

Appendix B
Habitat Working Group Information



FORT ORD REUSE AUTHORITY

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

Friday, January 10, 2020 at 10:00 a.m.

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

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. BUSINESS ITEMS

- | | |
|--|--------------------|
| a. Today's Meeting Objective | INFORMATION |
| i. Establish process and strategic habitat working group agenda | |
| b. Committee Structure | INFORMATION |
| i. Members | |
| ii. Format | |
| c. Define key topics and information resources for future meetings | INFORMATION |
| i. Breakout Session: Jurisdiction representatives summarize key concerns related to: | |
| 1. Habitat Management Responsibilities | |
| 2. Finance Issues | |
| 3. Future Take Permits | |
| 4. Other | |
| d. Approve draft schedule with identified topics and next meeting agenda. | ACTION |

4. ITEMS FROM MEMBERS

INFORMATION

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

5. ADJOURNMENT

NEXT MEETING: January 17, 2020



APPROVED

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

10:00 a.m. Friday, January 31, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:01 a.m.

The following FORA Board and Administration Committee members were present:

Melanie Beretti (County of Monterey)
Patrick Breen (MCWD)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
Steve Martin (MPC)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Councilmember Ian Oglesby (City of Seaside)
Supervisor Jane Parker (Monterey County)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)
Aaron Gabbe (ICF)
Tom Graves (RGS)
Erin Harwayne (DDA) (via phone)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Today's Meeting Objective

Not discussed.

b. Review and next steps on Habitat discussion

i. Recap discussion from January 24th

Not discussed.

ii. Pros and Cons of continued discussions on reduced scope HCP – Should discussions continue?

Co-Chair Parker asked the HWG whether they want to continue working as a group on habitat issues, or would they like to tackle the issues on their own. Mr. Haffa and Mr. Gaglioti noted that the City of Monterey and the City of Del Rey Oaks, respectively, are interested in a Joint Powers Authority (“JPA”) for a Habitat Conservation Plan (“HCP”), not a Habitat Management Plan (“HMP”). Co-Chair Parker noted that the County of Monterey is interested in a reduced scope or phased HCP. Ms. Morton stated that the City of Marina supports moving forward with an interim JPA with a cutoff date. Ms. Damon stated that the City of Seaside is interested in creating a structure that allows the basic habitat management functions to be funded. Mr. Martin of MPC said that they are very interested in continuing the discussion and moving the HCP forward. Mr. Matarazzo (UCSC), Mr. Breen (MCWD), Mr. Bachman (California State Parks), and Dr. Payan (Monterey Peninsula Regional Parks) affirmed their organizations’ support of an HCP. After receiving supportive comments, Co-Chair Parker stated that it is worth it to continue having this conversation. Co-Chair Metz stated that FORA staff will put together an agenda and that he’ll have Ms. Flint set up items for discussion, with Co-Chair Parker and himself moderating.

Ms. Flint stated to the group that they have three possible options moving forward: Option 1: certify the EIR and adopt the HCP in current form; Option 2: not adopt the HCP and consider certifying the EIR. Continue coordinated habitat planning beyond FORA via formation of a new JPA. Revise & republish HCP to reflect a “phased” approach and more closely align with development; or Option 3: do not adopt the HCP and continue individual implementation of the Habitat Management Plan. A discussion took place among the members regarding the three options and the legal ramifications for each, with Mr. Willoughby providing FORA Authority Counsel’s perspective on the issues. Ms. Morton asked CDFW if they are prepared to give the group a basewide permit. Ms. Vance noted that without the BLM lands for California Tiger Salamander and Sand Gilia, the basewide permit is an option, pending some revisions.

iii. If yes to ii, what steps needs to be taken in the next few weeks to preserve this option post June 30, 2020?

Mr. Haffa motioned for the HWG to move forward with Option 2 including the EIR/EIS and Mr. Gaglioti seconded. Mr. Pick noted that it seems the HWG is in agreement on most of the core tenets of Option 2 and that the HWG should move forward by recommending that the FORA board certifies the EIR/EIS. Ms. Flint made a recommendation to table the motion until the HWG hears back from FORA consultants regarding the financial and legal details of executing Option 2. She noted that the HWG could have that feedback by the end of February in time for the March 12 FORA board meeting. Ms. Morton asked that this recommendation be moved to the FORA Finance Committee so they can examine how it will impact the midyear budget. Mr. Oglesby suggested that the HWG move the recommendation to the Executive Committee so that it can then move to the Finance Committee. A discussion took

place regarding whether the HWG should move forward with Mr. Haffa’s motion, and if not, how to capture the group’s consensus so that it is officially recorded. Co-Chair Parker recommended taking a straw poll on the various points of the motion to see where the group stands on them.

Points	Consensus
1. FORA staff and consultants to contract with CEQA attorney to opine on legality and risks of certifying an EIR without approving a project (HCP).	YES
2. Interest in forming a legal entity (i.e. JPA) that could be delegated FORA Board’s habitat management and conservation responsibilities (Option 2).	YES
3. Establish an escrow account to hold funds currently planned to for use as HCP endowment while JPA-based habitat planning efforts continue.	YES
4. Request FORA Executive and Finance committees consider habitat endowment funds for the JPA process.	YES

iv. If no to ii, what steps needs to be taken convey the \$17M for existing habitat obligations?

Not applicable.

c. Review of option for focus of future working group

Co-Chair Metz stated that FORA can direct its Authority Counsel to start preparing a draft JPA for the HWG to consider. Mr. Willoughby stated that he can circulate a skeletal version of the last draft JPA to the various jurisdictions’ attorneys and have it serve as a clearinghouse for their comments and suggestions.

Co-Chair Parker suggested that the HWG discuss financial details in the next week’s meeting, however, Co-Chair Metz noted that FORA consultant Ellen Martin has not received any feedback from the jurisdictions and that she would be hard-pressed to bring back anything of substance by the February 7 HWG meeting. The HWG heard from Ms. Harwayne and Mr. Gabbe regarding the timing and substance of their analyses that they are preparing for the HWG. Based on this feedback, Ms. Morton recommended that the HWG not meet on February 7, and that instead the jurisdictions take the time to meet with Ms. Harwayne and hone in on phasing projections.

d. Review of options for staffing and meetings

Co-Chair Metz noted the following tentative meeting schedule and topics:

- February 7 – meeting cancelled
- February 14 – discussion of the JPA draft document and its language
- February 21 – discussion of finances and the HMP management cost model

- February 28 – discussion of the phasing (hopefully with feedback from regulators and consultants)

Co-Chair Metz noted that the points listed in the straw poll will be included in the next meeting's agenda for members to review.

e. Other discussion

None

4. ITEMS FROM MEMBERS

None

5. ADJOURNMENT at 11:57 a.m.



FORT ORD REUSE AUTHORITY

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP
and
SPECIAL MEETING
FORT ORD REUSE AUTHORITY (FORA) ADMINISTRATIVE COMMITTEE
Friday, January 17, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)
AGENDA**

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction, not on the agenda, may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. BUSINESS ITEMS

- a. Approve meeting minutes from January 10, 2020 **ACTION**
- b. Today's Meeting Objective **INFORMATION**
- c. Review of Environmental Compliance Requirements and Address Questions **INFORMATION**
 - i. What are the basic requirements for each agency to comply with State and Federal provisions?*
 - ii. If we reduce the scale of the HCP - would this reduce the costs and stay ahead provision?
Would this reduction in scope lower start-up costs for implementation?*
 - iii. How long do we really need to plan for?*
 - iv. Can we reopen the HCP to better reflect development assumptions?*
 - v. If we reduce the scale of the HCP would the EIR and EIS still be valid?*
 - vi. Does Borderland management qualify for a different type of take permit?*
 - vii. The HCP will cover a subset of the species addressed by the HMP. The HCP will manage natural communities and covered species habitats. Will the permittees still need to implement management, monitoring, and reporting actions for HMP species not covered by the HCP?*
 - viii. Can you confirm that HCP permittees need to apply for CDFW 2081 permits?*
 - ix. How will regulatory agencies enforce environmental compliance?*
 - x. Do individual agencies have the ability to mitigate onsite?*
 - xi. Other questions?*

4. FUTURE AGENDA ITEMS

DISCUSSION

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

5. ADJOURNMENT

NEXT MEETING: January 24, 2020

Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at www.fora.org.



FORT ORD REUSE AUTHORITY

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP
and
SPECIAL MEETING
FORT ORD REUSE AUTHORITY (FORA) ADMINISTRATIVE COMMITTEE
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 - viii. Can you confirm that HCP permittees need to apply for CDFW 2081 permits?*
 - ix. How will regulatory agencies enforce environmental compliance?*
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4. FUTURE AGENDA ITEMS

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REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

10:00 a.m. Friday, January 10, 2020 | FORA Board Room
920nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County)
Mayor Pro Tem Gayle Morton (City of Marina)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Councilmember Ian Oglesby (City of Seaside)
Layne Long (City of Marina)
Hans Uslar (City of Monterey)
Craig Malin (City of Seaside)
Patrick Breen (MCWD)

Members of the Consultant Team included:

Kendall Flint (RGS)
Tom Graves (RGS)
Aaron Gabbe (ICF)
Erin Harwayne (DDA)
Ellen Martin (EPS)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Discussion of Meeting Objectives

The group held a brief discussion outlining the purpose of the Habitat Working Group: to identify possible options for agencies to address environmental compliance with state and federal requirements for habitat management and/or mitigation on the former Fort Ord. This would include discussions regarding the viability of implementation via a Habitat Management Plan, a Habitat Conservation Plan and/or a hybrid approach if possible.

b. Committee Structure

Co-Chair Parker described the proposed structure of the committee with herself and Executive Officer Josh Metz serving as Co-Chairs. No objections were made.

Meetings will be jointly noticed to allow members of the FORA Board and Administrative Committee to attend and share information freely. Public comment will be allowed following each business item discussed.

Any public agency with property in the former Fort Ord that may require habitat management may participate in the Working Group. It is anticipated that participation would include a Board member representing the agency, an Administrative Committee member representing the agency and/or staff members including but not limited to legal counsel. The group determined that there was no set number of participants per agency as the objective was to achieve consensus as opposed to voting on specific items. Co-Chair Parker said the Working Group would be informing the FORA Board what it has come up with. If actions are taken, they would be shared with the Board as recommendations.

c. Group Exercise: Define Key Topic Areas for Future Meetings

The Working Group held a breakout session by Agency to identify key areas of concerns, questions for the Group and its consultant team to address at future meetings, and challenges to the environmental compliance process including fiscal impacts and potential liabilities to each agency. A list of questions already identified by agencies were provided to all participants for review. Each group reported back its concerns with the goal of identifying common concerns for future meeting discussions.

Monterey County**Habitat**

If we reduce the scale of the HCP, would this reduce the costs and stay ahead provision? Would this reduction in scope lower start-up costs for implementation?

Finance

What is the mechanism for collection of fees for future development to replace the existing CFD? Who will defend and pay for litigation over HCP/EIR approval? Would this fall to the JPA or to agencies?

Take Permits

Should we reduce the permit for realistic near-term development over the next 25 years?

Other

Who would manage the proposed JPA if one is established by July 1, 2020? What can we feasibly accomplish by June 30, 2020? If the EIR is approved but no project (the HCP) has been selected?

City of Monterey

Habitat

Prefers the JPA concept for governance as it allows for joint management of the habitat at a reduced cost, facilitates access to take permits, offers legal protection and shared risks. The City also noted that the EIR/EIS is almost complete

How long (planning horizon) do we really need to plan for?

City of Marina and City of Del Rey Oaks

Habitat

If we reduce the scale of the HCP would the EIR and EIS still be valid? Can we reopen the HCP to better reflect development assumptions?

Finance

Marina has already established and set a fee for development yielding a set amount. How will other agencies collect set and collect fees and will they be enough to cover the cost of establishing a proposed endowment to fund the HCP?

City of Seaside

Habitat

What species does each agency have, where are they located and how many acres must be maintained/restored?

What protections do agencies have if others are non-compliant?

How can we best optimize mitigation areas within habitat management areas?

Non-Land Use Agencies

What liability/responsibilities would these agencies incur if a JPA is formed?

d. Approve Draft Schedule

Co-Chair Metz then focused on upcoming meeting topics and agendas. A series of eight additional meetings are planned. Topics for future meetings will be discussed each week. The group agreed on the next two subject areas for upcoming meetings:

- January 17th will focus on compliance requirements with representative from United States Fish & Wildlife Service and California Fish and Game.
- January 24th will focus on legal and financial issues related to establishing a “cooperative” and/or other mechanism(s) to address environmental compliance and review options related to reducing the size of the proposed mitigation and management areas.

4. ITEMS FROM MEMBERS

None.

5. ADJOURNMENT 12:00 p.m.

Co-Chair Parker adjourned the meeting at noon.

DRAFT



FORT ORD REUSE AUTHORITY

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP
and
SPECIAL MEETING
FORT ORD REUSE AUTHORITY (FORA) ADMINISTRATIVE COMMITTEE
Friday, January 24, 2020 at 10:00 a.m.
910 2nd Avenue, Suite A, Marina, CA 93933 (Carpenters Hall)
AGENDA**

1. CALL TO ORDER

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Members of the public wishing to address the Committee on matters within its jurisdiction, not on the agenda, may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. BUSINESS ITEMS

- | | |
|--|--------------------|
| a. Approve meeting minutes from January 10, 2020 | ACTION |
| b. Approve meeting minutes from January 17, 2020 | |
| c. Today's Meeting Objective | INFORMATION |
| d. Exploration of HCP Reduced Scope & Phasing Options | INFORMATION |
| <i>i. Opportunity and Constraints Overview (Erin Harwayne DDA)</i> | |
| <i>ii. Jurisdiction Scenarios – Caucus & Report</i> | |
| <i>iii. Group Discussion</i> | |

4. FUTURE AGENDA ITEMS

DISCUSSION

Proposed Topics:

- *1/31/20: Governance Structure & Priorities*
- *2/7/20: Finances*
- *2/14/20: Revised Governance Agreement*

5. ADJOURNMENT

NEXT MEETING: January 31, 2020



FORT ORD REUSE AUTHORITY

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP
and
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5. ADJOURNMENT

NEXT MEETING: January 31, 2020



REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

10:00 a.m. Friday, January 10, 2020 | FORA Board Room
920nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County)
Mayor Pro Tem Gayle Morton (City of Marina)
Councilmember John Gaglioti (City of Del Rey Oaks)
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Councilmember Ian Oglesby (City of Seaside)
Layne Long (City of Marina)
Hans Uslar (City of Monterey)
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Patrick Breen (MCWD)

Members of the Consultant Team included:

Kendall Flint (RGS)
Tom Graves (RGS)
Aaron Gabbe (ICF)
Erin Harwayne (DDA)
Ellen Martin (EPS)

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City of Marina and City of Del Rey Oaks

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City of Seaside

Habitat

What species does each agency have, where are they located and how many acres must be maintained/restored?

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How can we best optimize mitigation areas within habitat management areas?

Non-Land Use Agencies

What liability/responsibilities would these agencies incur if a JPA is formed?

d. Approve Draft Schedule

Co-Chair Metz then focused on upcoming meeting topics and agendas. A series of eight additional meetings are planned. Topics for future meetings will be discussed each week. The group agreed on the next two subject areas for upcoming meetings:

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4. ITEMS FROM MEMBERS

None.

5. ADJOURNMENT 12:00 p.m.

Co-Chair Parker adjourned the meeting at noon.

DRAFT



REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP And SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

10:00 a.m. Friday, January 17, 2020 | FORA Board Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:02 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Co-Chair, Monterey County)
David Martin, Monterey Peninsula College
Mayor Pro Tem Gayle Morton (City of Marina)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Councilmember Ian Oglesby (City of Seaside)
Dino Pick, (City of Del Rey Oaks)
Layne Long (City of Marina)
Hans Usler (City of Monterey)
Craig Mallin (City of Seaside)
Patrick Breen (MCWD)
Josh Metz, (Executive Director, Co-Chair)

Members of the Consultant Team included:

Kendall Flint (RGS)
Tom Graves (RGS)
Aaron Gabbe (ICF)
Erin Harwayne (DDA)
Ellen Martin (EPS)

Other Attendees included:

Matt Mogensen, City of Marina, Assistant City Manager
Sherri Damon, City of Seaside City Attorney
David Willoughby, FORA Counsel's Office
Wendy Stribling, Monterey County Sr. Deputy County Counsel
Mike Langley, Marina Coast Water District, District Engineer

2. PUBLIC COMMENT PERIOD

No public comments were received.

Co-Chair Parker explained that there were actually two Committees in attendance today: The Fort Ord Reuse Authority Habitat Working Group (HWG) as a Regular Meeting and the Fort Ord Reuse Authority Administrative Committee as a Special Meeting.

3. BUSINESS ITEMS

a. Approve meeting minutes from January 10, 2020 (No action taken).

b. Today's Meeting Objective

Co-Chair Parker encouraged members to take advantage of the consultants here today from State and Federal agencies, and to listen carefully to their responses to the questions.

c. Review of Environmental Compliance Requirements and Address Questions

Staff from California Department of Fish and Wildlife and the US Fish and Wildlife Service were in attendance to answer questions.

