<b>AUTHOR</b>	<b>DATE</b>	<b>TITLE</b>	
			Power Point Presentation: Seaside Coordination Meeting on CIP Projects	✓

**General Background Info**

Various	Various		<a href="https://www.fortordcleanup.com/documents/search/">https://www.fortordcleanup.com/documents/search/</a>	
Arcadis/Weston Solutions	11/5/2019		Final Programmatic On-Call Construction Support Plan, Roadways and Utilities, Seaside Munitions Response Area (CSP)	✓
DTSC	11/16/2019		Approval of Programmatic Seaside MRA CSP	✓
FORA	12/13/2019		PowerPoint Presentation to FORA Board, Eucalyptus Road Infiltrator Repair Project	✓
FORA	12/13/2019		FORA Board Report Item 8c	✓

**Stormwater Infiltrator Repair Design Background**

Harris & Associates	6/4/2018		Recommendation Letter to FORA regarding Infiltrators	✓
Harris & Associates	10/29/2019		Memorandum to FORA regarding Design Basis for Infiltrator Repair	✓
Harris &	Various		Storm Drain Flow/Capacity Evaluation	✓

**Repair Design Package, Bid Documents, & Specs**

Harris & Associates	10/18/2019		60% Design Plans, Specifications, and Opinion of Probable Construction Cost	✓
Harris & Associates	12/1/2019		90% Design Plans, Specifications, and Opinion of Probable Construction Cost	✓
Harris &	1/24/2020		Draft Final Design Plans	✓
Harris & Associates	TBD		Final Design and Bid Package, Stormwater Infiltrator Repair, Eucalyptus Road	
Whitson Engineer	12/6/2019		Peer Review by Whitson Engineers	✓

<b>Data</b>	Harris &	TBD	dwg CAD files	
	Whitson Engineer	5/8/2020	Topographic/Ortho Topo dwg CAD files	✓

**Other Information**



**MEMORANDUM OF AGREEMENT  
REGARDING FUNDING TO BE PROVIDED FOR  
THE SOUTH BOUNDARY ROADWAY AND THE INTERSECTION AT GENERAL  
JIM MOORE BOULEVARD IMPROVEMENTS**

This Memorandum of Agreement (“MOA”) is made and entered into effective as of \_\_\_\_\_, 2020, (the “Effective Date”) by and between the Fort Ord Reuse Authority (“FORA”), a California public agency, and the City of Del Rey Oaks (the “City”), a California general law city. FORA and the City are sometimes referred to herein in the singular as a “Party” and collectively as the “Parties.”

**Recitals**

A. The “Improvements” consist of (i) relocation and/or reconfiguration of the existing intersection of General Jim Moore Boulevard with South Boundary Road and (ii) an upgrade of that portion of South Boundary Road located between its intersection with General Jim Moore Boulevard to 200 feet east of its intersection with Rancho Saucito Road.

B. FORA entered into a professional services contract dated November 17, 2017 with Whitson Engineers, Inc. (“Whitson”) for engineering services in connection with the contemplated Improvements, which contract was subsequently amended four (4) times (and as so amended may be referred to herein as the “Contract”). Whitson’s work under the Contract has not yet been completed.

C. FORA is scheduled to terminate in accordance with state law on June 30, 2020 (“FORA’s Termination Date”). It is not possible to complete the Improvements before FORA’s Termination Date and accordingly FORA will not undertake the Improvements. However, the City wishes to undertake the Improvements following FORA’s sunset and FORA is willing to make the below-described funding available to the City, each on all of the terms and conditions set forth in this MOA.

D. FORA’s Capital Improvement Program for fiscal years 2018/2019 and 2019/2020 includes the Improvements. FORA’s Board of Directors (the “Board”) has recently approved and committed to reserving the amount of Seven Million Two Hundred Sixty-Nine Thousand Eight Hundred Thirteen Dollars (\$7,269,813) to be available to cover the currently estimated construction and related costs of the South Boundary Roadway elements of the Improvements (to be deposited into an escrow account established with Fidelity National Title, Inc. as escrow holder); One Million Fifty-Six Thousand One Hundred Sixty-Eight Dollars (\$1,056,168) to be available to cover the currently estimated construction and related costs of the Intersection at General Jim Moore Boulevard elements of the Improvements (to be deposited into a separate escrow account established with Fidelity National Title, Inc. as escrow holder); and Five Hundred Eighteen Thousand Five Hundred Sixty-Four Dollars (\$518,564) to be available to cover the combined design services estimate for the Improvements (to be transferred to the City). Accordingly, the Parties now wish to enter into this MOA to provide for the aggregate amount of Eight Million Eight Hundred Forty-Four Thousand Five Hundred Forty-Five Dollars

(\$8,844,545) to be deposited into escrow accounts and transferred to the City as outlined above (which funds may collectively be referred to as the “Improvement Funds”).