Julie Vance Regional Manager, Central Region
California Department of Fish and Wildlife

Annee Ferranti, Environmental Program Manager Habitat Conservation Planning
California Department of Fish and Wildlife Central Region

Leilani Takano, Assistant Field Supervisor North Coast Division
US Fish and Wildlife Service, Ventura Fish and Wildlife Office

Rachel Henry, Habitat Conservation Plan Coordinator
U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office

i. What are the basic requirements for each agency to comply with State and Federal provisions?

Regarding permits in general, pursuant to the California Endangered Species Act (CESA). Fort Ord has been on the Incidental Take Permit (ITP) track. That said, if people are interested it might be worth exploring the Natural Community Conservation Plan as opposed to an HCP, but that can be decided at a later date. The take has to be fully mitigated, which is a pretty high standard, and the way that is done is impacts to the covered species and, in this case, there are several State species. Only State species would be addressed in the State program. The impacts are described in the project. There will be a large list of covered activities and generally the mitigation is in the form of perpetual mitigation land conservation. Typically, that's done with recreation and conservation activities, and a professional endowment that funds the management of those properties for the purpose of the current species. The idea is that those management activities provide a lift to those habitats such that impacts are mitigated by enhancing numbers of the species in other plans that are set aside. Otherwise, there would be a net loss.

The State can't issue a take permit to one entity and allow other entities to do the take. That's why the State has always believed that FORA as an umbrella agency would be the perfect transfer agency transitioning to a JPA. The State was assuming that the regional conservation approach was moving forward. If not, for an individual basis, things would have to be looked at differently. Also, on BLM lands, the State has difficulty approving mitigation on Federal land for obvious reasons.

ii. If we reduce the scale of the HCP - would this reduce the costs and stay ahead provision? Would this reduction in scope lower start-up costs for implementation?

Yes, but this depends on how the scale is reduced and on which species would be more or less impacted. State permits can also be amended but it depends on the complexity of the change. Regarding start-up costs, the simple answer is yes. Costs can be passed in, starting lower and rising thereafter.

iii. How long do we really need to plan for?

Currently, the regional HCP is permitting activities for 50 years. This is very atypical. Normally, the Service is comfortable with permitting projects for 25 or 30 years because we are able to analyze effects on species. Permit length really depends on the needs of the applicant and the covered activities. That said, the mitigation or compensation for impact selected species should be in place in perpetuity.

The State added that by shortening the horizon from 50 years to 25 or 30 years, they are able to have more confidence in their analyses.

iv. Can we reopen the HCP to better reflect development assumptions?

(Clarified by Co-Chair Metz to add "before we go to final draft.") The answer is definitely yes, since applicants should be comfortable with the final HCP. It not only assures compliance, but now is the time to change things that need to be changed. However, that said, the State has gone to a new process now, making it very challenging to get registered documents. So just to put the caveat there that yes, it can be reopened.

v. If we reduce the scale of the HCP would the EIR and EIS still be valid?

As long as it is within the scope of the original document, then yes.

vi. Does Borderland management qualify for a different type of take permit?

From the federal perspective - no.

CESA has another provision under Section 21(a) of the Fish & Game Code that allows take for things that are for management or recovery or for research purposes, but it can't be in association of the project.

- vii. *The HCP will cover a subset of the species addressed by the HMP. The HCP will manage natural communities and covered species habitats. Will the permittees still need to implement management, monitoring, and reporting actions for HMP species not covered by the HCP?*

Leilani Takano said that implementation of the HCP was a condition of receiving the land from the Army, and since that is not within the purview of Fish & Wildlife, she didn't want to speak to that. However, USFWS did do an analysis for the Army which resulted in the establishment of the HCP in 1993

- viii. *Can you confirm that HCP permittees need to apply for CDFW 2081 permits?*

Yes.

- ix. *How will regulatory agencies enforce environmental compliance?*

There are environmental complaints in the context of permit compliance, and then there are environmental complaints in the context of someone deciding to engage in take without authorization. The Committee asked for information on both.

If someone was engaging in take without authorization, there are enforcement options either pursued through the attorney general as a civil or criminal complaint.

If there are complaints in the context of permit compliance, there would be an attempt to resolve those issues through the administrative process. If things remain unresolved, the permit can be suspended or pulled.

- x. *Do individual agencies have the ability to mitigate onsite?*

It depends. The State would also want to check in and make sure there was not what is described as "postage stamp mitigation" that really don't contribute to the recovery of the species. Mainly it has to be of sufficient size to support the species.

- xi. *Other questions?*

One question was left out: Can you describe the agency view on individual versus collective HMA area management?

CDFW declined to speak about the HMA but did comment on whether it's managed as a unit as opposed to jurisdictions. Ideally, things are being managed consistently and collaboratively, and there's a benefit to the economy of scale that provides. On a per acre basis, it's going to be much more expensive to break it down and do it individually. But that said, it could be done but assurances would be sought that there was a consistent management approach across the landscape.

Questions to the presenters

John Gagliati asked about the cost of the HCP.

CDFW responded that there was some flexibility, but ultimately the take has to be mitigated slightly in advance of the impact. They wouldn't require mitigation for things that were yet to occur. Mr. Gagliati asked if it was even necessary then to open the HCP, or could jurisdictions just live within the boundaries of the Plan? CDFW expressed a willingness to sit and work out the details, and to take another look at the question. Mr. Gagliati then spoke about the \$40M endowment planning number in everybody's heads, and the "donut hole" between what's available and what needs to be contributed. CDFW cautioned that the costs will go up over time, and if not fully capitalized the agency will not be able to have the benefit of a larger endowment building interest. There are pros and cons to that.

Wendy Stribling asked if the totality of the mitigation can be scaled back based on a different projection of the development?

CDFW said maybe. It would necessitate an in-depth discussion but it might be doable. Stribling's other question was on follow-up to two questions: can individual permittees apply for 2081 permits, or does the JPA get the 2081? CDFW said developers would be added to the permit by amendment for their specific element, but it would still all be under the original permit. And finally, Ms. Stribling asked if there was a JPA, and an HCP, and a 2081, and one jurisdiction does something that's out of compliance with the plan, does the permit get revoked or suspended as to all entities? CDFW – Not necessarily. It would depend on the severity of the infraction and the nature of it.

FORA dissolves June 30, 2020. Will this HCP approval make that deadline?

CDFW was unable to answer the question. USFWS said it depends. It really depends on whether the applicants want to move forward with the HCP in its entirety and whether minor changes are wanted versus substantial changes. They asked to be informed as soon as possible if major changes are contemplated because there is a Federal Register process as well. In the meantime, they can still issue individual permits to individual applicants. If FORA sunsets and a JPA isn't formed, they can still issue individual permits to each applicant under the HCP. If one permit was issued to the JPA, inclusion would be given to each applicant.

If agencies carve out certain areas where there are endangered species and decide those lands won't be developed – is a take permit still necessary?

CDFW answered that if developments could be done in a way where endangered species areas were set aside, that would be fantastic. Of course, there would be ways to do less, and obviously if you're setting aside impacted land, this could be phased for really large development projects. In the Central Valley, there are large residential development mixed use projects which are hundreds of acres of development, but it's all going to occur at the same time. What developers will generally say is the first phase will be 75 acres

with mitigation land somewhere in the neighborhood of 10-15%. That's the first phase mitigation. and then have to work toward mitigating those lands and depositing a non-wasting endowment for the perpetual management of those lands. Then they can decide how big phase two will be, phase three and so forth.

Regarding enforcement, can you outline the plan by which you would enforce the provisions of a habitat management plan, and in particular, how the Service would look at what's going on in management areas?

The Service believe the agreement states that the Army will be the enforcer. Having said that, the Service did issue files that contained a list of all species that would be impacted by the transfer of plants, and that was part of the biological assessment that the Army submitted in the early 90's. They originally proposed that they would develop the original HMP. The HCP could be a tool for restoration actions that have already been decided on about twenty years ago, so that will help facilitate management.

Is it fair to say that if a jurisdiction has a HMA within their jurisdictional boundaries and there is no reason for a HCP, would they need to go back and look at your 1993 biological opinion and see what management actions are required under that opinion for certain types of species, and then take those actions to the services?

It goes back to the Army in that original agreement. If the jurisdiction has been managing all this time through benign neglect, then the Service would step in and try to get that entity into compliance, and to try to do restoration.

How are violations enforced if we are all collectively responsible for the management of the lands?

CDFW – You have no obligation with us, aside from the people that have their own permit. And they have their own specific duties. One thing I didn't talk about is that before someone can engage in development, they either have to put up a Letter of Credit for the full amount of mitigation, which we can cash out if necessary, or they have to have it in place in advance. So, it seems if there's a violation and we're all doing it collectively, the entire permit would be pulled. Maybe, but there are remedies besides permit suspension. It's not in the State's interest to blow the whole thing up and start from scratch.

Going back to the idea of Phasing, in our financial scenario we currently have \$17M. Can we set up Phase A with our \$17M, and then Phase B with, say \$25M, and we decide to stop there. Can you stop there and amend the permit?

Yes. However, \$17M is not a lot of money. If you're going to phase it, and I understand why you would want to do that, you're going to have to need to redo the financials. The other thing I want to say is that I hope you are all passing these costs on to your developers.

The caveat in the permit says that at the time you begin your second phase and the endowment gets deposited, it's been adjusted for inflation using the CPI.

Can we really calibrate the totality of the mitigation to the amount of development if the projects are done in phases?

The permits can be structured any way you want them to be; either everything up front or a structured phase. It's a little bit more complicated to think how that might work on Fort Ord because, in terms of the mitigation of lands, we would have to think about whether that means you're only managing this one area, or perhaps smaller managing levels in larger areas. We can talk about these issues by sitting down with a map and having small conversations.

In Metro Bakersfield there was a developer who did not complete all of the required mitigations. In a series of meetings with staff and the other developers (who were very unhappy about this other developer) sufficient peer pressure was applied to cause this developer to complete their phase of mitigation. So here, too, any conditions of approval for any developer are going to require that they comply with the terms of your permit. And if they don't, you can suspend their permit or red tag them.

At 11:26 a.m., Co-Chair Parker opened the meeting to members of the public.

Kristy Markey, Supervisor Parker's Office

Looking at the financing questions, it said \$40M seemed like a good deal, and that seems about right. Are there any assumptions about the ROI? And then also, looking at the actual expense of the activity, you require a certain number of years. Did any of you have. Chance to read our letter?

No.

Fred Watson

Have public comments been circulated yet? If not, when will they be?

Comments will be circulated with the Final Environmental Impact Report, Final Environmental Impact Statement and the Final Habitat Conservation Plan.

4. FUTURE AGENDA ITEMS

The group expressed a desire to immediately explore phasing options but continue to review components of a potential Joint Powers Agreement.

January 24, 2020: Exploration of HCP Reduced Scope & Phasing Options

- i. Opportunity and Constraints Overview (Erin Harwayne DDA)
- ii. Jurisdiction Scenarios – Caucus & Report
- iii. Group Discussion

Proposed Future Topics:

January 31, 2020: Governance Structure & Priorities

February 7, 2020: Finances

February 14, 2020: Revised Governance Agreement

5. ADJOURNMENT

Co-Chair Parker adjourned the meeting at 12:09 p.m.

DRAFT



FORT ORD REUSE AUTHORITY

REGULAR MEETING FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG) And

SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

Friday, January 31, 2020 at 10:00 a.m.

910 2nd Avenue, Marina, CA 93933 (FORA Board Room)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. BUSINESS ITEMS

a. Today's Meeting Objective

INFORMATION

b. Review and next steps on Habitat discussion

INFORMATION/ACTION

i. Recap discussion from January 24th

ii. Pros and Cons of continued discussions on reduced scope HCP – should discussions continue?

iii. If yes to ii, what steps need to be taken in the next few weeks to preserve this option post June 30, 2020?

iv. If no to ii, what steps need to be taken to convey the \$17M for existing habitat obligations?

c. Review of options for focus of future working group

d. Review of options for staffing and meetings

e. Other discussion

4. FUTURE AGENDA ITEMS

DISCUSSION

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

5. ADJOURNMENT

NEXT MEETING: February 7, 2020



APPROVED

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

10:00 a.m. Friday, January 31, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:01 a.m.

The following FORA Board and Administration Committee members were present:

Melanie Beretti (County of Monterey)
Patrick Breen (MCWD)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
Steve Martin (MPC)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Councilmember Ian Oglesby (City of Seaside)
Supervisor Jane Parker (Monterey County)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)
Aaron Gabbe (ICF)
Tom Graves (RGS)
Erin Harwayne (DDA) (via phone)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Today's Meeting Objective

Not discussed.

b. Review and next steps on Habitat discussion

i. Recap discussion from January 24th

Not discussed.

ii. Pros and Cons of continued discussions on reduced scope HCP – Should discussions continue?

Co-Chair Parker asked the HWG whether they want to continue working as a group on habitat issues, or would they like to tackle the issues on their own. Mr. Haffa and Mr. Gaglioti noted that the City of Monterey and the City of Del Rey Oaks, respectively, are interested in a Joint Powers Authority (“JPA”) for a Habitat Conservation Plan (“HCP”), not a Habitat Management Plan (“HMP”). Co-Chair Parker noted that the County of Monterey is interested in a reduced scope or phased HCP. Ms. Morton stated that the City of Marina supports moving forward with an interim JPA with a cutoff date. Ms. Damon stated that the City of Seaside is interested in creating a structure that allows the basic habitat management functions to be funded. Mr. Martin of MPC said that they are very interested in continuing the discussion and moving the HCP forward. Mr. Matarazzo (UCSC), Mr. Breen (MCWD), Mr. Bachman (California State Parks), and Dr. Payan (Monterey Peninsula Regional Parks) affirmed their organizations’ support of an HCP. After receiving supportive comments, Co-Chair Parker stated that it is worth it to continue having this conversation. Co-Chair Metz stated that FORA staff will put together an agenda and that he’ll have Ms. Flint set up items for discussion, with Co-Chair Parker and himself moderating.

Ms. Flint stated to the group that they have three possible options moving forward: Option 1: certify the EIR and adopt the HCP in current form; Option 2: not adopt the HCP and consider certifying the EIR. Continue coordinated habitat planning beyond FORA via formation of a new JPA. Revise & republish HCP to reflect a “phased” approach and more closely align with development; or Option 3: do not adopt the HCP and continue individual implementation of the Habitat Management Plan. A discussion took place among the members regarding the three options and the legal ramifications for each, with Mr. Willoughby providing FORA Authority Counsel’s perspective on the issues. Ms. Morton asked CDFW if they are prepared to give the group a basewide permit. Ms. Vance noted that without the BLM lands for California Tiger Salamander and Sand Gilia, the basewide permit is an option, pending some revisions.

iii. If yes to ii, what steps needs to be taken in the next few weeks to preserve this option post June 30, 2020?

Mr. Haffa motioned for the HWG to move forward with Option 2 including the EIR/EIS and Mr. Gaglioti seconded. Mr. Pick noted that it seems the HWG is in agreement on most of the core tenets of Option 2 and that the HWG should move forward by recommending that the FORA board certifies the EIR/EIS. Ms. Flint made a recommendation to table the motion until the HWG hears back from FORA consultants regarding the financial and legal details of executing Option 2. She noted that the HWG could have that feedback by the end of February in time for the March 12 FORA board meeting. Ms. Morton asked that this recommendation be moved to the FORA Finance Committee so they can examine how it will impact the midyear budget. Mr. Oglesby suggested that the HWG move the recommendation to the Executive Committee so that it can then move to the Finance Committee. A discussion took

place regarding whether the HWG should move forward with Mr. Haffa’s motion, and if not, how to capture the group’s consensus so that it is officially recorded. Co-Chair Parker recommended taking a straw poll on the various points of the motion to see where the group stands on them.

Points	Consensus
1. FORA staff and consultants to contract with CEQA attorney to opine on legality and risks of certifying an EIR without approving a project (HCP).	YES
2. Interest in forming a legal entity (i.e. JPA) that could be delegated FORA Board’s habitat management and conservation responsibilities (Option 2).	YES
3. Establish an escrow account to hold funds currently planned to for use as HCP endowment while JPA-based habitat planning efforts continue.	YES
4. Request FORA Executive and Finance committees consider habitat endowment funds for the JPA process.	YES

iv. If no to ii, what steps needs to be taken convey the \$17M for existing habitat obligations?

Not applicable.

c. Review of option for focus of future working group

Co-Chair Metz stated that FORA can direct its Authority Counsel to start preparing a draft JPA for the HWG to consider. Mr. Willoughby stated that he can circulate a skeletal version of the last draft JPA to the various jurisdictions’ attorneys and have it serve as a clearinghouse for their comments and suggestions.

Co-Chair Parker suggested that the HWG discuss financial details in the next week’s meeting, however, Co-Chair Metz noted that FORA consultant Ellen Martin has not received any feedback from the jurisdictions and that she would be hard-pressed to bring back anything of substance by the February 7 HWG meeting. The HWG heard from Ms. Harwayne and Mr. Gabbe regarding the timing and substance of their analyses that they are preparing for the HWG. Based on this feedback, Ms. Morton recommended that the HWG not meet on February 7, and that instead the jurisdictions take the time to meet with Ms. Harwayne and hone in on phasing projections.

d. Review of options for staffing and meetings

Co-Chair Metz noted the following tentative meeting schedule and topics:

- February 7 – meeting cancelled
- February 14 – discussion of the JPA draft document and its language
- February 21 – discussion of finances and the HMP management cost model

- February 28 – discussion of the phasing (hopefully with feedback from regulators and consultants)

Co-Chair Metz noted that the points listed in the straw poll will be included in the next meeting's agenda for members to review.

e. Other discussion

None

4. ITEMS FROM MEMBERS

None

5. ADJOURNMENT at 11:57 a.m.



FORT ORD REUSE AUTHORITY

REGULAR MEETING FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG) And

SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

Friday, February 14, 2020 at 10:00 a.m.

910 2nd Avenue, Marina, CA 93933 (FORA Board Room)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. BUSINESS ITEMS

- a. Approve meeting minutes from January 31, 2020 **ACTION**
- b. Today's Meeting Objective **INFORMATION**
- c. Recap discussion from January 31, 2020 meeting **INFORMATION**
 - i. Straw Poll Consensus Points
 - 1. FORA staff and consultants to contract with CEQA attorney to opine on legality and risks of certifying an EIR without approving a project (HCP).
 - 2. Interest in forming a legal entity (i.e. JPA) that could be delegated FORA Board's habitat management and conservation responsibilities.
 - 3. Recommend FORA Board establish an escrow account to hold funds currently planned for use as HCP endowment while JPA-based habitat planning efforts continue.
 - 4. Request FORA Executive and Finance committees consider habitat endowment funds for the JPA process.
- d. Discussion of JPA draft document and its language (**Attachment A**) **INFORMATION/ACTION**
- e. Other discussion

4. FUTURE AGENDA ITEMS

DISCUSSION

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

5. ADJOURNMENT

NEXT MEETING: February 21, 2020

Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at www.fora.org.



FORT ORD REUSE AUTHORITY

REGULAR MEETING FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG) And

SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

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1. CALL TO ORDER

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3. BUSINESS ITEMS

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- b. Today's Meeting Objective **INFORMATION**
- c. Recap discussion from January 31, 2020 meeting **INFORMATION**
 - i. Straw Poll Consensus Points
 - 1. FORA staff and consultants to contract with CEQA attorney to opine on legality and risks of certifying an EIR without approving a project (HCP).
 - 2. Interest in forming a legal entity (i.e. JPA) that could be delegated FORA Board's habitat management and conservation responsibilities.
 - 3. Recommend FORA Board establish an escrow account to hold funds currently planned for use as HCP endowment while JPA-based habitat planning efforts continue.
 - 4. Request FORA Executive and Finance committees consider habitat endowment funds for the JPA process.
- d. Discussion of JPA draft document and its language (**Attachment A**) **INFORMATION/ACTION**
- e. Other discussion

4. FUTURE AGENDA ITEMS

DISCUSSION

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5. ADJOURNMENT

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REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

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Erin Harwayne (DDA) (via phone)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Today's Meeting Objective

Not discussed.

b. Review and next steps on Habitat discussion

i. Recap discussion from January 24th

Not discussed.

ii. Pros and Cons of continued discussions on reduced scope HCP – Should discussions continue?

Co-Chair Parker asked the HWG whether they want to continue working as a group on habitat issues, or would they like to tackle the issues on their own. Mr. Haffa and Mr. Gaglioti noted that the City of Monterey and the City of Del Rey Oaks, respectively, are interested in a Joint Powers Authority (“JPA”) for a Habitat Conservation Plan (“HCP”), not a Habitat Management Plan (“HMP”). Co-Chair Parker noted that the County of Monterey is interested in a reduced scope or phased HCP. Ms. Morton stated that the City of Marina supports moving forward with an interim JPA with a cutoff date. Ms. Damon stated that the City of Seaside is interested in creating a structure that allows the basic habitat management functions to be funded. Mr. Martin of MPC said that they are very interested in continuing the discussion and moving the HCP forward. Mr. Matarazzo (UCSC), Mr. Breen (MCWD), Mr. Bachman (California State Parks), and Dr. Payan (Monterey Peninsula Regional Parks) affirmed their organizations’ support of an HCP. After receiving supportive comments, Co-Chair Parker stated that it is worth it to continue having this conversation. Co-Chair Metz stated that FORA staff will put together an agenda and that he’ll have Ms. Flint set up items for discussion, with Co-Chair Parker and himself moderating.

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4. Request FORA Executive and Finance committees consider habitat endowment funds for the JPA process.	YES

- iv. **If no to ii, what steps needs to be taken convey the \$17M for existing habitat obligations?**
Not applicable.

c. Review of option for focus of future working group

Co-Chair Metz stated that FORA can direct its Authority Counsel to start preparing a draft JPA for the HWG to consider. Mr. Willoughby stated that he can circulate a skeletal version of the last draft JPA to the various jurisdictions’ attorneys and have it serve as a clearinghouse for their comments and suggestions.

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Co-Chair Metz noted that the points listed in the straw poll will be included in the next meeting's agenda for members to review.

e. Other discussion

None

4. ITEMS FROM MEMBERS

None

5. ADJOURNMENT at 11:57 a.m.

DRAFT

JOINT EXERCISE OF POWERS AGREEMENT

CREATING THE

FORT ORD REGIONAL

HABITAT COOPERATIVE

(pursuant to Joint Exercise of Powers Act,
California Government Code Sections 6500 to 6599.3)

_____, 2020
(for reference purposes)

JOINT EXERCISE OF POWERS AGREEMENT

CREATING THE FORT ORD REGIONAL HABITAT COOPERATIVE

This Joint Exercise of Powers Agreement (this “Agreement”) is dated for reference purposes _____, 2020 and is entered into by and among:

- (a) County of Monterey (“County”),
- (b) City of Marina (“Marina”),
- (c) City of Seaside (“Seaside”),
- (d) City of Del Rey Oaks (“Del Rey Oaks”),
- (e) City of Monterey (“Monterey”),
- (f) California Department of Parks and Recreation (“State Parks”),
- (g) The Regents of the University of California (“UC”),
- (h) The Board of Trustees of the California State University, on behalf of the Monterey Bay Campus (“CSUMB”),
- (i) Monterey Peninsula Community College District (“MPC”),
- (j) Monterey Peninsula Regional Park District (“MPRPD”),
- (k) Marina Coast Water District (“MCWD”), and
- (l) Bureau of Land Management (“BLM”).

RECITALS

A. Each of the parties to this Agreement is a public agency within the meaning of the Joint Exercise of Powers Act (California Government Code Section 6500 *et seq.*, hereinafter referred to as the “JPA Act”). The parties may be referred to collectively as the “Parties” and each individually as a “Party.”

B. The JPA Act authorizes the Parties to create a joint exercise of powers entity that has the power to exercise jointly the powers common to the Parties.

C. The Parties have a common interest in creating an entity through which they may meet to investigate, discuss, and make decisions regarding (i) the prospect of cooperatively managing among themselves the habitat and environmental resources located on the former Fort Ord military installation (including through the Fort Ord Multispecies Habitat Conservation Plan prepared by FORA for the former Fort Ord military installation (the “HCP”), a phased, narrowed, reduced, or otherwise modified version thereof, the revised Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord issued by the U.S. Army Corps of Engineers in April 1997 (the “HMP”), a revised or modified version thereof, or any other plan that the Cooperative may prepare or agree upon for the cooperative management of the habitat and environmental resources located on the former Fort Ord military installation (a “New Management Plan”)), (ii) managing the process of revising and updating the HCP, HMP or developing a New Management Plan (including any necessary or desirable environmental review) if the Cooperative elects to do so, and (iii) how incidental take permits for development and other covered activities on the former Fort Ord military installation may be obtained from the United States Fish and Wildlife Service pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 United States Code Section 1531 *et seq.*) and from the California Department of Fish and Wildlife under California Fish and Game Code Section 2081 (including through continuing dialog and negotiation with such wildlife agencies).

AGREEMENT

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

1.0 DEFINITIONS

The following terms as used in this Agreement will have the meanings set forth below:

- 1.1 “Agreement”** means this Joint Exercise of Powers Agreement.
- 1.2 “Appointer”** has the meaning given in Section 2.4.
- 1.3 “BLM”** means the Bureau of Land Management, an agency of the U.S. Department of Interior.
- 1.4 “Cities”** collectively means the cities of Seaside, Marina, Del Rey Oaks, and Monterey.
- 1.5 “Contract Date”** means the latest of the dates set forth beside the signatures of the Parties below, which shall be deemed to be the effective date of this Agreement.
- 1.6 “Cooperative”** means the Fort Ord Regional Habitat Cooperative created by this Agreement. The Cooperative is composed of appointed and elected officials from each Party.
- 1.7 “Cooperative Governing Board”** means the body governing the Fort Ord Regional Habitat Cooperative pursuant to this Agreement.
- 1.8 “County”** means the County of Monterey, a California general law county.
- 1.9 “CSUMB”** means the Board of Trustees of the California State University, acting on behalf of the Monterey Bay Campus.
- 1.10 “Del Rey Oaks”** means the City of Del Rey Oaks, a California general law city.
- 1.11 “FORA”** means the Fort Ord Reuse Authority, a public corporation of the State of California.
- 1.12 “HCP”** means the Fort Ord Multi-Species Habitat Conservation Plan prepared by the Fort Ord Reuse Authority for the former Fort Ord military installation.
- 1.13 “HMP”** means the revised “Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord” issued by the U.S. Army Corps of Engineers in April 1997.
- 1.14 “JPA Act”** means the Joint Exercise of Powers Act (California Government Code Section 6500 *et seq.*).

1.15 “Majority of the Cooperative Governing Board” means not less than eight (8) of the fourteen (14) voting members of the Cooperative Governing Board.

1.16 “Marina” means the City of Marina, a California charter city.

1.17 “MCWD” means the Marina Coast Water District, a California special district.

1.18 “Monterey” means the City of Monterey, a California charter city.

1.19 “MPC” means the Monterey Peninsula Community College District, a California community college district.

1.20 “MPRPD” means the Monterey Peninsula Regional Park District, a California special district.

1.21 “New Management Plan” means a plan prepared or agreed upon by the Cooperative for the cooperative management of the habitat and environmental resources located on the former Fort Ord military installation.

1.22 “Party” or “Parties” means any or all, respectively, of the signatories to this Agreement.

1.23 “Seaside” means the City of Seaside, a California general law city.

1.24 “State Parks” means the California Department of Parks and Recreation, a department of the California Natural Resources Agency.

1.25 “UC” means The Regents of the University of California.

2.0 CREATION AND OPERATION OF COOPERATIVE

2.1 Establish Cooperative. This Agreement creates the Cooperative as an entity, the principal purpose of which is outlined in Recital C above. At such time as the Cooperative may determine, the purpose of the Cooperative may be expanded to include implementation of cooperative management of the habitat and environmental resources located on the former Fort Ord military installation through such plan as the Cooperative may approve and adopt or in any other manner that the Cooperative may determine consistent with the requirements of the JPA Act and any other applicable law.

2.2 Debts, Liabilities and Obligations. As provided in the JPA Act, the Cooperative is a public entity separate from its members. Debts, liabilities, and obligations of the Cooperative are its own and not those of its members.

2.3 State Filing. Within thirty (30) days after the Contract Date or any amendment to this Agreement, the Cooperative will cause appropriate notice thereof to be filed with the office of the Secretary of State of the State of California, as provided in Government Code Section 6503.5.

2.4 Appointments to Cooperative Governing Board. The Cooperative will be governed by a Cooperative Governing Board consisting of voting and non-voting members as described in

Section 2.5 of this Agreement. Within thirty (30) days following the Contract Date, each Party's legislative body, or if the Party has no legislative body, the Party's designated administrator (in either instance, the "Appointer"), shall appoint that Party's member(s) of the Cooperative Governing Board(s) and may also appoint alternate representative(s). The Manager of the Fort Ord National Monument, or another representative appointed by such Manager, will serve as the BLM member. The term of office of each member and alternate shall be two (2) years; provided, however, that his/her term shall expire on the first to occur of any of the following: (a) replacement by his/her Appointer, (b) if he/she is an elected official of the Party which caused his/her appointment at the time of such appointment, when he/she ceases to be such an elected official, (c) the effective date of his/her resignation as a member or alternate, or (d) his/her death, disqualification, or permanent incapacity to serve as a member or alternate. Within sixty (60) days after a member's seat on the Cooperative Governing Board becomes vacant, his/her Appointer shall appoint a replacement to complete any unserved portion of the predecessor's two (2) year term. Replacement of any alternate may be made at the discretion of his/her Appointer. Any member or alternate may be reappointed by his/her Appointer for a subsequent term or terms. Each Party shall maintain its own records of its appointments and related terms of office.

2.5 Membership and Voting. The initial Cooperative Governing Board shall include fourteen (14) voting members, appointed by the Appointers of the following Parties in the following numbers: County (2), Marina (2), Seaside (2), Del Rey Oaks (1), Monterey (1), State Parks (1), UC (1), CSUMB (1), MPC (1), MPRPD (1), and MCWD (1). Because County, Marina and Seaside each have been apportioned a greater amount of Fort Ord development lands than the other Parties who may appoint voting members to the Cooperative Governing Board, each may appoint two (2) voting Cooperative Governing Board members. Each voting Cooperative Governing Board member shall have one (1) vote for each decision relating to the governance, budget, or administration of the Cooperative. BLM shall be the sole non-voting member.

2.6 Pay. Cooperative Governing Board members serve without compensation but may be entitled to reimbursement for expenses incurred on behalf of the Cooperative at the direction of the Cooperative Governing Board.

2.7 Staffing Needs. The Cooperative Governing Board shall determine how to best meet any staffing needs of the Cooperative (including whether by coordinating the contribution of services by one or more of the Parties, hiring full or part time employees, retaining consultants or independent contractors, engaging the services of another public or private entity, utilizing other means identified by the Cooperative Governing Board, or through any combination of the above), as those needs may evolve over time. The Cooperative Governing Board will meet and confer in good faith within sixty (60) days following the Contract Date to cooperatively develop and establish an initial staffing plan for the Cooperative.

2.8 Meetings of Cooperative Governing Board.

2.8.1 Regular Meetings. The Cooperative Governing Board shall hold regular meetings at least twice per year at dates and times established by the Cooperative Governing Board. The Cooperative Governing Board may establish a meeting schedule that sets regular meetings at more frequent intervals. The Chair of the Cooperative Governing Board may call, cancel, or reschedule meetings.

2.8.2 Notice. Meetings of the Cooperative Governing Board shall be called, noticed, held, and conducted subject to the provisions of the Ralph M. Brown Act (California Government

Code Section 54950 *et seq.*) and the Bagley Keene Open Meeting Act (California Government Code Section 11120 *et seq.*).

2.8.3 Minutes. The administrator selected pursuant to Section 2.9.2 or his/her designee shall cause minutes of meetings of the Cooperative Governing Board to be kept and shall present minutes for review and approval by the Cooperative Governing Board at its regular meetings.

2.8.4 Quorum. A Majority of the Cooperative Governing Board constitutes a quorum for the transaction of business, except that less than a quorum may adjourn meetings.

2.9 Officers: Duties; Bonding.

2.9.1 Chair and Vice Chair. Within sixty (60) days following the Contract Date and subsequently at its first regular meeting after the start of each fiscal year, the Cooperative Governing Board shall elect from its members a Chair and a Vice Chair. The Chair and the Vice Chair shall have the duties assigned by the Cooperative Governing Board or set forth in by-laws adopted by the Cooperative Governing Board.

2.9.2 Administrator. Within sixty (60) days following the Contract Date and subsequently at its first regular meeting after the start of each fiscal year, the Cooperative Governing Board shall appoint an administrator, who shall (a) serve as the custodian of the Cooperative's records; (b) prepare minutes to be submitted for review and approval by the Cooperative Governing Board; (c) act as Secretary at meetings; (d) keep a journal record of the Cooperative's proceedings; and (e) perform duties incident to the office as assigned by the Cooperative Governing Board.

2.9.3 Bonded Officers. The Cooperative Governing Board shall identify and designate each public officer or other person who has charge of, handles, or has access to the Cooperative's property and funds and, to the extent required by Government Code Section 6505.1, shall require such officers and persons to file official bonds, provided that such bonds shall not be required if the Cooperative's property and funds have an aggregate value less than One Thousand Five Hundred Dollars (\$1,500), as adjusted for inflation according to a generally accepted index adopted by the Cooperative Governing Board.

2.9.4 Other Officers. The Cooperative Governing Board may (a) appoint such other officers and employees as it may deem necessary and (b) retain independent counsel, consultants and accountants.