E. Inasmuch as FORA will not be carrying out the Improvements, but rather will only make the Improvement Funds available to the City as provided in this MOA, responsibility for any further necessary environmental analysis, review, or approvals, implementation and supervision of any mitigation measures or monitoring program adopted in connection with any environmental approvals for the Improvements, coordination with the City of Monterey or any other governmental entities, and defense of any action brought to challenge completion of the Improvements, environmental approvals relating thereto, or any failure of the City to timely and fully carry out all responsibilities as lead agency for the Improvements in compliance with all applicable laws shall be that of the City and not of FORA.

### **Agreement**

In consideration of the mutual terms, covenants and conditions contained herein the Parties agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated into this MOA by this reference.

2. **FORA’s Obligations.** Within seven (7) calendar days of the full signing of this MOA, FORA will deposit Seven Million Two Hundred Sixty-Nine Thousand Eight Hundred Thirteen Dollars (\$7,269,813) and One Million Fifty-Six Thousand One Hundred Sixty-Eight Dollars (\$1,056,168) into the escrow accounts described above and transfer and pay to the order of the City Five Hundred Eighteen Thousand Five Hundred Sixty-Four Dollars (\$518,564). The City agrees to accept from FORA, the aggregate amount of Eight Million Eight Hundred Forty-Four Thousand Five Hundred Forty-Five Dollars (\$8,844,545), as so deposited into escrow accounts and paid to the City in full satisfaction of any obligation of FORA to provide funding for the Improvements. With the consent of Whitson, FORA will assign the Contract to the City.

3. **City’s Obligations.** With the consent of Whitson, the City will accept assignment of the Contract from FORA. The City may in its discretion use the Improvement Funds to complete the Improvements or any portion thereof; provided, however, that the City may not use the Improvement Funds for any other purpose. If the City enters into any agreements for the completion of the Improvements or any portion thereof and uses any of the Improvement Funds to pay for such work, those agreements shall include requirements to pay prevailing wages in accordance with state law and the FORA Master Resolution. To the extent that the Improvement Funds are insufficient to fully cover completion of the Improvements, the City will be responsible for paying or arranging for the payment of any excess costs. From and after the full signing of this MOA, the City shall timely and fully carry out all responsibilities as lead agency for the Improvements in compliance with all applicable laws.

4. **Notification to State Clearinghouse.** Promptly following the full signing of this MOA, the Parties shall cooperate in providing appropriate notification to the California Office of Planning and Research's State Clearinghouse that FORA is not carrying out the Improvements and that the City has assumed the role of lead agency for the Improvements.
5. **Term.** The term of this MOA shall begin on the Effective Date and continue until FORA's Termination Date, unless terminated earlier as provided herein; provided, however, that the City's obligations to (a) use the Improvement Funds solely for completion of the Improvements or a portion thereof, as set forth in Section 3 above and (b) distribute unexpended funds in accordance with the terms of this MOA if the Improvements are not timely completed, as set forth in Section 10 below shall remain in full force and effect until final completion of the Improvements as evidenced by the recording of Notices of Completion in the Official Records of Monterey County.
6. **Accounting and Records.** FORA (until FORA's Termination Date) and the City shall each maintain and account for the funds related to the Improvements. Promptly following the full signing of this MOA, FORA will coordinate with the City to identify goals and needs with respect to information transfer and to develop a program to implement the same before FORA's Termination Date. FORA will exercise good faith and commercially reasonable efforts to provide the City with copies of available and appropriate documents and records pertaining to the Improvements which have reasonably been requested by the City in writing.
7. **Parties' Representatives.** This MOA shall be coordinated between the Parties through the City's Manager and FORA's Executive Officer.
8. **Reserved.**
9. **Indemnification.** Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees.
10. **Termination.** If through any cause either Party fails to fulfill in a timely and proper manner its obligations under this MOA, or violates any of the terms or conditions of this MOA or applicable Federal or State laws and regulations, the non-breaching Party may terminate this MOA upon seven (7) calendar days written notice to the breaching Party. In the event that the Improvements have not been completed within ten (10) years after the Effective Date of this MOA, then any funds remaining unexpended as of that date shall be distributed as follows: Twenty percent (20%) may be retained by the City and twenty percent (20%) shall be distributed to each of the County of Monterey and the Cities of Marina, Monterey, and Seaside.
11. **Applicable Law.** This MOA shall be construed and interpreted under the laws of the State of California.