3.0 TERMINATION AND WITHDRAWAL

3.1 Effective Date and Termination. This Agreement will become effective on the Contract Date and will continue in effect until terminated (a) by the mutual written consent of all of the Parties or (b) by a vote or written consent of a Majority of the Cooperative Governing Board after the provision of not less than ninety (90) days' advance written notice to the other Parties.

3.2 Withdrawal. Any Party may withdraw from this Agreement upon ninety (90) days' written notice to the other Parties. The withdrawing Party remains obligated to the same extent, if any, that the remaining Parties are obligated to contribute money to pay any debts, liabilities, and obligations

incurred by, arising from, or related to actions taken by the Cooperative while the withdrawing Party was a party to this Agreement.

3.3 Effect of Withdrawal. Upon withdrawal, the withdrawing Party shall no longer be a party to this Agreement, and the term “Parties” as used in this Agreement shall thereafter mean the remaining Parties. Within thirty (30) days after receiving notice of withdrawal, the Parties who will remain will meet to discuss whether any amendments to this Agreement are necessary or appropriate in light of the withdrawal and to prepare any appropriate amendments for consideration by the remaining Parties.

4.0 POWERS AND RESPONSIBILITIES

The Cooperative has the powers granted to joint powers authorities by the JPA Act. The Cooperative may do acts necessary to exercise those powers including any of the following: (a) make contracts; (b) employ agents and employees; (c) receive, collect, manage, and disburse funds; (d) receive grants, contributions, and donations of property, funds, and services; and (e) sue and be sued in its own name.

5.0 FISCAL YEAR

Unless and until changed by a Majority of the Cooperative Governing Board, the fiscal year of the Cooperative shall be the period from July 1 of each year to and including the following June 30 (to match the State of California’s fiscal year), except for the first fiscal year which shall be the period from the Contract Date to the following June 30.

6.0 DISPOSITION OF ASSETS AND REAL PROPERTY

Upon termination of this Agreement, and after the repayment of advances and contributions made in accordance with Section 7 of this Agreement, assets acquired as the result of the joint exercise of powers under this Agreement, other than real property and funding for the restoration or management of real property, shall be distributed to the Parties in proportion to each Party’s overall unreimbursed contribution of assets to the Cooperative. The Cooperative shall transfer any real property, and any money set aside for the restoration or management of real property, acquired by the Cooperative as the result of the joint exercise of powers under this Agreement to one or more public agencies or appropriate conservation non-profit entities. The funds shall continue to be held, managed, and disbursed only for long-term stewardship and benefit of the specific property for which they were set aside.

7.0 CONTRIBUTIONS AND ADVANCES

With the Cooperative Governing Board’s approval, any Party may contribute money, personnel services, equipment, materials, or property to the Cooperative for any of the purposes of this Agreement. Such advances must be recorded and repaid in the manner agreed upon, by the Cooperative and the Party making the advance, in writing prior to the date of the advance. Except as otherwise expressly provided in this Agreement, no Party is obligated to pay the Cooperative’s administrative expenses.

8.0 ACCOUNTS AND REPORTS

8.1 Accounts. The Cooperative shall establish and maintain such funds and accounts as may be required by good accounting practice and as may be required by the terms of any state or federal

grant that the Cooperative may receive. The books and records of the Cooperative shall be open to inspection at reasonable times by the Parties and their representatives.

8.2 Audits. The Cooperative shall cause to be prepared: (a) a special audit as required by California Government Code Section 6505 every year during the term of this Agreement and (b) a report in writing on the first day of February, May, August, and November of each year to the Cooperative Governing Board and the Parties. The report shall: (a) describe the amount of money held by the Cooperative; (b) the manner in which the money is held and invested; (c) include the income received since the last such report; and (d) the amount paid out since the last such report. To the extent required by California Government Code Section 6505.6, the Cooperative shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Cooperative. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under California Government Code Section 26909 and shall conform to generally-accepted auditing standards. When such an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with the Parties and, if required by California Government Code Section 6505.6, also with the Auditor Controller of County. Such report shall be filed within twelve (12) months of the end of the fiscal year or years under examination. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit under this Section 8.2 shall be borne by the Cooperative and shall be a charge against any unencumbered funds of the Cooperative available for that purpose.

9.0 CONFLICT OF INTEREST CODE

The Cooperative shall adopt a conflict of interest code as required by law and shall comply with the terms of Fair Political Practices Commission Ethics Training requirements.

10.0 FORM OF APPROVALS

Approvals by the Cooperative required in this Agreement, unless the context specifies otherwise, must be given by resolution of the Cooperative Governing Board. When consent or approval is required in this Agreement, it may not be unreasonably withheld, conditioned, or delayed.

11.0 MISCELLANEOUS PROVISIONS

11.1 No Partnership. This Agreement shall not make or be deemed to make any Party to this Agreement the agent for or the partner of any other Party.

11.2 Notices. Notices to the Parties shall be sufficient if delivered to the chief executive of the Party at the Party's principal location within five (5) working days prior to any action to be taken or any meeting to be called. The following notice list contains the notification addresses of the Parties.

ATTN: County Administrative Officer
County of Monterey
1441 Schilling Place 2nd Floor
Salinas, CA 93901

ATTN: City Manager
City of Marina
211 Hillcrest Ave.
Marina, CA 93933

ATTN: City Manager
City of Seaside
440 Harcourt Ave.
Seaside, CA 93955

ATTN: President California State University
Monterey Bay
100 Campus Center, Building 1
Seaside, CA 93955-8001

ATTN: City Manager
City of Del Rey Oaks
650 Canyon Del Rey Blvd.
Del Rey Oaks, CA 93940

ATTN: Superintendent/President
Monterey Peninsula College
980 Fremont Street
Monterey, CA 93940-4799

ATTN: City Manager
City of Monterey
City Hall
Monterey, CA 93940

ATTN: General Manager
MPRPD
60 Garden Court, Suite 325
Monterey, CA 93940

ATTN: State Parks, Monterey District
Superintendent
2211 Garden Road
Monterey, CA 93940

ATTN: General Manager
Marina Coast Water District
11 Reservation Road
Marina, CA 93933

ATTN: Director, UCSC Natural Reserves
Physical & Biological Sciences
c/o ENVIS
1156 High Street
Santa Cruz, CA 95064

ATTN: FONM Manager
Bureau of Land Management
Central Coast Field Office
940 2nd Avenue
Marina, CA 93933

11.3 Entire Agreement. This Agreement constitutes the entire agreement among the Parties. It supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

11.4 Amendment of Agreement. No addition, alteration, amendment, change, or modification to this Agreement shall be binding upon the Parties, or any of them, unless reduced to writing and signed by each and all of the Parties.

11.5 Elected Officials Not to Benefit. No member of the Cooperative Governing Board shall be entitled to any share or part of this Agreement or to any benefit that may arise from it.

11.6 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.

11.7 No Third-Party Beneficiaries. Without limiting the applicability of rights granted to the public pursuant to law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third-party beneficiary hereof.

11.8 Applicable Laws. All activities undertaken pursuant to this Agreement must be in compliance with all applicable state and federal laws and regulations.

11.9 Successors; Assignment. This Agreement binds and benefits successors to the Parties. No Party may assign any right or obligation hereunder without the consent of the other Parties.

11.10 Calendar Days. Throughout this Agreement the use of the term “day” or “days” means calendar days, unless otherwise specified.

11.11 No Waiver. The failure of any Party at any time to require the performance by any other Party of any provision of this Agreement shall in no way affect the right to require such performance at any later time. No extension of time for performance of any obligation or act shall be deemed an extension of time for any other obligation or act. No waiver of any breach of any provision of this Agreement shall be deemed to be any waiver of the provision itself. No waiver shall be binding unless executed in writing by the Party making the waiver. Any and all rights and remedies which any Party may have under this Agreement or at law or in equity shall be cumulative, and shall not be deemed inconsistent with each other; no one of them, whether exercised or not, shall be deemed to be an exclusion of any other, and any or all of such rights and remedies may be exercised at the same time.

11.12 Mediation. The Parties must submit any disputes arising under this Agreement to non-binding mediation before filing suit to enforce or interpret this Agreement. Upon request by any Party to the dispute, the Parties will within ten (10) days select a single mediator, or if the Parties cannot agree, they shall ask the then presiding judge of the Monterey County Superior Court to select a mediator to mediate the dispute within fifteen (15) days of such selection.

11.13 Attorneys’ Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, the Parties to the litigation shall bear their own attorneys’ fees and costs, provided that attorneys’ fees and costs recoverable against the United States shall be governed by applicable federal law.

11.14 Severability. In the event one or more of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement.

11.15 Due Authorization. The Parties represent and warrant that (a) the execution and delivery of this Agreement has been duly authorized and approved by requisite action, (b) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable the Parties to enter into and comply with the terms of this Agreement, and (c) the persons executing this Agreement on behalf of the Parties have the authority to bind the Parties.

11.16 Interpretation. The provisions of this Agreement shall be interpreted in a reasonable manner to carry out the purposes of the Parties and this Agreement. The organization and format of this Agreement (including the numbering of, or the captions, headings, or titles to, any sections or

paragraphs of this Agreement) are intended solely for convenience of reference and shall not be used to construe the scope, meaning, intent, or interpretation of any part of this Agreement. Whenever used in this Agreement, the word “including” shall be deemed to be followed by the words “but not limited to.” Each number, tense, and gender used in this Agreement shall include any other tense, number, or gender where the context and references so require. Any pronoun used in this Agreement shall be read in the singular or plural number and in such gender as the context may require.

11.17 Drafting of Agreement. It is understood and agreed by the Parties that this Agreement has been arrived at through negotiation and deliberation by the Parties, with each Party having had the opportunity to review and revise this Agreement and to discuss the terms and effect of this Agreement with counsel of its choice. Accordingly, any rule of law or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived.

[signatures appear on following pages]

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Joint Exercise of Powers Agreement to be in effect as of the Contract Date.

Dated: _____, 2020

COUNTY OF MONTEREY

By: _____
County Administrative Officer

Approved as to form:

By: _____
County/Deputy County Counsel

Dated: _____, 2020

CITY OF MARINA

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2020

CITY OF SEASIDE

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2020

CITY OF DEL REY OAKS

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2020

CITY OF MONTEREY

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2020

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

By: _____
Regional Manager

Approved as to form:

By: _____
General Counsel

Dated: _____, 2020

UNIVERSITY OF CALIFORNIA

By: _____
Secretary to the Regents

Approved as to form:

By: _____
General Counsel

Dated: _____, 2020

CALIFORNIA STATE UNIVERSITY

By: _____
President

Approved as to form:

By: _____
General Counsel

Dated: _____, 2020

MONTEREY PENINSULA COMMUNITY COLLEGE
DISTRICT

By: _____
President

Approved as to form:

By: _____
General Counsel

Dated: _____, 2020

MONTEREY PENINSULA REGIONAL PARK
DISTRICT

By: _____
General Manager

Approved as to form:

By: _____
General Counsel

Dated: _____, 2020

MARINA COAST WATER DISTRICT

By: _____
General Manager

Approved as to form:

By: _____
District Counsel

Dated: _____, 2020

BUREAU OF LAND MANAGEMENT

By: _____
District Manager
Central California District Office
El Dorado Hills, California



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
10:00 a.m. Friday, February 14, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933**

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Melanie Beretti (County of Monterey)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
David Martin (MPC)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Vicki Nakamura (MPC)
Frank O'Connell (City of Marina)
Mayor Ian Oglesby (City of Seaside)
Supervisor Jane Parker (Monterey County)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)
Mike Wegley (MCWD)

Members of the Consultant Team included:

Kendall Flint (RGS)
Erin Harwayne (DDA)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Approve meeting minutes from January 31, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the January 31, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

b. Today's Meeting Objective

Not discussed.

c. **Recap discussion from January 31, 2020 meeting**

Not discussed.

d. **Discussion of JPA draft document and its language (Attachment A)**

Co-Chair Parker started the item by noting that Mr. Willoughby will be leading the HWG through the draft JPA paragraph by paragraph. Mr. Willoughby walked the HWG through the contents of the document, answering questions from members of the HWG when asked, and noting any requested changes. Once Mr. Willoughby finished, members of the HWG discussed the language used in sections throughout the draft document. Mr. Haffa opined that it would be helpful if all members of the HWG spoke about whether they would feel comfortable bringing it to their agencies for approval. Representatives from each jurisdiction expressed their thoughts on the idea, with some voicing their approval, some voicing their rejection, and some voicing approval pending some changes and clarifications.

Members of the HWG began to discuss next steps as far as the HWG's responsibilities go to carry on this process. Co-Chair Parker recommended that Mr. Willoughby and attorneys from the various jurisdictions hold a meeting to go over the draft JPA and bring forward a new draft of the documents to the HWG meeting on February 28, so that the HWG can discuss a document that has been approved by its jurisdictions' attorneys. This would give the HWG the ability to make a recommendation to the FORA Board. Co-Chair Metz suggested conducting a straw poll on various ideas so that when the attorneys meet, they have some policy direction to base their work off of. The HWG continued the discussion of the draft document, going over legal ramifications, the schedule of how the JPA will be implemented, and ways that the \$17 million can be protected. Co-Chair Parker recommended that the group come to an agreement on consensus points and listed them as follows:

- Clarifying the purpose in recital C to include more explicit language about the negotiations that the JPA was going to be undertaking.
- The handling and possible disposition of the \$17 million.
- Put in a more explicit end date for the JPA for this particular purpose.
- Have the attorneys look into the risk of liability.

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Oglesby and carried by the following vote, the Habitat Working Group moved to memorialize those consensus points.

MOTION PASSED UNANIMOUSLY

e. Other discussion

None

4. FUTURE AGENDA ITEMS

Not discussed

5. ADJOURNMENT at 12:04 p.m.



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE
Friday, February 21, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. BUSINESS ITEMS

- | | |
|--|--------------------|
| a. Today's Meeting Objective | INFORMATION |
| b. February 14, 2020 meeting recap | INFORMATION |
| c. Habitat Management Plan (HMP) - Cost Model presentation | INFORMATION/ACTION |
| d. CEQA Attorney - Habitat Conservation Plan (HCP) / EIR options | INFORMATION/ACTION |
| e. Other discussion | |

4. FUTURE AGENDA ITEMS

DISCUSSION

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

5. ADJOURNMENT

NEXT MEETING: February 28, 2020



APPROVED

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)

And

SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

10:00 a.m. Friday, February 21, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Councilmember Frank O'Connell (City of Marina)

Mayor Ian Oglesby (City of Seaside)

Supervisor Jane Parker (Monterey County)

Dino Pick (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS)

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. BUSINESS ITEMS

a. Today's Meeting Objective

Ms. Parker went over the agenda for the meeting and noted that the objective was to have a good conversation.

b. February 14, 2020 meeting recap

Mr. Metz noted that FORA attorneys are reviewing the JPA document with the jurisdictions' redlines and that they will bring it back for review and consideration at subsequent meetings.

c. Habitat Management Plan (HMP) – Cost Model presentation

Mr. Gabbe gave a presentation on the HMP cost model. He started by going over the methods and assumptions that he used to create the HMP cost model. He broke down the cost model by jurisdiction, species, acreage, and responsibilities and answered questions from the committee. He discussed the differences between the HMP and HCP, and the details regarding species' takes and mitigation. Ms. Morton asked if it would be possible for the Bureau of Land Management (BLM) to compile all reports from the last five years and have them posted on FORA's website. Mr. Metz affirmed that he'd work with Mr. Morgan of BLM to get all the reports and put them on the website for jurisdictions to access. Mr. Pick noted that the regulatory agencies will be in charge of these things, and would like them on the phone next time. Ms. Parker wrapped up the item due to time constraints and noted that this was a good conversation, but that it will need to be discussed in future meetings.

d. CEQA Attorney – Habitat Conservation Plan (HCP) / EIR options

Mr. Metz noted that as instructed by the FORA Board, FORA staff requested Holland & Knight (HK) provide a legal opinion regarding CEQA/NEPA ramifications regarding the HCP EIR/EIS. Mr. Willoughby walked the HWG through the legal memo provided by HK. He broke down the five options as laid out in the memo as well as the details of EIR certification. Mr. Willoughby then answered questions from members of the HWG regarding the contents of the memo. Following this, Ms. Flint gave a presentation on HCP/EIR considerations. She broke down HK's five options in terms of who the lead agency would be and the benefits and challenges of each. She then showed the HWG an action calendar for all the steps that would need to take place to publish and certify an EIR before FORA's sunset.

e. Other discussion

None

4. FUTURE AGENDA ITEMS

Not discussed.