12. **Severability.** In the event any part of this MOA is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such part shall be deemed severed from the remainder of the MOA and the remaining provisions shall continue in full force without being impaired or invalidated in any way.

13. **Assignment.** Neither Party may assign this MOA or any part hereof, without written consent and prior approval of the other Party and any assignment without said consent shall be void and unenforceable.

14. **Amendment.** No amendment, modification, alteration, or variation of the terms of this MOA shall be valid unless made in writing and signed by authorized representatives for the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties thereto.

15. **Time of the Essence.** Time is of the essence for each and every provision of this MOA.

16. **Notices.** Any notice required or permitted under this MOA, shall be in writing and shall be deemed served on the date personally delivered or three (3) business days after being sent by certified mail, return receipt requested, addressed as follows, unless otherwise notified in writing of a change of address:

To the City: City Manager  
City of Del Rey Oaks  
650 Canyon Del Rey Boulevard  
Del Rey Oaks, CA 93940

To FORA: Executive Officer  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

17. **Authority.** Each Party represents and warrants to the other Party that it is authorized to execute, deliver and perform this MOA, and the terms and conditions hereof are valid and binding obligations of the Party making this representation.

18. **Compliance with Laws.** The Parties agree to comply with all applicable local, state and federal laws and regulations. The City further agrees to comply with all applicable public works contracting requirements.

19. **Venue.** Both Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought thereunder shall be Monterey County, California.

20. **Survival.** All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this MOA shall survive any such expiration or termination.

21. **Relationship of the Parties.** It is understood that this MOA is entered into by and between two public entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association.
22. **Third-Party Beneficiaries.** In order to provide a mechanism for enforcement of the City's obligations set forth in clauses (a) and (b) of Section 5 above after FORA's Termination Date, the County of Monterey and the Cities of Marina, Monterey and Seaside are each hereby made an intended third-party beneficiary of this MOA.
23. **Reserved.**
24. **Interpretation.** This MOA, as well as its individual provisions, shall be deemed to have been prepared equally by both of the Parties hereto, and shall not be construed or interpreted more favorably for one Party on the basis that the other Party prepared it.
25. **Counterparts.** This MOA may be signed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same agreement. The signature page of this MOA or any Amendment may be executed by way of a manual or authorized signature. Delivery of an executed counterpart of a signature page to this MOA or an Amendment by electronic transmission scanned pages shall be deemed effective as a delivery of a manually or digitally executed counterpart to this MOA or any Amendment.
26. **Reserved.**
27. **Entire Agreement.** This MOA contains the entire understanding between the Parties and supersedes any prior written or oral understandings and agreements regarding the subject matter of this MOA. There are no representations, agreements, arrangements or understandings, or written, between the Parties relating to the subject matter of this MOA which are not fully expressed herein.

*[signatures appear on following page(s)]*

The Parties have executed this MOA on the date(s) written below:

FORT ORD REUSE AUTHORITY

CITY OF DEL REY OAKS

\_\_\_\_\_  
Joshua Metz  
Executive Officer

\_\_\_\_\_  
Dino Pick  
City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Authority Counsel

\_\_\_\_\_  
City Attorney

**MEMORANDUM OF AGREEMENT  
REGARDING FUNDING TO BE PROVIDED TO COUNTY OF MONTEREY  
FOR OAK WOODLANDS PROJECT**

This Memorandum of Agreement (“MOA”) is made and entered into effective as of \_\_\_\_\_, 2020, (the “Effective Date”) by and between the Fort Ord Reuse Authority (“FORA”), a California public agency, and the County of Monterey (the “County”), a California general law county. FORA and the County are sometimes referred to herein in the singular as a “Party” and collectively as the “Parties.”

**Recitals**

A. FORA has undertaken the development of an Oak Woodland Conservation Plan covering certain lands in the City of Seaside and the unincorporated portion of the County of Monterey on the former Fort Ord (the “Project”). The main purpose of the Project is to designate oak woodlands conservation areas within the development parcels of the former Fort Ord that would help to link the Fort Ord National Monument, the Fort Ord landfill, and certain open space near the East Garrison area, as well as to set aside oak woodlands in a regionally mindful way that benefits the species while laying the groundwork for mitigation to allow for increased economic vitality.

B. On May 13, 2016, FORA’s Board of Directors (the “Board”) awarded a professional services contract for environmental consulting (the “Contract”) to Denise Duffy & Associates, Inc. (“DDA”) in connection with the Project. DDA’s work under the Contract has not yet been completed.

C. FORA’s general funds budget for fiscal year 2019/2020 includes the Project. The Board has recently approved and committed to reserving the amount of Eighteen Thousand Seven Hundred Thirteen Dollars (\$18,713) to cover payment for completion of the tasks and reporting outlined in the Contract.

D. FORA is scheduled to terminate in accordance with state law on June 30, 2020 (FORA’s Termination Date”).

E. FORA does not have sufficient time or management resources to successfully execute the completion of the Project by FORA’s Termination Date, but the County has such resources and desires to complete the Project. Accordingly, the Parties now wish to enter into this MOA to provide for the amount of Eighteen Thousand Seven Hundred Thirteen Dollars (\$18,713) to be transferred to the County as funds to carry out the Project.

F. Upon the full signing of this MOA, the County will (in coordination with the City of Seaside, as may be necessary) carry out the Project in compliance with applicable law, including by acting as lead agency if and to the extent that a lead agency for the Project may be required under the California Environmental Quality Act.

## Agreement

In consideration of the mutual terms, covenants and conditions contained herein the Parties agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are incorporated into this MOA by this reference.
2. **FORA's Obligations.** Within seven (7) calendar days of the full signing of this MOA, FORA will transfer and pay to the order of the County, and the County agrees to accept from FORA, the amount of Eighteen Thousand Seven Hundred Thirteen Dollars (\$18,713) in full satisfaction of any obligation of FORA to provide funding for the Project. With the consent of DDA, FORA will assign the Contract to the County.
3. **County's Obligations.** With the consent of DDA, the County will accept assignment of the Contract from FORA. The County will use the funds received from FORA to promptly complete the Project. The County has entered into or will enter into any additional agreements necessary for the completion of the Project, will have final approval of all consultants employed on the Project, and will be responsible for paying all costs. The County shall timely and fully carry out all responsibilities, if any, as lead agency for the Project.
4. **Notification to State Clearinghouse.** Promptly following the full signing of this MOA, the Parties shall cooperate in providing appropriate notification to the California Office of Planning and Research's State Clearinghouse that FORA is not the lead agency for the Project and that, to the extent that a lead agency for the Project may be required under applicable law, the County has assumed that role.
5. **Term.** The term of this MOA shall begin on the Effective Date and continue until FORA's Termination Date, unless terminated earlier as provided herein; provided, however, that the County's obligations to complete the Project in accordance with the terms of this MOA shall remain in full force and effect until final completion of the Project.
6. **Accounting and Records.** FORA (until FORA's Termination Date) and the County shall each maintain and account for the funds related to the Project. Promptly following the execution of this MOA, FORA will exercise good faith and commercially reasonable efforts to provide the County with copies of available and appropriate documents and records pertaining to the Project which have reasonably been requested by the County in writing.
7. **Parties' Representatives.** This MOA shall be coordinated between the Parties through the County's Administrative Officer and FORA's Executive Officer.
8. **Reserved.**



9. **Indemnification.** Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees.

10. **Termination.** If through any cause either Party fails to fulfill in a timely and proper manner its obligations under this MOA, or violates any of the terms or conditions of this MOA or applicable Federal or State laws and regulations, the non-breaching Party may terminate this MOA upon seven (7) calendar days written notice to the breaching Party. In the event that the Project has not been completed within ten (10) years after the Effective Date of this MOA, then any funds remaining unexpended as of that date shall be distributed as follows: Twenty percent (20%) may be retained by the County and twenty percent (20%) shall be distributed to each of the Cities of Del Rey Oaks, Marina, Monterey, and Seaside.