5. ADJOURNMENT at 12:15 p.m.

Former Fort Ord Habitat Management Plan Cost Estimate

Habitat Working Group
February 21, 2020

Aaron Gabbe, Ph.D. ICF
Bernadette Clueit, ICF
Ellen Martin, EPS
Erin Harwayne, DD&A

Draft Cost Estimates for each Jurisdiction to Implement the HMP

- **HMP responsibilities**
- **Methods and assumptions to estimate HMP costs**
- **Draft cost estimate, by jurisdiction**
- **Conclusions**

HMP Responsibilities

- **Develop Resource Management Plans (RMPs) for Habitat Management Areas (HMAs)**
- **Annual reporting to USFWS, CDFW, BLM**
- **Environmental Compliance**

HMP Responsibilities

- **Habitat enhancement and maintenance**
 - **Non-native species control**
 - **Erosion control**
 - **Vegetation management (controlled burns, grazing, mechanical)**
 - **Road and trail maintenance**
 - **Security and access control**

Methods and Assumptions I

- **RMPs have not been developed!**
 - Not enough details about “what will be done” and “how much” to manage & restore to accurately estimate cost of HMP implementation

Methods and Assumptions I

- **Costs for tasks extrapolated from the HCP cost model**
 - **Beyond scope to create new cost estimates and model for HMP**
 - **HCP cost model best guide - HCP based on HMP**
 - **50 + linked Excel worksheets**
 - **Assumptions inform extrapolations**
- **Eliminated HCP-specific tasks (e.g., restore E. Garrison pond for CTS, HCP contingency fund)**
- **Reduced cost of some HCP tasks with less per unit effort under HMP (e.g., monitoring & adaptive management)**

Methods and Assumptions II

- **Most costs not readily extractable from HCP cost model**
 - HCP costs estimated base-wide
 - HCP cost model assumes extensive sharing of resources
 - Staffing
 - Knowledge (i.e., land management experts)
 - Capital
- **Extensive assumptions made and documented to allocate HMP costs to individual jurisdictions from HCP cost model line-items**

Methods and Assumptions III

- **Costs estimated for HMAs and development parcels with management responsibilities**
- **HCP cost categories used for HMP cost estimates**
 - **Allows direct comparison of relative costs**
- **Cost estimated per acre or linear feet, where feasible**
- **Cost allocated based on size of HMAs**

DRAFT

Table 1
Program Administration Cost Summary
HCP Cooperative

Cost Item	Start Up Costs	Average Annual Costs
Staff Costs	\$0	\$352,881
Insurance	\$0	\$35,738
Office Space and Utilities	\$0	\$38,484
General Office Equipment [1]	\$47,785	\$11,800
GIS and Database Equipment	\$0	\$8,708
Vehicles and Fuel [2] [3]	\$55,084	\$7,438
Staff Training	\$0	\$900
Legal assistance	\$0	\$20,658
Financial analysis assistance	\$0	\$2,314
Education/ Outreach/ Public Relations	\$0	\$17,214
Total	\$102,869	\$491,907

[1] UC cell phones (within General Office Equipment) to the sum of \$1,377 not included in total capital costs Years 1-50.

[2] Reflects gas and utilization costs assuming each vehicle is driven 10,000 miles per year.

[3] Includes vehicle costs not anticipated until years 21-50.

HMP Implementation Cost Estimates

- HCP start-up costs not included in HMP cost estimate

Table 1
Program Administration Cost Summary
HCP Cooperative

Cost Item	Start Up Costs	Average Annual Costs
Staff Costs	\$0	\$352,881
Insurance	\$0	\$35,736
Office Space and Utilities	\$0	\$36,464
General Office Equipment [1]	\$47,785	\$11,600
GIS and Database Equipment	\$0	\$6,706
Vehicles and Fuel [2] [3]	\$55,084	\$7,436
Staff Training	\$0	\$900
Legal assistance	\$0	\$20,656
Financial analysis assistance	\$0	\$2,314
Education/ Outreach/ Public Relations	\$0	\$17,214
Total	\$102,869	\$491,907

[1] UC cell phones (within General Office Equipment) to the sum of \$1,377 not included in total capital costs Years 1-50.

[2] Reflects gas and utilization costs assuming each vehicle is driven 10,000 miles per year.

[3] Includes vehicle costs not anticipated until years 21-50.

Table 2
Estimate of Program Administration Costs by Jurisdiction
HMP Program Administration Estimate

Cost Item	HMP Cost Estimate Method	Start Up Costs	HCP Average Annual Costs	Estimated Costs by Jurisdiction				
				Monterey County	Marina	Peninsula College	Regional Park District	Del Rey Oaks
Staff Costs	20% of HCP costs for county; 10% for JDs with HMA, 5% for dev parcel JDs.	Excluded [1]	\$352,881	\$70,576	\$35,288	\$35,288	\$35,288	\$35,288
Insurance	0%		\$35,736	\$0	\$0	\$0	\$0	\$0
Office Space and Utilities	0%		\$36,464	\$0	\$0	\$0	\$0	\$0
General Office Equipment	0%		\$11,600	\$0	\$0	\$0	\$0	\$0
GIS and Database Equipment	50% of HCP costs for each jurisdiction		\$6,706	\$3,353	\$3,353	\$3,353	\$3,353	\$3,353
Vehicles and Fuel [2] [3]	100% of HMA costs allocated by HMA acreage; see Table 3		\$7,436	\$5,922	\$756	\$660	\$61	\$38
Staff Training	20% of HCP costs for county; 10% for all others		\$900	\$180	\$90	\$90	\$90	\$90
Legal assistance	75% of HCP costs for each jurisdiction		\$20,656	\$15,492	\$15,492	\$15,492	\$15,492	\$15,492
Financial analysis assistance	100% of HCP costs for each jurisdiction		\$2,314	\$2,314	\$2,314	\$2,314	\$2,314	\$2,314
Education/ Outreach/ Public Relations	100% of HMA costs allocated by HMA acreage; see Table 3		\$17,214	\$13,707	\$1,750	\$1,527	\$141	\$89
TOTAL			\$491,907	\$111,544	\$59,043	\$58,724	\$56,739	\$56,665

[1] Assumes jurisdictions will use their own vehicles and office equipment.
 [2] Reflects gas and utilization costs assuming each vehicle is driven 10,000 miles per year.
 [3] Includes vehicle costs not anticipated until years 21-50.

Table 3
Summary of Management and Monitoring Cost by HMA

Jurisdiction / HMA	Start-Up Cost					Average Annual Costs					
	Habitat Restoration	HMA Management and Maintenance	Plant Monitoring	Wildlife Monitoring	Project Management	TOTAL	HMA Management and Maintenance	Plant Monitoring	Wildlife Monitoring	Project Management & Annual Reporting	TOTAL
Monterey County											
East Garrison North E11a	\$0	\$0	\$44,549	\$1,041	\$1,530	\$47,121	\$6,933	\$31,997	\$173	\$4,386	\$43,489
East Garrison South E11b.1-E11b.8 and E11b.11	\$0	\$0	\$132,810	\$3,143	\$1,530	\$137,483	\$119,292	\$88,873	\$4,370	\$6,837	\$219,372
Habitat Corridor L20.2.1	\$0	\$0	\$37,509	\$7,447	\$1,530	\$46,486	\$230,949	\$30,189	\$9,740	\$6,413	\$277,291
Travel Camp L20.2.2	\$0	\$25,000	\$19,081	\$2,557	\$1,530	\$48,168	\$120,494	\$15,739	\$4,285	\$4,328	\$144,847
Oak Oval E19a.2 (borderlands)	\$0	\$0	\$12,862	\$663	\$1,530	\$15,056	\$38,996	\$10,038	\$232	\$2,939	\$52,205
Parker Flats E19a.1 and E21b.1 (borderlands)	\$0	\$0	\$139,029	\$2,596	\$1,530	\$143,155	\$97,757	\$98,969	\$328	\$8,709	\$205,764
Landfill E8a.1 and E8a.2	\$207,253	\$0	\$94,351	\$6,268	\$1,530	\$309,403	\$8,854	\$68,444	\$1,147	\$7,474	\$85,920
Wolf Hill L20.3	\$0	\$0	\$46,372	\$2,132	\$1,530	\$50,034	\$73,542	\$28,227	\$4,572	\$3,065	\$109,396
Lookout Ridge L20.5	\$0	\$0	\$4,495	\$7,334	\$1,530	\$13,360	\$41,365	\$4,061	\$4,100	\$5,313	\$54,838
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$200,000	\$0	\$0	\$0	\$200,000	\$20,000	\$0	\$0	\$0	\$20,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$179,023	\$0	\$0	\$0	\$179,023
Subtotal Monterey County	\$207,253	\$225,000	\$531,059	\$33,182	\$13,771	\$1,010,264	\$937,206	\$376,537	\$28,947	\$74,242	\$1,416,932
Marina											
Salinas River L5.1.12	\$0	\$0	\$3,822	\$303	\$2,295	\$6,419	\$814	\$3,503	\$99	\$5,420	\$9,836
Airport Reserve L5.1.11	\$0	\$0	\$23,021	\$908	\$2,295	\$26,224	\$2,090	\$17,969	\$264	\$7,099	\$27,422
Northwest Corner E2a	\$0	\$0	\$30,905	\$3,475	\$2,295	\$36,675	\$13,785	\$19,695	\$770	\$5,806	\$40,056
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$90,000	\$0	\$0	\$0	\$90,000	\$9,000	\$0	\$0	\$0	\$9,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$89,511	\$0	\$0	\$0	\$89,511
Subtotal Marina	\$0	\$90,000	\$57,748	\$4,685	\$6,885	\$159,319	\$115,200	\$41,168	\$1,133	\$43,113	\$200,613
Penninsula College											
Range 45	\$183,154	\$0	\$152,280	\$1,449	\$6,885	\$343,769	\$140,536	\$109,391	\$214	\$17,747	\$267,888
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$50,000	\$0	\$0	\$0	\$50,000	\$5,000	\$0	\$0	\$0	\$5,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$89,511	\$0	\$0	\$0	\$89,511
Subtotal Peninsula College	\$183,154	\$50,000	\$152,280	\$1,449	\$6,885	\$393,769	\$235,047	\$109,391	\$214	\$42,534	\$387,187
Regional Park Dist											
Natural Area Expansion L6	\$0	\$38,534	\$11,268	\$2,791	\$6,885	\$59,479	\$19,535	\$6,947	\$8,054	\$14,138	\$48,673
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$50,000	\$0	\$0	\$0	\$50,000	\$5,000	\$0	\$0	\$0	\$5,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$89,511	\$0	\$0	\$0	\$89,511
Subtotal Regional Park Dist	\$0	\$88,534	\$11,268	\$2,791	\$6,885	\$109,479	\$114,046	\$6,947	\$8,054	\$38,925	\$167,972
Del Rey Oaks											
Office Park E31a,b,c	\$0	\$13,534	\$0	\$0	\$0	\$13,534	\$17,103	\$0	\$0	\$0	\$17,103
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$50,000	\$0	\$0	\$0	\$50,000	\$5,000	\$0	\$0	\$0	\$5,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$89,511	\$0	\$0	\$0	\$89,511
Subtotal Del Rey Oaks	\$0	\$63,534	\$0	\$0	\$0	\$63,534	\$111,614	\$0	\$0	\$24,788	\$136,402
UC											
FONR S2.1.2, S2.1.3, S2.1.5, S2.3.2, S2.4	\$159,055	\$0	\$232,408	\$4,660	\$6,885	\$403,009	\$177,351	\$179,791	\$786	\$25,466	\$383,393
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$200,000	\$0	\$0	\$0	\$200,000	\$20,000	\$0	\$0	\$0	\$20,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$89,511	\$0	\$0	\$0	\$89,511
Subtotal UC	\$159,055	\$200,000	\$232,408	\$4,660	\$6,885	\$603,009	\$286,862	\$179,791	\$786	\$50,254	\$517,692
State Parks [3]											
Fort Ord Dunes S3.1.2, S3.1.1 and S3.1.3	\$1,761,176	\$26,601	\$133,824	\$8,678	\$6,885	\$1,937,164	\$62,192	\$133,824	\$83,444	\$32,664	\$312,125
Resource Management Plan (Encompasses all HMAs - update every 10 years)	\$0	\$200,000	\$0	\$0	\$0	\$200,000	\$20,000	\$0	\$0	\$0	\$20,000
Annual Monitoring Report	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$24,788	\$24,788
Contracted Labor [2]	\$0	\$0	\$0	\$0	\$0	\$0	\$89,511	\$0	\$0	\$0	\$89,511
Subtotal State Parks	\$1,761,176	\$226,601	\$133,824	\$8,678	\$6,885	\$2,137,164	\$171,703	\$133,824	\$83,444	\$57,452	\$446,424
Total	\$2,310,638	\$943,670	\$1,118,587	\$55,445	\$48,198	\$4,476,538	\$1,971,678	\$847,658	\$122,578	\$331,308	\$3,273,222

[1] Does not include capital costs or vegetation management at this time.

[2] Assumes 2 FTEs for Monterey County and 1 FTE for all others.

[3] Restoration assumptions reflect reduction for restoration and restoration planning on 210 acres that has occurred to date.

Table 4. HCP Permit Term Average Annual Costs for Cooperative-managed HMAs (HCP Table 9-3) and Average Annual Costs under an HMP

Cost Category	Average Annual Cost - HCP (incl. capital & operational)					Average Annual Cost - HMP (incl. monitoring)				
	County	Marina	MPC	MPRPD	Total	County	Marina	MPC	MPRPD	Total
Program Administration*	\$399,805	\$49,976	\$44,978	\$4,998	\$499,757	\$185,786	\$102,156	\$101,258	\$95,664	\$484,864
Habitat Restoration**	\$4,263	\$533	\$480	\$53	\$5,329	\$0	\$0	\$0	\$0	\$0
HMA Management and Maintenance***	\$313,809	\$39,226	\$35,304	\$3,923	\$392,262	\$1,342,690	\$157,501	\$344,652	\$129,047	\$1,973,890
Contingency and Remedial Measures	\$141,364	\$17,671	\$15,904	\$1,767	\$176,706	\$0	\$0	\$0	\$0	\$0
Total Costs	\$859,243	\$107,405	\$96,665	\$10,741	\$1,074,054	\$1,528,476	\$259,657	\$445,910	\$224,711	\$2,458,754

* Program Administration - Capital Costs from Table 2 plus Project Management & Annual Reporting

**HMP habitat restoration costs are included as start-up costs in Table 4

*** HCP cost does not include HCP which is covered by Cooperative. HMP cost includes monitoring

▶ HMP Implementation Cost Estimates

Development Parcels

- **Costs harder to estimate**
- **Fewer Borderland tasks with costs in HCP cost model**
- **Less known about what will be done under HMP**

Table 5. Jurisdictions with Development Parcels - Start-up Cost

	Jurisdictions				
	Peninsula College	Del Rey Oaks	Seaside	City of Monterey	CSUMB
HMP Responsibilities					
Develop/arrange for management and conservation in consultation with BLM	\$0 - included in HMA management	\$30,000	\$30,000	\$30,000	\$30,000
Vehicle Access control	\$147,782				
Total	\$147,782	\$30,000	\$30,000	\$30,000	\$30,000

Table 6. Jurisdictions with Development Parcels - Average Annual Cost

Jurisdiction	Jurisdiction				
	Peninsula College	Del Rey Oaks	Seaside	City of Monterey	CSUMB
Size (ac)	335	206	423	31	333
Interface with FONM (linear feet)	20,290	6,260	14,740	0	2,617
HMP Responsibilities					
Non-native species control	\$11,390	\$7,004	\$14,382	\$1,054	\$11,322
Fuel breaks – construct and maintain	\$91,305	\$28,170	\$66,330	\$0	\$11,777
Vehicle access control	\$55,200				
Status reports for borderlands	\$12,000	\$12,000	\$12,000	\$0	\$12,000
Erosion control	\$15,351	\$5,766	\$11,559	\$0	\$3,277
HMP - Line item Total Annual Cost	\$130,046 - \$185,246*	\$52,940	\$104,271	\$1,054	\$38,376
HCP - Estimated Annual Cost Borderland Management	\$29,510	\$10,872	\$21,744	\$777	\$16,308
*range without and including vehicle access control					

HMP Cost Savings

- **HCP-specific mitigation measures not needed**
- **Fewer annual reporting requirements than HCP**
No:
 - Covered activities
 - Impacts
 - HCP compliance
- **No/lower program administration start-up costs**
Jurisdictions use existing facilities and equipment

HMP Cost Increases

Loss of economies of scale

- **Develop own RMP & negotiates with USFWS, CDFW, BLM**
- **Individual environmental compliance**
- **No shared staffing - in-house and contractor**
 - **CSUMB provides affordable staffing to HCP Cooperative**
- **No shared equipment**

HMP Cost Increases

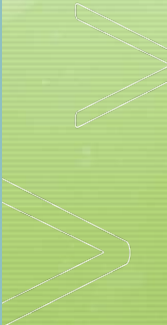
- **HMP addresses 10 more species than HCP**
More:
 - **Planning**
 - **Monitoring**
 - **Management**
 - **Annual reporting**
- **HMA monitoring responsibilities shift from HCP Cooperative to local jurisdictions**
- **No incidental take permits for habitat management or development activities**

Conclusions

- **Working together saves money**
 - **More efficient for most or all jurisdictions to share habitat management responsibilities under the HMP**
- **Cost savings of implementing HMP as individual jurisdictions not likely to outweigh associated increases**



Questions?