11. **Applicable Law.** This MOA shall be construed and interpreted under the laws of the State of California.

12. **Severability.** In the event any part of this MOA is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such part shall be deemed severed from the remainder of the MOA and the remaining provisions shall continue in full force without being impaired or invalidated in any way.

13. **Assignment.** Neither Party may assign this MOA or any part hereof, without written consent and prior approval of the other Party and any assignment without said consent shall be void and unenforceable.

14. **Amendment.** No amendment, modification, alteration, or variation of the terms of this MOA shall be valid unless made in writing and signed by authorized representatives for the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties thereto.

15. **Time of the Essence.** Time is of the essence for each and every provision of this MOA.

16. **Notices.** Any notice required or permitted under this MOA, shall be in writing and shall be deemed served on the date personally delivered or three (3) business days after being sent by certified mail, return receipt requested, addressed as follows, unless otherwise notified in writing of a change of address:

To the County: County Administrative Officer  
County of Monterey  
168 West Alisal Street, 3rd Floor  
Salinas, CA 93901

To FORA: Executive Officer  
Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, CA 93933

17. **Authority.** Each Party represents and warrants to the other Party that it is authorized to execute, deliver and perform this MOA, and the terms and conditions hereof are valid and binding obligations of the Party making this representation.
18. **Compliance with Laws.** The Parties agree to comply with all applicable local, state and federal laws and regulations.
19. **Venue.** Both Parties hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that the venue of any action brought thereunder shall be Monterey County, California.
20. **Survival.** All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this MOA shall survive any such expiration or termination.
21. **Relationship of the Parties.** It is understood that this MOA is entered into by and between two public entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association.
22. **Third-Party Beneficiaries.** In order to provide a mechanism for enforcement of the County's obligations under this MOA after FORA's Termination Date (including without limitation the obligation to distribute unexpended funds in the event that the Project is not timely completed), the Cities of Del Rey Oaks, Marina, Monterey and Seaside are each hereby made an intended third-party beneficiary of this MOA.
23. **Reserved.**
24. **Interpretation.** This MOA, as well as its individual provisions, shall be deemed to have been prepared equally by both of the Parties hereto, and shall not be construed or interpreted more favorably for one Party on the basis that the other Party prepared it.
25. **Counterparts.** This MOA may be signed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same agreement. The signature page of this MOA or any Amendment may be executed by way of a manual or authorized signature. Delivery of an executed counterpart of a signature page to this MOA or an Amendment by electronic transmission scanned pages shall be deemed effective as a delivery of a manually or digitally executed counterpart to this MOA or any Amendment.
26. **Reserved.**

27. **Entire Agreement.** This MOA contains the entire understanding between the Parties and supersedes any prior written or oral understandings and agreements regarding the subject matter of this MOA. There are no representations, agreements, arrangements or understandings, or written, between the Parties relating to the subject matter of this MOA which are not fully expressed herein.

*[signatures appear on following page(s)]*

The Parties have executed this MOA on the date(s) written below:

FORT ORD REUSE AUTHORITY

COUNTY OF MONTEREY

\_\_\_\_\_  
Joshua Metz  
Executive Officer

\_\_\_\_\_  
Charles McKee  
County Administrative Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Deputy County Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Authority Counsel

\_\_\_\_\_  
County/Deputy County Counsel

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>BUSINESS ITEMS</b>	
<b>Subject:</b>	Joint Community Facilities Agreements
<b>Meeting Date:</b>	May 14, 2020
<b>Agenda Number:</b>	7b
<b>ACTION</b>	

**RECOMMENDATION:**

Adopt Resolution 20-xx: Approving and Authorizing the Execution and Delivery of Joint Community Facilities Agreements with the County of Monterey and the Cities of Del Rey Oaks, Marina, Monterey, and Seaside and Approving Related Actions.

**BACKGROUND/DISCUSSION:**

FORA’s staff, legal team and consultants are working to convey Community Facilities District (“CFD”) funds set aside for habitat management to underlying land use jurisdictions, following Board direction at the April 17, 2020 Board Meeting.

**Joint Community Facilities Agreements (“JCFA”).** A template of the JCFA is attached (**Attachment A**). It is expected that a JCFA will be signed by each receiving jurisdiction. Final terms are being negotiated between Authority Counsel and the relevant jurisdiction counsels. The JCFA’s contain provisions to address the following primary issues:

- A. Acknowledgment that, after FORA’s sunset, the underlying land use jurisdictions will be responsible for habitat management within their own territories.
- B. Allocation and delivery to the underlying land use jurisdictions of unexpended CFD funds set aside by FORA for habitat management.
- C. Transferred funds are to be held by the recipient in a segregated account used exclusively for payment of the costs of habitat management and related expenses.

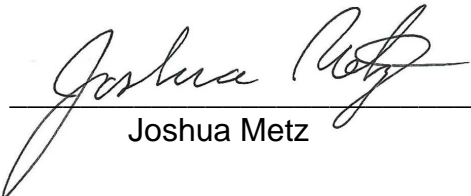
The Authorizing Resolution for the Board to approve the JCFA (**Attachment B**) also specifies percentages for the allocation of Habitat Funds for each of the Recipients, which were originally authorized by Board direction on April 17, 2020.

**FISCAL IMPACT:**

Reviewed by FORA Controller  \_\_\_\_\_

**COORDINATION:**

Authority Counsel. City of Seaside. City of Marina. City of Del Rey Oaks. City of Monterey. County of Monterey.

Prepared by & Approved by  \_\_\_\_\_  
Joshua Metz

**ATTACHMENTS:**

- A. Joint Community Facilities Agreement Template
- B. Resolution 20-xx: Approving and Authorizing the Execution and Delivery of Joint Community Facilities Agreements with the County of Monterey and the Cities of Del Rey Oaks, Marina, Monterey, and Seaside and Approving Related Actions.

## JOINT COMMUNITY FACILITIES AGREEMENT

This Joint Community Facilities Agreement (this “**Agreement**”) is made by and between the Fort Ord Reuse Authority (“**FORA**”) and the [*select City/County*] of \_\_\_\_\_, California (the “**Participating Agency**”) with reference to the following facts and objectives.

**A.** In 2002, FORA established the Fort Ord Reuse Authority Basewide Community Facilities District (the “**CFD**”), pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 *et seq.*), as amended (the “**Act**”) for the purpose of collecting special taxes under the Act to finance, among other things, the construction of certain roadway improvements, transit improvements, water and storm drain improvements, other public facilities, and for costs related to habitat management within the CFD or otherwise incident to or required by reason of the development of property within or adjacent to the CFD, all as more particularly described in that Notice of Special Tax Lien recorded on May 22, 2002 as Document No. 2002048932 in the office of the County Recorder of the County of Monterey, California. FORA subsequently earmarked a portion of the special taxes so collected to finance the services described in Exhibit A attached hereto and incorporated herein by this reference (the “**Habitat-Related Services**”), resulting in accumulated funds having an approximate aggregate current unexpended balance of \$ \_\_\_\_\_ (the “**Habitat Funds**”).

**B.** FORA is scheduled to terminate on June 30, 2020 (“**FORA’s Termination Date**”) in accordance with the Fort Ord Reuse Authority Act (California Government Code Section 67650 *et seq.*), as amended. This Agreement is necessary to provide for the orderly transition of governmental finances in connection with the termination of FORA. Prior to FORA’s Termination Date, FORA plans to allocate, divide, and distribute to each of the Participating Agency and certain other public entities having habitat management responsibilities within the former Fort Ord and which enter into a joint community facilities agreement with FORA a portion of the then unexpended Habitat Funds in accordance with the formula set forth in Exhibit B attached hereto and incorporated herein by this reference. The Participating Agency’s allocated portion of such unexpended Habitat Funds may be referred to herein as the “**Allocated Funds**.”

**C.** The parties hereto expect that the Participating Agency will provide some of the Habitat-Related Services, particularly those that pertain to real property within the Participating Agency’s territorial limits (the “**Covered Services**”).

**D.** FORA and the Participating Agency now desire to enter into this Agreement to satisfy the requirements of Section 53316.2 of the Act and to memorialize their understanding with respect to the use of that portion of the Habitat Funds allocated to the Participating Agency for its use in connection with the provision of the Covered Services, all as more particularly set forth below.