- We can walk you through assumptions and cost estimates for your jurisdiction
 - Update assumptions and estimates ,as needed
- 

HCP/EIR Considerations

Item 3d

February 21, 2020

HCP/EIR Considerations

Options	Lead Agency	Benefits	Challenges
<p>A. Prepare & Certify EIR Adopt HCP</p>	<p>FORA</p>	<p>Certified EIR.</p> <p>Adopted HCP which may be amended at a later date by permittees subject to State and Federal approval.</p>	<p>Potential exposure to litigation based on incompatibility of the current HCP and revised development projections.</p> <p>Approximately \$200,000+ additional consultant costs.</p>
<p>B. Prepare & Certify EIR w/ No Project Alternative Do not adopt HCP</p>	<p>FORA</p>	<p>Certified EIR based on “no build” scenario.</p>	<p>Reduced exposure to litigation based on incompatibility of the current HCP and revised development projections from agencies circa 2020.</p> <p>Approximately \$200,000+ additional consultant costs.</p>

HCP/EIR Considerations

Options	Lead Agency	Benefits	Challenges
<p>C. Prepare and Certify EIR w/ Revised Project Alternative(s) Based on Phased Development/ Do not adopt HCP</p>	<p>FORA</p>	<p>More closely aligns EIR with current development projections circa 2020.</p>	<p>Limited opportunity for public review of proposed alternative, which, although not a requirement under CEQA, may result in potential litigation exposure.</p>
<p>D. Do not complete EIR/ Provide Funds to JPA to Explore Options for Phasing the HCP</p>	<p>FORA</p>	<p>Limited legal exposure to FORA</p>	<p>JPA would require funding</p>

HCP/EIR Considerations

Options	Lead Agency	Benefits	Challenges
<p>E. Determine Viability of Phased HCP Implementation and Determine Value of Completing EIR and/or Revising and Recirculating the Document</p>	<p>JPA</p>	<p>Ability to align HCP with agency development projections, assess specific cost/benefit by agency for HCP vs HMP.</p> <p>Provides time for revision and/or amendment and recirculation of EIR.</p> <p>Leaves decision for adoption to JPA.</p>	<p>Would Incur additional cost for HCP refinement and financial models.</p> <p>May require substantial funds for revisions and completion of EIR.</p>

Final EIR Feasibility

Options	March	April	May	June
HWG Board Recommendation				
New Alternatives Circulation				
Response to Comments				
Publish FEIR				
Board Certification				



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE
Friday, February 28, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. APPROVAL OF MEETING MINUTES

ACTION

- a. February 14, 2020

4. BUSINESS ITEMS

- a. February 21, 2020 meeting recap **INFORMATION**
- b. EIR Options Review & Recommendation **ACTION**
- c. Phasing discussion with feedback from regulators and consultants **INFORMATION/ACTION**
- d. 2018 Transition Plan Review & Recommendation(s) **ACTION**
- e. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: March 6, 2020



FORT ORD REUSE AUTHORITY

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FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
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- b. EIR Options Review & Recommendation **ACTION**
- c. Phasing discussion with feedback from regulators and consultants **INFORMATION/ACTION**
- d. 2018 Transition Plan Review & Recommendation(s) **ACTION**
- e. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: March 6, 2020



REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
10:00 a.m. Friday, February 14, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Melanie Beretti (County of Monterey)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
Steve Martin (MPC)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Vicki Nakamura (MPC)
Frank O'Connell (City of Marina)
Mayor Ian Oglesby (City of Seaside)
Supervisor Jane Parker (Monterey County)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)
Mike Wegley (MCWD)

Members of the Consultant Team included:

Kendall Flint (RGS)
Erin Harwayne (DDA)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Approve meeting minutes from January 31, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the January 31, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

b. Today's Meeting Objective

Not discussed.

c. **Recap discussion from January 31, 2020 meeting**

Not discussed.

d. **Discussion of JPA draft document and its language (Attachment A)**

Co-Chair Parker started the item by noting that Mr. Willoughby will be leading the HWG through the draft JPA paragraph by paragraph. Mr. Willoughby walked the HWG through the contents of the document, answering questions from members of the HWG when asked, and noting any requested changes. Once Mr. Willoughby finished, members of the HWG discussed the language used in sections throughout the draft document. Mr. Haffa opined that it would be helpful if all members of the HWG spoke about whether they would feel comfortable bringing it to their agencies for approval. Representatives from each jurisdiction expressed their thoughts on the idea, with some voicing their approval, some voicing their rejection, and some voicing approval pending some changes and clarifications.

Members of the HWG began to discuss next steps as far as the HWG's responsibilities go to carry on this process. Co-Chair Parker recommended that Mr. Willoughby and attorneys from the various jurisdictions hold a meeting to go over the draft JPA and bring forward a new draft of the documents to the HWG meeting on February 28, so that the HWG can discuss a document that has been approved by its jurisdictions' attorneys. This would give the HWG the ability to make a recommendation to the FORA Board. Co-Chair Metz suggested conducting a straw poll on various ideas so that when the attorneys meet, they have some policy direction to base their work off of. The HWG continued the discussion of the draft document, going over legal ramifications, the schedule of how the JPA will be implemented, and ways that the \$17 million can be protected. Co-Chair Parker recommended that the group come to an agreement on consensus points and listed them as follows:

- Clarifying the purpose in recital C to include more explicit language about the negotiations that the JPA was going to be undertaking.
- The handling and possible disposition of the \$17 million.
- Put in a more explicit end date for the JPA for this particular purpose.
- Have the attorneys look into the risk of liability.

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Oglesby and carried by the following vote, the Habitat Working Group moved to memorialize those consensus points.

MOTION PASSED UNANIMOUSLY

e. Other discussion

None

4. FUTURE AGENDA ITEMS

Not discussed

5. ADJOURNMENT at 12:04 p.m.



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, February 28, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:03 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Councilmember Frank O'Connell (City of Marina)

Mayor Ian N. Oglesby (City of Seaside)

Dino Pick (City of Del Rey Oaks)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 14, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the February 14, 2020 HWG meeting minutes with one correction.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 21, 2020 meeting recap

Mr. Metz recapped the previous meeting for the HWG. He discussed the Holland & Knight memo that the HWG had received last week. He noted that the memo provided a significant amount of discussion, so much so that the HWG was not able to make a recommendation. He continued, noting that the FORA Board took action on the memo and recommended moving ahead with the certification of the EIR. He also discussed the business items on today's agenda.

b. EIR Options Review & Recommendation

Mr. Metz opened the item by asking if the HWG could hear from Ms. Harwayne regarding her conversations with the regulators and then hear from each jurisdiction regarding how they see the potential utility of this EIR. Ms. Harwayne spoke to the HWG regarding a phone call she had with the state and federal regulators regarding phasing. She then went over the schedule: the phasing information will be provided to the agencies next week and then will bring the info to the HWG on March 13. She answered questions from members of the HWG. Mr. Pick asked if certification can be achieved by June 30. Ms. Harwayne said it was feasible to get that to the board and passed with two votes. He also asked if there would be additional cost and she noted that DDA and ICF will not be needing additional funds.

c. Phasing discussion with feedback from regulators and consultants

Mr. Metz noted that the phasing discussion has been delayed. Ms. Parker noted that at the next meeting the HWG will hear about the draft JPA from authority counsel and jurisdictions' counsel.

d. 2018 Transition Plan Review & Recommendation(s)

Mr. Metz started the item and noted that Ms. Flint will be giving a presentation. Ms. Flint gave a presentation on the Transition Plan and answered questions from HWG members. Mr. Willoughby opined on the topic of litigation, backing up Ms. Flint on legal questions that she received. The HWG had a robust discussion on the topic and implications of the habitat language in the Transition Plan. Ms. Morton asked that a formula for the species, acreage, and mitigation ratios be identified before the HWG moves forward with the JPA. Ms. Harwayne opined on the formula, noting that it is complex, and that it is determined by borderlands, HMAs, and land management, not just acreage or species.

MOTION: On motion by Mr. Uslar, seconded by Mr. Pick and carried by the following vote, the Habitat Working Group moved that FORA staff and consultants bring to the HWG, within a week, the aforementioned formula based on percentages of species, acreage, borderlands, land monitoring, and already existing projects.

Public comment was received on this item.

MOTION PASSED UNANIMOUSLY

Mr. Gabbe shared his initial thoughts on this formula. He said it could be something very simple, proportionally based on species, acreage, land management, borderland management, and assumptions. He thought that overall, it could be a very simple set of equations or equation.

e. Other discussion

Ms. Flint strongly encouraged the Co-Chairs to come up with decision points over the next several meetings. She feels that if the HWG does not set target dates to get certain tasks accomplished, the group will not be able to accomplish what it set out to do.

Ms. Strimling noted that the word “baseline” has a CEQA specific meaning and she requested that HWG members use words like “foundation” or “starting point” so as not to cause any confusion between the colloquial definition and the legal definition.

5. FUTURE AGENDA ITEMS

- The March 6 meeting’s items will be:
 - Draft habitat formula
 - JPA draft discussion
 - Transition plan language
- The March 13 meeting’s items will be:
 - Phasing discussion
 - A continuation of the Habitat formula

6. ADJOURNMENT at 11:49 a.m.



Holland & Knight

50 California Street, Suite 2800 | San Francisco, CA 94111 | T 415.743.6900 | F 415.743.6910
Holland & Knight LLP | www.hklaw.com

Memorandum

Date: February 20, 2020

To: Josh Metz, Fort Ord Reuse Authority

From: Chelsea Maclean, Holland & Knight
Bradley Brownlow, Holland & Knight

Re: Fort Ord Multi-Species Habitat Conservation Plan Environmental Impact Statement/
Environmental Impact Report – Legal Principles

I. Introduction

We have been asked to summarize legal principles surrounding certification of the Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Fort Ord Multi-Species Habitat Conservation Plan given the unique circumstance that the Fort Ord Reuse Authority's (FORA) statutory authority ends on June 30, 2020. We understand that it is anticipated that a joint powers authority (JPA) will be created to assume some of FORA's obligations.

II. Factual Background

We understand that the Fort Ord Reuse Authority (FORA) published a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Fort Ord Multi-Species Habitat Conservation Plan on November 1, 2019. The EIS/EIR is further described as follows:

[The EIS/EIR] analyzes the effects of the Proposed Action, which is the issuance of Federal and State incidental take permits (ITPs) by the U.S. Fish and Wildlife Service (USFWS) under Section 10(a)(1)(B) of the Federal Endangered Species Act, and by the California Department of Fish and Wildlife (CDFW) under Section 2081 of the California Fish and Game Code in compliance with the California Endangered Species Act. The issuance of the ITPs would authorize take of the eight State and Federally listed species identified in the Draft Fort Ord Multi-Species Habitat Conservation Plan (Draft HCP) during the course of the redevelopment of the former Fort Ord military base. The USFWS is acting as lead agency under National Environmental Policy Act (NEPA) and FORA is acting as lead agency under California Environmental Quality Act (CEQA). (FORA Habitat Conservation and Management webpage, available at: <https://fora.org/habitat.html> (accessed February 17, 2020)).

The public comment period closed on December 16, 2019. We understand that FORA's member jurisdictions have expressed a reluctance to conduct as much take as is contemplated in the Draft

HCP because of the associated mitigation costs. The FORA Working Group is discussing possible modifications to the HCP, including reducing the amount of take (Reduced Take Approach) and/or phasing take such that more development would only move forward when certain conversation targets are achieved (Phased Take Approach).

As noted above, we are also aware that FORA's statutory authority ends on June 30, 2020. (Government Code §67700(a)). A Transition Plan was approved by the FORA Board on December 19, 2018. We understand that a joint powers authority (JPA) will be created to assume some of FORA's obligations, including obligations related to HCP approval.

III. Options

We understand that there are several options that are being considered, including the following:

Option 1: FORA certifies EIR and approves HCP

Option 2: FORA certifies EIR with currently analyzed project and alternatives, but does not approve HCP

Option 3: FORA certifies EIR with a Reduced Take, Phased Take Approach and/or other alternative(s), but does not approve HCP

Option 4: JPA relies on FORA certified EIR and approves HCP

Option 5: FORA takes no action and JPA certifies EIR and approves HCP

IV. Legal Principles

The following section summarizes the legal principles associated with various steps in the environmental review and project approval process given the potential options described above.

A. EIR Recirculation

Recirculation is required when significant new information is added to an EIR prior to certification. (Pub. Res. Code §21092.1). Further, "significant new information" requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (CEQA Guidelines §15088.5).

Case law has specifically found that recirculation is not required when an alternative is added to a Final EIR that does not include significant new information. (*South County Citizens for Smart Growth v. County of Nevada* (2013) 221 CA4th 316, 330 (rejecting a challenge to the approval of a project EIR for failure to recirculate a revised EIR including a staff recommended alternative that built upon an existing, “Redesign/Reduced Density,” alternative to subdivision and development of a 20-acre site)). Further, in *South of Market Community Action Network v. City and County of San Francisco*, the court upheld the EIR for the 5M project in San Francisco that resulted in a variant of alternatives considered in the EIR. ((2019) 33 Cal.App.5th 321). The court stated: “the whole point of requiring evaluation of alternatives in the DEIR is to allow thoughtful consideration and public participation regarding other options that may be less harmful to the environment. . . . We do not conclude the project description is inadequate because the ultimate approval adopted characteristics of one of the proposed alternatives; that in fact, is one of the key purposes of the CEQA process.” (*Id.* at 336). In contrast, recirculation was required for a complete redesign of a stormwater management plan adopted as an environmentally superior means of addressing hydrology and water quality impacts. (*Spring Valley Lake Ass’n v. City of Victorville* (2016) 248 CA4th 91, 108).

B. EIR Certification

It is noted that certifying an EIR is a distinct step from approving a project analyzed in the EIR. A lead agency first decides whether to certify an EIR and is required to make limited findings that the EIR: complies with CEQA; reflects the lead agency’s independent judgment and analysis; and was presented to the decision-making body, which reviewed and considered the information in the final EIR before approving the project. (14 Cal Code Regs §15090(a)(2)).

C. Project Approval

After certifying an EIR, the lead agency decides whether and how to approve or carry out a project. (CEQA Guidelines §15091). In doing so, the agency must fulfill its duty to mitigate or avoid significant environmental impacts when it is feasible to do so. (Pub Res C §§21002, 21002.1(b)). Further, a public agency may not approve or carry out a project for which an EIR was prepared unless either: the project as approved will not have a significant effect on the environment; or the agency has eliminated or substantially lessened all significant effects on the environment when feasible and has determined that any remaining significant effects are acceptable when balanced against the project’s benefits (Pub. Res. Code §21081; CEQA Guidelines §15092(b)).

D. CEQA Statute of Limitations for Litigation

Once an EIR is certified and an agency elects to approve a project, it is subject to litigation. (Pub. Res. Code §21167). The statute of limitations is 30 days from the date that a notice of determination is filed, or if no notice of determination is filed, 180 days from the date of the public agency’s decision to approve the project. (Pub. Res. Code §21167).

Considering the options described in Section III, the statute of limitations to challenge the EIR would not begin to run under Options 2 or 3 since they do not include HCP approval. There is limited value of a certified EIR for responsible agencies if the HCP is not approved or until the HCP is approved.

The statute of limitations would only begin to run under Option 1 if and when FORA approved the HCP or Options 4 or 5 if and when the JPA approves the HCP. Once a project is approved and the statute of limitations runs, the overall adequacy of the environmental document becomes irrelevant as a result of the conclusive presumption of validity. The age of the original environmental document is irrelevant, if subsequent events do not trigger the need for further environmental review.¹ (*Snarled Traffic Obstructs Progress v. City & County of San Francisco* (1999) 74 CA4th 793). Multiple courts have upheld reliance on decade-old EIRs. (See, e.g., *Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal. App. 4th 192 (upholding reliance on a 1998 EIR in preparation of a 2009 housing element); *Concerned Dublin Citizens v. City of Dublin* (2011) 214 Cal. App. 4th 1301 (upholding reliance on a 9-year old EIR)).

E. Shift in Lead Agency Designation

The identity of a lead agency can change during the CEQA process. Such a change in the lead agency's identity does not, in itself, require the successor lead agency to restart the CEQA review process. (Practice Under the California Environmental Quality Act, §3.8: Shift in Lead Agency Designation (citing *Gentry v. City of Murrieta* (1995) 36 CA4th 1359, 1383)(“*Gentry*”))

In *Gentry*,² a project application for a single family home community was first submitted and reviewed by a county. The area containing the project was later annexed to a city.³ The court explained:

Thereafter, when the City was incorporated, it took over as lead agency. We have not been referred to any statutory or case authority on the effect of such a change in the identity of the lead agency, nor has our own research revealed any. We note, however, that where two public agencies simultaneously have a substantial claim to be lead agency for a project, they may enter into an agreement designating one of them the lead agency; such an agreement may also “provide for cooperative efforts . . . by contract, joint

¹ Following approval of an EIR, subsequent or supplement environmental review is not required unless: changes to the project require “major revisions” to the EIR; circumstances affecting the project require “major revisions” to the EIR; and/or new information, not knowable at the time of certification, comes to light. (Pub. Res. Code §21166; CEQA Guidelines § 15162).