NOW, THEREFORE, based on the foregoing and in consideration of the mutual terms, covenants and conditions contained in this Agreement and for other good and

valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**Section 1. Delivery and Segregation of Allocated Funds.** Prior to FORA's Termination Date, FORA shall deliver the Allocated Funds to the Participating Agency. The Allocated Funds, together with any earnings thereon, shall be held by the Participating Agency in an account separate and apart from any other account maintained by the Participating Agency (the "**Allocated Funds Account**"). Funds in the Allocated Funds Account shall be used exclusively for payment of the costs of the Covered Services. Other than by providing the Allocated Funds, FORA shall have no obligation to pay for any of the costs of the Covered Services. It will be the responsibility of the Participating Agency to pay, or arrange for the payment of, any costs of the Covered Services in excess of the funds available in the Allocated Funds Account.

**Section 2. Mitigation Monitoring and Reporting.** Following FORA's Termination Date, the Participating Agency shall be solely responsible for carrying out any mitigation monitoring and reporting or other similar requirements associated with the Covered Services.

**Section 3. Limited Obligations.** All obligations of FORA under and pursuant to this Agreement shall be limited to the amounts it provides for deposit into the Allocated Funds Account. No member of FORA's board of directors or any officer, employee, representative, or agent of FORA shall in any event be personally liable hereunder.

**Section 4. Term.** The term of this Agreement shall begin on the full signing of this Agreement by the parties and continue until FORA's Termination Date; provided, however, that the Participating Agency's obligations hereunder shall remain in full force and effect until the exhaustion of all amounts in the Allocated Funds Account by proper expenditure thereof by the Participating Agency to pay the costs of the Covered Services. All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this Agreement shall survive any such expiration or termination.

**Section 5. Agreement of Public Benefit.** By their respective approvals of this Agreement, FORA and the Participating Agency have each declared and hereby confirm that this Agreement is beneficial to the residents within the jurisdiction of their respective entities in assuring the provision of financing for a portion of the costs of the Covered Services in furtherance of the purposes of the Act.

**Section 6. Partial Invalidity.** If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

**Section 7. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto

**Section 8. Third-Party Beneficiaries.** In order to provide a mechanism for enforcement of the Participating Agency's obligations under this Agreement after FORA's

Termination Date, the County of Monterey and the Cities of Del Rey Oaks, Marina, Monterey and Seaside [*strike name corresponding to the Participating Agency*] are each hereby made an intended third-party beneficiary of this Agreement.

**Section 9. Amendment.** This Agreement may be amended at any time but only in writing signed by each party hereto.

**Section 10. Cooperation.** Each of the parties agrees to use reasonable and good faith efforts to take, or cause to be taken, all action to do, or cause to be done, and to assist and cooperate with any and all other parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement including signing, acknowledging, and delivering any instruments and documents as may be necessary, expedient, or proper, to carry out the intent and purpose of this Agreement.

**Section 11. Entire Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties hereto with respect to the subject matter of this Agreement.

**Section 12. Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California applicable to contracts made and performed in such State.

**Section 13. Interpretation.** This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

**Section 14. Execution in Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same complete instrument. The signature page of each counterpart may be detached from such counterpart and attached to a single document which shall for all purposes be treated as an original. Faxed, photocopied or e-mailed signatures shall be deemed originals for all purposes. This Agreement shall be effective as to each party when that party has executed and delivered a counterpart hereof.

**Section 15. Authority.** Each party represents and warrants to the other that it is authorized to execute, deliver and perform this Agreement, and the terms and conditions hereof are valid and binding obligations of the party making this representation.

*[signatures appear on following page(s)]*



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written beneath their respective signatures below.

**FORT ORD REUSE AUTHORITY**

\_\_\_\_\_ **OF** \_\_\_\_\_

By: \_\_\_\_\_  
Josh Metz, Executive Officer

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

Dated: \_\_\_\_\_, 2020

Dated: \_\_\_\_\_, 2020

ATTEST:

ATTEST:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Authority Counsel

\_\_\_\_\_  
[City Attorney/County Counsel]

## EXHIBIT A

### DESCRIPTION OF THE HABITAT-RELATED SERVICES

Habitat Management within or in the vicinity of the CFD, or otherwise incident to or required by reason of development of the property within and adjacent to the CFD.

For the purposes of this Agreement, “**Habitat Management**” includes, without limitation, all work and activities to study and review environmental impacts and mitigation measures, as well as legal and overhead costs pertaining thereto.