² In another case, *Merced Irrig. Dist. v. Green*, a court upheld a shift in lead agency designation from city to irrigation district in approving a project to build new headquarters for irrigation district. (2002 WL 1004093 (2002)) The case is unpublished so it may not be cited in court, but still evidences useful precedent.

³ To provide more factual background, an applicant applied for a vesting tentative map for a project consisting of approximately 555 single-family homes from a county. (*Id.* at 1367). The county prepared and certified an EIR for the project itself, as well as an EIR for a community plan within which the project was located. (*Id.* at 1368). Another applicant applied to the county for a vesting tentative map for a smaller project. (*Id.*). The county then prepared a negative declaration. (*Id.* at 1369). Before taking action on the negative declaration, the applicant requested transmittal of the record to a city that had just been incorporated. (*Id.*). The city incorporated the county's materials and ultimately adopted a negative declaration. (*Id.* at 1370).

exercise of powers, or similar devices.” (Guidelines, § 15051, subd. (d).) *This strongly suggests that where two public agencies successively are lead agency for a project, they could likewise engage in “cooperative efforts,” provided each agency exercises an independent judgment on the matters which actually come before it for decision. (Gentry, Id. at 1397-1398 (emphasis added)).*

Gentry further illustrates the steps the city took:

It is undisputed that the County exercised its independent judgment in releasing a proposed negative declaration, in proposing mitigation conditions, and in holding public hearings. The City then rereleased the County’s proposed negative declaration on March 17, 1992. It explained its decision to do so in its first staff report. The staff report discussed the history of the Project, including the history of its consideration by the County. The staff report discussed the issues that had been raised in the County’s public hearings, but concluded that “[e]ach of these issues has been resolved through the Conditions of Approval, as written by County staff and amended by City staff. . . .” This staff report shows that the City did review, analyze, and exercise independent judgment with respect to the proposed negative declaration. The proposed negative declaration adequately reflected the City’s independent judgment. (*Gentry, Id.* at 1398).

Similar to the way in which the *Gentry* case involved a shift in lead agency from a county to a city after annexation pursuant to the Cortese Knox Hertzberg Act, the Legislature contemplated succession of FORA to a successor agency identified by FORA. Government Code Section 67700(b) provides as follows:

(1) The Monterey County Local Agency Formation Commission shall provide for the orderly dissolution of the authority 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. (Emphasis added).

(2) The board shall approve and submit a transition plan to the Monterey County Local Agency Formation Commission on or before December 30, 2018, or 18 months before the anticipated inoperability of this title pursuant to subdivision (a), whichever occurs first. The transition plan shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations.

The Transition Plan approved by the FORA Board on December 19, 2018 provides that FORA’s duties and obligations with respect to the preparation and implementation of the HCP will pass to a joint power authority as successor agency formed for that purpose. *Gentry* suggests that a reviewing court has a reasoned basis to find that the JPA continues as the lawful lead agency in this matter.

F. NEPA Relationship

We understand that the USFWS is the NEPA lead agency and that the EIR has been structured as a joint EIS/EIR, a practice authorized by CEQA Guidelines Sections 15170, 15222. The

certification of the EIR under CEQA should have no bearing on the federal agency's action under NEPA. Following the completion of the EIS/EIR, the USFWS will prepare, publicly notice, and sign a Record of Decision (ROD), which is a concise public record of the decision.



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE
Friday, March 6, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. APPROVAL OF MEETING MINUTES

ACTION

- a. February 21, 2020

4. BUSINESS ITEMS

- a. February 28, 2020 meeting recap

INFORMATION

- b. Habitat formula review

INFORMATION/ACTION

- c. JPA DRAFT Agreement review/discussion

INFORMATION/ACTION

- d. Habitat-related 2018 Transition Plan Recommendation(s)

INFORMATION/ACTION

- e. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: March 13, 2020



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE
Friday, March 6, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. APPROVAL OF MEETING MINUTES

ACTION

- a. February 21, 2020

4. BUSINESS ITEMS

- a. February 28, 2020 meeting recap

INFORMATION

- b. Habitat formula review

INFORMATION/ACTION

- c. JPA DRAFT Agreement review/discussion

INFORMATION/ACTION

- d. Habitat-related 2018 Transition Plan Recommendation(s)

INFORMATION/ACTION

- e. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: March 13, 2020



REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)

And

SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

10:00 a.m. Friday, February 21, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Councilmember Frank O'Connell (City of Marina)

Mayor Ian N. Oglesby (City of Seaside)

Supervisor Jane Parker (Monterey County)

Dino Pick (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS)

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. BUSINESS ITEMS

a. Today's Meeting Objective

Ms. Parker went over the agenda for the meeting and noted that the objective was to have a good conversation.

b. February 14, 2020 meeting recap

Mr. Metz noted that FORA attorneys are reviewing the JPA document with the jurisdictions and they will bring it back for review and consideration at subsequent meetings.

c. Habitat Management Plan (HMP) – Cost Model presentation

Mr. Gabbe gave a presentation on the HMP cost model. He started by going over the methods and assumptions used to create the HMP cost model. He broke down the cost model by jurisdiction, species, acreage, and responsibilities and answered questions from the committee. He discussed the differences between the HMP and HCP, and the details regarding species' take and mitigation. Ms. Morton asked if it would be possible for the Bureau of Land Management (BLM) to compile all reports from the last five years and have them posted on FORA's website. Mr. Metz affirmed that he'd work with Mr. Morgan of BLM to get all the reports and put them on the website for jurisdictions to access. Mr. Pick noted that the regulatory agencies will be in charge of these things, and would like them on the phone next time. Ms. Parker wrapped up the item due to time constraints and noted that this was a good conversation, but that it will need to be discussed in future meetings.

d. CEQA Attorney – Habitat Conservation Plan (HCP) / EIR options

Mr. Metz noted that as instructed by the FORA Board, FORA staff contracted with Holland & Knight (HK) to provide a legal opinion regarding CEQA ramifications regarding of EIR certification. Mr. Willoughby walked the HWG through the legal memo provided by HK. He broke down the five options as laid out in the memo as well as the details of EIR certification. Mr. Willoughby then answered questions from members of the HWG regarding the contents of the memo. Following this, Ms. Flint gave a presentation on HCP/EIR considerations. She broke down HK's five options in terms of who the lead agency would be and the benefits and challenges of each. She then showed the HWG an action calendar for all the steps that would need to take place to publish and certify an EIR before FORA's sunset.

e. Other discussion

None

4. FUTURE AGENDA ITEMS

Not discussed.

5. ADJOURNMENT at 12:15 p.m.



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 6, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Ian Oglesby called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Councilmember Frank O'Connell (City of Marina) – Co-Chair

Mayor Ian N. Oglesby (City of Seaside) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Jeff Oyn (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Bernadette Clueit (ICF) – via phone

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS) – via phone

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

No public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 21, 2020

MOTION: On motion by Mr. Uslar, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved to approve the February 21, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 28, 2020 meeting recap

Mr. Metz gave an overview of the last meeting, noting that the HWG discussed providing a formula for the potential allocation of funds which will be discussed in item 4b on today's agenda. Mr. Metz noted that last night, the Seaside City Council gave unanimous approval for their Campus Town Project.

b. Habitat formula review

Ms. Flint started off the item, giving the HWG a background on the formula drafted by the consultants for the HWG consideration. Mr. Gabbe gave a presentation on the habitat formula. He presented an interactive Excel spreadsheet that showed different potential percentage breakdowns. Mr. Gabbe, Ms. Harwayne, and Mr. Willoughby answered questions and responded to comments from the HWG. Discussion followed regarding whether the universities and parks should be included in this model. Mr. Oglesby noted that he'd like the HWG to establish consensus on "who's in and who's out" of the JPA.

Public comment was received on this item.

Mr. Haffa noted that there could be three different options with regard to the formula breakdown: the original option as presented by Mr. Gabbe, an option without State Parks, and an option with all entities included. Mr. Gaglioti and Mr. Malin noted their preference is to vote today on this item and make a decision. Mr. Oglesby asked that the HWG move on to the next item due to time.

c. JPA Draft Agreement review/discussion

Mr. Metz noted that Mr. Willoughby will be giving an update on the JPA draft process. Mr. Willoughby said that BLM and the Monterey Regional Park District asked not be a part of the potential JPA. He noted that if the HWG is going to move down a JPA path, FORA will need to be part of the JPA, and it will no longer be a member after FORA dissolves. He noted that the ad-hoc legal group has made significant process and that they will need guidance from the HWG on certain areas. Those areas needing guidance are as follows:

- Should the JPA be a skeletal framework just so that it can exist in order to receive the \$17 million from FORA or should there be a more fleshed-out JPA that has more capabilities?
- Regarding the allocation of the habitat funds, and the best way to split the funds. The initial impression is that the formula will also apply to the JPA, and the legal group expects consistency between the several relevant documents.
- If a JPA is formed but not everyone wants to join, are those who are left out going to receive any money? These questions depend on when the hypothetical jurisdiction potentially withdraws from the JPA.
- What will the source of operational funds for the JPA be? Will it come from depleting the \$17 million? Will FORA provide unrestricted seed money?
- Does the JPA have the authority to hire employees? Because of PERS liability changes, there's a possibility that members could have liabilities.
- The HWG needs to receive an opinion from the bond counsel at some point in this process.

Mr. Willoughby then answered questions from the HWG regarding these areas with further discussion made.

Public comment on this item was received.

d. Habitat-related 2018 Transition Plan Recommendation(s)

Ms. Flint asked that this item be brought back next week for discussion.

e. Other discussion

None

5. FUTURE AGENDA ITEMS

- Reduced take scenario phasing discussion
- Habitat formula review with breakdown of options
- JPA Draft Agreement review/discussion
- Habitat-related 2018 Transition Plan Recommendation(s)

6. ADJOURNMENT at 11:45 a.m.

		HMA Mgmt Multiplier			DwR Multiplier (same as HMA)			Borderland Multiplier			Interim Mgmt Multiplier				
Total Funds to be allocated		70%			70%			18%			12%				
\$	17,000,000	\$ 11,900,000						\$ 3,060,000			\$ 2,040,000				
Jurisdiction	HMA	HMA Monitoring Effort	HMA Monitoring Allocation	Development with Reserve (DwR)	DwR Monitoring Effort	DwR Allocation	Borderland	Borderland	Borderland Effort	Borderland Allocation	Interim Mgmt in Development Parcels	Interim Mgmt Effort	Interim Mgmt Allocation	Total Allocation	Percent
	acres	%	\$	acres	%	\$	linear ft	acres	%	\$	acres	%	\$		
Monterey County	1,571	0.40	\$ 4,800,950	277	0.07	\$ 846,507	43,500	100	0.67	\$ 2,063,721	693	0.49	\$ 1,006,458	\$ 8,717,636	51%
Seaside	0	0.00	\$ -	0	0.00	\$ -	14,740	34	0.23	\$ 699,293	389	0.28	\$ 565,075	\$ 1,264,368	7%
Marina	236	0.06	\$ 721,212	0	0.00	\$ -	0	0	0.00	\$ -	0	0.00	\$ -	\$ 721,212	4%
Monterey City	0	0.00	\$ -	0	0.00	\$ -	0	0	0.00	\$ -	32	0.02	\$ 46,465	\$ 46,465	0.27%
Del Rey Oaks	0	0.00	\$ -	0	0.00	\$ -	6,260	14	0.10	\$ 296,986	291	0.21	\$ 422,002	\$ 718,988	4%
State Parks	979	0.25	\$ 2,991,808												
Regional Parks	19	0.00	\$ 58,064												
UC	606	0.16	\$ 1,851,926												
MPC	206	0.05	\$ 629,533												
CSUMB	0	0.00	\$ -				1400				303				
Total	3,617		\$ 11,053,493	277		\$ 846,507	64,500	148		\$ 3,060,000	1,405		\$ 2,040,000	\$ 11,468,670	67%

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is only jurisdiction that we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers. Interim mgnt columns hidden
- Interim management cannot be defined at this time because the required activities are unknown.

Plant seedlings in
coast live oak
woodland (10% of
total every yr)

Aerial Mapping every 10 years

Jurisdiction	HMA acres	HMA % of Total %	Restoration acres	Habitat Enhancement acres	Plants - Group 1 acres	Plants - Group 2 acres	Plants - Group 3 acres	Abundance Sampling # species	Wildlife P/A surveys # species	Notes
Monterey County	1848	89	8	376	1950	493	109	9	5	MOCO has 91% of the plant/wildlife monitoring effort and 89% of the aerial mapping effort
Seaside	0	0	0	0	0	0	0	0	0	
Marina	236	11	0	0	201	55	53	6	5	Marina has 9% of the plant/wildlife monitoring effort, and 11% of the aerial mapping effort
Monterey City	0	0	0	0	0	0	0	0	0	
Del Rey Oaks	0	0	0	0	0	0	0	0	0	

Assumptions & Notes

Group 1 Plant Species: Sand gilia, Monterey spineflower, seaside
bird's-beak
Group 2 Plant Species: Maritime Chapparral
Group 3 Plant Species: Coast Wallflower

mapping %
2552 89
309 11
2861

Species	Acres of Habitat			
	Monterey County	%	Marina	%
<i>Plants</i>				
Sand gilia	799	97	26	3
Monterey Spineflower	967	85	174	15
Seaside bird's beak	184	100	0	0
Eastwood's ericameria	276	90	32	10
Hooker's manzanita	229	100	0	0
Toro manzanita	467	100	0	0
Coast Wallflower	109	67	53	33
Monterey ceanothus	570	91	57	9
Sandmat manzanita	1682	88	235	12
<i>Animals</i>				
Smith's blue butterfly	0	0	0.01	100
California tiger salamander	1599	94	107	6
California red-legged frog	1517	98	33	2
Black legless lizard	257	82	58	18
Linderiella	2	100	0	0
Monterey ornate shrew	1828	89	235	11
Overall totals	10486	91	1010	9

Habitat Type	Acres of Habitat							
	Monterey County		Seaside		Monterey City		Del Rey Oaks	
		%		%		%		%
Maritime Chaparral	120	14	384	46	31	4	302	36
Coast live oak woodland/savannah	589	100	0.01	0	0	0	0	0
Grassland	27	76	9	24	0	0	0	0
Wetland and open water	1	43	0	0	0	0	2	57
Overall totals	738	0.50	393	0.27	31	0.02	304	0.21



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE
Friday, March 13, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. APPROVAL OF MEETING MINUTES

ACTION

- a. February 28, 2020

4. BUSINESS ITEMS

- a. March 6, 2020 meeting recap **INFORMATION**
- b. Reduced take scenario phasing discussion **INFORMATION/ACTION**
- c. Habitat formula review with breakdown of options **INFORMATION/ACTION**
- d. JPA DRAFT Agreement review/discussion **INFORMATION/ACTION**
- e. Habitat-related 2018 Transition Plan Recommendation(s) **INFORMATION/ACTION**
- f. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: March 20, 2020



FORT ORD REUSE AUTHORITY

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

6. ADJOURNMENT

NEXT MEETING: March 20, 2020

Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at www.fora.org.



**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, February 28, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:03 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Councilmember Frank O'Connell (City of Marina)

Mayor Ian N. Oglesby (City of Seaside)

Dino Pick (City of Del Rey Oaks)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 14, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the February 14, 2020 HWG meeting minutes with one correction.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 21, 2020 meeting recap

Mr. Metz recapped the previous meeting for the HWG. He discussed the Holland & Knight memo that the HWG had received last week. He noted that the memo provided a significant amount of discussion, so much so that the HWG was not able to make a recommendation. He continued, noting that the FORA Board took action on the memo and recommended moving ahead with the certification of the EIR. He also discussed the business items on today's agenda.

b. EIR Options Review & Recommendation

Mr. Metz opened the item by asking if the HWG could hear from Ms. Harwayne regarding her conversations with the regulators and then hear from each jurisdiction regarding how they see the potential utility of this EIR. Ms. Harwayne spoke to the HWG regarding a phone call she had with the state and federal regulators regarding phasing. She then went over the schedule: the phasing information will be provided to the agencies next week and then will bring the info to the HWG on March 13. She answered questions from members of the HWG. Mr. Pick asked if certification can be achieved by June 30. Ms. Harwayne said it was feasible to get that to the board and passed with two votes. He also asked if there would be additional cost and she noted that DDA and ICF will not be needing additional funds.

c. Phasing discussion with feedback from regulators and consultants

Mr. Metz noted that the phasing discussion has been delayed. Ms. Parker noted that at the next meeting the HWG will hear about the draft JPA from authority counsel and jurisdictions' counsel.

d. 2018 Transition Plan Review & Recommendation(s)

Mr. Metz started the item and noted that Ms. Flint will be giving a presentation. Ms. Flint gave a presentation on the Transition Plan and answered questions from HWG members. Mr. Willoughby opined on the topic of litigation, backing up Ms. Flint on legal questions that she received. The HWG had a robust discussion on the topic and implications of the habitat language in the Transition Plan. Ms. Morton asked that a formula for the species, acreage, and mitigation ratios be identified before the HWG moves forward with the JPA. Ms. Harwayne opined on the formula, noting that it is complex, and that it is determined by borderlands, HMAs, and land management, not just acreage or species.