## EXHIBIT B

### FORMULA FOR ALLOCATION OF UNEXPENDED HABITAT FUNDS

County of Monterey	79.9%
City of Marina	7.9%
City of Seaside	7.4%
City of Del Rey Oaks	4.5%
City of Monterey	<u>0.3%</u>
TOTAL	100%

**FORT ORD REUSE AUTHORITY**  
**Resolution No. 20-\_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY**  
*Approving and Authorizing the Execution and Delivery of Joint Community Facilities*  
*Agreements with the County of Monterey and the Cities of Del Rey Oaks, Marina,*  
*Monterey, and Seaside and Approving Related Actions*

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

- A. In 2002, the Fort Ord Reuse Authority (“FORA”) established the Fort Ord Reuse Authority Basewide Community Facilities District (the “CFD”), pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 *et seq.*), as amended (the “Act”) for the purpose of collecting special taxes under the Act to finance, among other things, the construction of certain roadway improvements, transit improvements, water and storm drain improvements, other public facilities, and for costs related to habitat management (including, without limitation, all work and activities to study and review environmental impacts and mitigation measures, as well as legal and overhead costs pertaining thereto) within the CFD or otherwise incident to or required by reason of the development of property within or adjacent to the CFD, all as more particularly described in that Notice of Special Tax Lien recorded on May 22, 2002 as Document No. 2002048932 in the office of the County Recorder of the County of Monterey, California. FORA subsequently earmarked a portion of the special taxes so collected to finance habitat management (collectively, the “Habitat-Related Services”).
- B. The existence of the Fort Ord Reuse Authority (“FORA”) is scheduled to terminate in accordance with state law on June 30, 2020 (“FORA’s Termination Date”).
- C. The special taxes collected through the CFD and earmarked for Habitat-Related Services will not have been fully expended by FORA’s Termination Date.
- D. From and after FORA’s Termination Date, each of the Cities of Del Rey Oaks, Marina, Monterey, and Seaside will be responsible for the provision of Habitat-Related Services in designated portions of the former Fort Ord that are within their individual territorial limits and the County of Monterey will be responsible for the provision of Habitat-Related Services in designated portions of the unincorporated territory of the County of Monterey located within the former Fort Ord.
- E. FORA desires to make certain funding available to the County of Monterey and the Cities of Del Rey Oaks, Marina, Monterey, and Seaside to support the continued provision of Habitat-Related Services within their respective territories. FORA’s Board of Directors (the “Board”) determined at its April 17, 2020 meeting that the percentage of the unexpended special taxes collected through the CFD and earmarked for Habitat-Related services to be transferred to the respective jurisdictions upon their entry into Joint Community Facilities Agreements with FORA will be as follows:

County of Monterey	79.9%
City of Marina	7.9%
City of Seaside	7.4%
City of Del Rey Oaks	4.5%
City of Monterey	<u>0.3%</u>
TOTAL	100%

NOW THEREFORE the Board hereby resolves that:

1. The foregoing recitals are true and correct.
2. The Board hereby approves the form of Joint Community Facilities Agreement on file with the Secretary. The Executive Officer, acting alone, is hereby authorized and directed to execute and deliver a Joint Community Facilities Agreement with each of the County of Monterey and the Cities of Del Rey Oaks, Marina, Monterey, and Seaside for and in the name and on behalf of FORA in such form, or in substantially similar forms containing such modifications as the Executive Officer may approve as necessary or appropriate to carry out the purposes of the Joint Community Facilities Agreements, such approval to be conclusively evidenced by the execution and delivery by the Executive Officer of the Joint Community Facilities Agreements. Notwithstanding the foregoing, the percentage of the unexpended special taxes collected through the CFD and earmarked for Habitat-Related services to be transferred as set forth in the respective forms on file with the Secretary shall not be altered without the specific approval of the Board.
3. The Executive Officer is hereby authorized and directed, for and in the name and on behalf of FORA, to do any and all things and take any and all actions, which he may deem necessary or advisable as contemplated by the Joint Community Facilities Agreements or otherwise in order to effectuate the transfer of the funds as contemplated by the Joint Community Facilities Agreements.
4. This Resolution shall take effect from and after the date of its passage and adoption.

Upon motion by \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing Resolution was passed on this 14th day of May, 2020, by the following vote:

AYES:  
 NOES:  
 ABSTENTIONS:  
 ABSENT:

\_\_\_\_\_  
 Jane Parker, Chair

ATTEST:

\_\_\_\_\_  
 Joshua Metz, Secretary