MOTION: On motion by Mr. Uslar, seconded by Mr. Pick and carried by the following vote, the Habitat Working Group moved that FORA staff and consultants bring to the HWG, within a week, the aforementioned formula based on percentages of species, acreage, borderlands, land monitoring, and already existing projects.

Public comment was received on this item.

MOTION PASSED UNANIMOUSLY

Mr. Gabbe shared his initial thoughts on this formula. He said it could be something very simple, proportionally based on species, acreage, land management, borderland management, and assumptions. He thought that overall, it could be a very simple set of equations or equation.

e. Other discussion

Ms. Flint strongly encouraged the Co-Chairs to come up with decision points over the next several meetings. She feels that if the HWG does not set target dates to get certain tasks accomplished, the group will not be able to accomplish what it set out to do.

Ms. Strimling noted that the word “baseline” has a CEQA specific meaning and she requested that HWG members use words like “foundation” or “starting point” so as not to cause any confusion between the colloquial definition and the legal definition.

5. FUTURE AGENDA ITEMS

- The March 6 meeting’s items will be:
 - Draft habitat formula
 - JPA draft discussion
 - Transition plan language
- The March 13 meeting’s items will be:
 - Phasing discussion
 - A continuation of the Habitat formula

6. ADJOURNMENT at 11:49 a.m.

DRAFT



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 13, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:04 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Bill Collins (BRAC)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Nicole Hollingsworth (CSUMB)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Mayor Ian N. Oglesby (City of Seaside)

Dino Pick (City of Del Rey Oaks)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS) – via phone

David Willoughby (KAG)

FORA Staff:

Joshua Metz – Co-Chair

Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 28, 2020

MOTION: On motion by Mr. Haffa, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved to approve the February 28, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. March 6, 2020 meeting recap

Mr. Metz discussed the potential likelihood of future FORA meetings being conducted remotely via Zoom. He noted that most of today's agenda items are reprised from the previous meeting, save for the reduced take scenario phasing discussion that Ms. Harwayne will lead.

b. Reduced take scenario phasing discussion

Mr. Metz introduced the item, noting that Ms. Harwayne will lead the discussion and receive feedback from the HWG and the regulators. Ms. Harwayne introduced the item and gave the HWG a broad overview of the topic. She then answered questions from the HWG and went over her Excel spreadsheet that listed each jurisdictions responsibility by phase, acre, species, and other criteria. Mr. Gabbe, Ms. Ferranti, Ms. Harwayne, Ms. Bono, and Ms. Henry answered questions from the HWG and spoke on the topic of a CEQA document and phasing. Ms. Harwayne asked if the land-use jurisdictions could give feedback on the model. Mr. Haffa noted that the City of Monterey is okay with it, but that they need to know the cost. Mr. Gaglioti stated that the City of Del Rey Oaks is happy with it because it tees off of what they've previously talked about. Mr. Malin stated that the City of Seaside believes that anything that makes the process more efficient, less costly, and enhances preservation is a good idea. Ms. Parker noted that Monterey County believes it is helpful and that they will see where it leads. Ms. Morton stated the City of Marina concurs with what Mr. Malin had stated.

Public comment was received.

c. Habitat formula review with breakdown of options

Mr. Gabbe started off the item and gave a presentation on additional alternatives for additional CFD funds. He gave an overview on various allocation scenarios and walked the HWG through each. Mr. Gabbe, Ms. Flint, and Mr. Willoughby answered questions from the HWG. Mr. Malin presented his proposed alternative to the HWG. A robust discussion took place between the members of the HWG. Due to time constraints, Ms. Parker recommended that the HWG continue this item at the next meeting.

d. JPA DRAFT Agreement review/discussion

Not discussed.

e. Habitat-related 2018 Transition Plan Recommendation(s)

Not discussed.

5. FUTURE AGENDA ITEMS

- Continued conversation on habitat formula options – first priority
- Habitat-related 2018 Transition Plan Recommendation(s) – second priority
- JPA draft agreement review/discussion – third priority

6. ADJOURNMENT at 12:10 p.m.

HWG 3/13/20 Meeting
Supplemental Materials Index

- a. DDA Memo ([p. 2](#))
- b. DDA Reduced Take Scenarios ([p. 3-6](#))
- c. ICF Cost Model Memo ([p. 7-8](#))
 - a. ICF Cost Model Excel Spreadsheet ([External Link](#))
- d. UC Regents Habitat Payments History ([p. 9](#))
- e. Potential JPA Attorneys Policy Guidance Request Summary ([p. 10](#))



Denise Duffy & Associates, Inc.

PLANNING AND ENVIRONMENTAL CONSULTING

MEMORANDUM

Date: March 11, 2020
To: Josh Metz, Executive Director, Fort Ord Reuse Authority
From: Erin Harwayne, AICP, Senior Project Manager, DD&A
Subject: Habitat Working Group Meeting (March 13, 2020) – Agenda Item 4b. Reduced Take Scenario Phasing Discussion

Denise Duffy & Associates, Inc. (DD&A) has prepared the attached Draft Reduced and Phased Take Analysis in support of the habitat planning efforts of the Habitat Working Group (HWG). This analysis has been prepared in response to concerns expressed by the California Department of Fish and Wildlife (CDFW) and potential permittees regarding the 2019 Draft Fort Ord Habitat Conservation Plan (Draft HCP)

The CDFW has expressed concern that the mitigation and preservation proposed within the Bureau of Land Management (BLM) Fort Ord National Monument lands (Federal lands) as identified in the Draft HCP are not certain and, without inclusion of the Federal lands as mitigation for take, impacts to state listed species may not be fully mitigated and the proposed take may not meet permit issuance criteria under Section 2081 of the California Endangered Species Act (CESA). In addition, the proposed permittees have expressed concern that the cost of the Draft HCP is too high and not feasible, and the proposed take under the Draft HCP may be too high based on revised development projections (i.e., should consider a more realistic development scenario for next 50 years rather than full build-out under the Fort Ord Base Reuse Plan and local planning documents).

Therefore, this exercise focused on removing Federal lands from the preservation acreage and reducing take acreage to meet a minimum 75% preservation (3:1 mitigation ratio) within the Non-Federal designated development areas and Non-Federal Habitat Management Areas (HMAs). The attached pdf of the spreadsheet identifies a take “cap” or “limit” per phase (Year 1=15 years, Year 2=25 years, and Year 3=50 years) with the total take acreage not-to-exceed 75% (3:1) of preservation acreage within Non-Federal lands. Please note that this is one potential scenario and additional scenarios can be evaluated.

The primary objective of this exercise and for discussion at the HWG meeting is to come to consensus on whether the proposed reduced take acreages and proposed mitigation ratios are acceptable to USFWS, CDFW, and potential permittees. This critical step will support future habitat planning steps to determine:

1. a revised mitigation strategy that would apply to reduced and/or phased take scenario(s); and
2. whether the revised mitigation strategy would reduce costs, and, if not, evaluate whether a phased take approach could reduce any potential financial strain over the 50-year permit term (noting a phased take approach would need to be fully evaluated).

These determinations will assist in guiding the potential permittees on what a revised HCP may look like and whether a revised HCP is feasible and/or desired.

Jurisdiction/Permittee	SAND GILIA (3,036 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	13.0	157.0	715.0	5.0	710.0	69.0	641.0	87.0	641.0
State Parks	0.0	2.0	144.0	0.0	144.0	0.0	144.0	0.0	144.0
Seaside	10.0	0.0	540.0	10.0	530.0	11.0	519.0	31.0	519.0
Marina	19.0	25.0	225.5	3.0	222.5	2.0	220.5	24.0	220.5
UC	2.0	23.0	700.0	5.0	695.0	5.0	690.0	12.0	690.0
MPC	16.5	7.0	276.5	5.0	271.5	0.0	271.5	21.5	271.5
CSUMB	4.0	0.0	141.0	3.0	138.0	5.0	133.0	12.0	133.0
Del Rey Oaks	1.5	0.0	13.5	0.3	13.3	0.3	13.0	2.0	13.0
Monterey Peninsula Regional Parks District	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
City of Monterey	1.0	0.0	-1.0	0.0	-1.0	0.0	-1.0	1.0	-1.0
TOTAL	67.0	214.0	2,754.5	31.3	2,723.3	92.3	2,631.0	190.5	2,631.0
Stay-Ahead	281.0	69%	91%	8%	90%	23%	87%	404.5	2,631.0
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								545	87%

Jurisdiction/Permittee	SEASIDE BIRD'S-BEAK (902 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	9.0	33.0	166.0	5.0	161.0	10.0	151.0	24.0	151.0
State Parks	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Seaside	10.0	0.0	89.0	10.0	79.0	7.0	72.0	27.0	72.0
Marina	3.0	0.0	0.5	2.0	-1.5	3.0	-4.5	8.0	-4.5
UC	2.0	3.0	121.0	5.0	116.0	5.0	111.0	12.0	111.0
MPC	7.5	5.0	276.5	1.0	275.5	0.0	275.5	8.5	275.5
CSUMB	2.0	0.0	-2.0	1.5	-3.5	1.5	-5.0	5.0	-5.0
Del Rey Oaks	3.5	0.0	85.5	1.0	84.5	1.0	83.5	5.5	83.5
Monterey Peninsula Regional Parks District	0.0	3.0	16.0	0.0	16.0	0.0	16.0	0.0	16.0
City of Monterey	15.5	0.0	53.5	2.0	51.5	0.5	51.0	18.0	51.0
TOTAL	52.5	44.0	806.0	27.5	778.5	28.0	750.5	108.0	750.5
Stay-Ahead	96.5	29%	89%	18%	86%	18%	83%	152.0	750.5
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								181	83%

Jurisdiction/Permittee	MONTEREY SPINEFLOWER (5,712 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	50	146.0	1,480	0	1,480	0	1,480	50	1,480
State Parks	0	145.0	486	0	486	0	486	0	486
Seaside	100	0.0	581	75	506	50	456	225	456
Marina	100	77.0	567	50	517	50	467	200	467
UC	75	24.0	749	10	739	10	729	95	729
MPC	100	7.0	364	50	314	50	264	200	264
CSUMB	50	0.0	421	25	396	25	371	100	371
Del Rey Oaks	50	0.0	52	25	27	25	2	100	2
Monterey Peninsula Regional Parks District	0	4.0	16	0	16	0	16	0	16
City of Monterey	10	0.0	58	10	48	10	38	30	38
TOTAL	535	403	4,774	245	4,529	220	4,309	1,000	4,309
Stay Ahead	938	67%	84%	17%	79%	16%	75%	1,403	4,309
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								1,025	75%

Jurisdiction/Permittee	YADON'S PIPERIA (209 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	1	0	10	0	10	9	1	10	1
State Parks	0	0	0	0	0	0	0	0	0
Seaside	4	0	54	4	50	2	48	10	48
Marina	0	5	5	0	5	0	5	0	5
UC	0	0	0	0	0	0	0	0	0
MPC	0	0	0	0	0	0	0	0	0
CSUMB	0	0	0	0	0	0	0	0	0
Del Rey Oaks	5	0	57	3	54	0	54	8	54
Monterey Peninsula Regional Parks District	0	0	0	0	0	0	0	0	0
City of Monterey	10	0	58	5	53	5	48	20	48
TOTAL	20	5	184	12	172	16	156	48	156
Stay Ahead	25	47%	88%	23%	82%	30%	75%	53	156
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								48	75%

Jurisdiction/Permittee	CALIFORNIA TIGER SALAMANDER (5,718 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	50	298	2,386	5.0	2,381	100.0	2,281	155	2,281
State Parks	0	0	0	0.0	0	0.0	0	0	0
Seaside	0	0	207	0.0	207	0.0	207	0	207
Marina	0	41	540	0.0	540	0.0	540	0	540
UC	220	22	506	0.0	506	0.0	506	220	506
MPC	251	5	225	24.0	201	38.0	163	313	163
CSUMB	4	0	481	2.5	479	2.5	476	9	476
Del Rey Oaks	172	0	161	0.0	161	1.0	160	173	160
Monterey Peninsula Regional Parks District	0	3	14	0.0	14	0.0	14	0	14
City of Monterey	47	0	85	33.0	52	0.0	52	80	52
TOTAL	744	369	4,605	64.5	4,541	141.5	4,399	950	4,399
Stay Ahead	1,113	84%	81%	5%	79%	11%	77%	1,319	4,399
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								1,050	77%

Jurisdiction/Permittee	CALIFORNIA RED-LEGGED FROG (3,494 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	55	275	1,984	10	1,974	50	1,924	115	1,924
State Parks	0	0	0	0	0	0	0	0	0
Seaside	0	0	129	0	129	0	129	0	129
Marina	2	2	28	0	28	0	28	2	28
UC	3	1	72	0	72	0	72	3	72
MPC	7	2	178	0	178	0	178	7	178
CSUMB	1	0	272	1	271	1	270	3	270
Del Rey Oaks	30	0	303	0	303	0	303	30	303
Monterey Peninsula Regional Parks District	0	3	15	0	15	0	15	0	15
City of Monterey	10	0	122	10	112	0	112	20	112
TOTAL	108	283	3,103	21.0	3,082	51.0	3,031	180	3,031
Stay Ahead	391	84%	89%	5%	88%	11%	87%	463	3,031
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								590	87%

Jurisdiction/Permittee	SMITH'S BLUE BUTTERFLY (110 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.00
State Parks	0.00	6.72	103.00	0.00	103.00	0.00	103.00	0.00	103.00
Seaside	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Marina	4.00	0.01	-4.00	2.00	-6.00	2.50	-8.50	8.50	-8.50
UC	0.00	0.00	0.39	0.00	0.39	0.00	0.39	0.00	0.39
MPC	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
CSUMB	0.10	0.00	-0.09	0.10	-0.19	0.05	-0.24	0.25	-0.24
Del Rey Oaks	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Monterey Peninsula Regional Parks District	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
City of Monterey	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL	4.12	6.73	99.30	2.10	97.20	2.55	94.65	8.77	94.65
Stay Ahead	10.85	70%	90%	14%	88%	16%	86%	15.50	94.65
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								20	86%

Jurisdiction/Permittee	WESTERN SNOWY PLOVER (71 acres)								
	Take and Preservation Acreages by Phase within Non-Federal Designated Development Areas and HMAs								
	Phase 1 (15 years)			Phase 2 (25 years)		Phase 3 (50 years)		Phases 1 -3 (50-year permit term)	
	TAKE (DEV AREAS)	TAKE (HMAs)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)	TOTAL TAKE (DEV AREAS)	PRESERVED (DEV AREAS and HMAs)
Monterey County	0	0	0	0	0	0	0	0	0
State Parks	0	11	60	0	60	0	60	0	60
Seaside	0	0	0	0	0	0	0	0	0
Marina	0	0	0	0	0	0	0	0	0
UC	0	0	0	0	0	0	0	0	0
MPC	0	0	0	0	0	0	0	0	0
CSUMB	0	0	0	0	0	0	0	0	0
Del Rey Oaks	0	0	0	0	0	0	0	0	0
Monterey Peninsula Regional Parks District	0	0	0	0	0	0	0	0	0
City of Monterey	0	0	0	0	0	0	0	0	0
TOTAL	0	11	60	0	60	0	60	0	60
Stay Ahead	11	18%	85%	1%	85%	0%	85%	7	60
Take limit in Designated Development Areas required to meet goal of preserving 75% of population in Non-Federal lands (3:1; mitigation: take)								7	85%



Memorandum

Date:	March 11, 2020
To:	Fort Ord Reuse Authority Habitat Working Group
Cc:	Josh Metz
From:	Aaron Gabbe, Ph.D. Bernadette Clueit
Subject:	CFD Allocation Alternatives

This memorandum summarizes three alternative strategies for allocating Community Facility District (CFD) fees to the local jurisdictions and entities for habitat management purposes, as requested by the Fort Ord Reuse Authority (FORA) Habitat Working Group (HWG) during the HWG meeting on March 6, 2020. The CFD fees may be allocated to the local jurisdictions, as determined by the FORA Board, if one or more jurisdictions or entities decides to not work collectively with the other jurisdictions or entities to manage habitat and other natural resources on the former Fort Ord.

The three alternative strategies are provided in a Microsoft Excel file as Attachment A. Each alternative is in a separate Excel worksheet in the attached file, labeled as 1) ALT_1_Allocata. by Acre; 2) ALT_2_Allocat by Acre, all JDs; and 3) ALT_3_Allocate by Contribution.

A brief description of each alternative is provided as follows.

1. Alternative 1. This alternative was presented to the HWG on March 6.
 - a. The CFD funds are allocated between the County and cities based on acres within each jurisdiction. Allocation categories are divided into
 - i. Habitat Management Areas (HMA), which includes Development with Restrictions (DWR) because management of habitat in the Monterey County-owned DWR must be managed similar to an HMA until it is developed.
 - ii. Borderland and Interim Management. Borderland parcels have two distinct types of management, so this category is subdivided to reflect the two types of management.
 1. Borderland. This is the 100-foot strip of land that runs along the borderland parcel and certain HMAs. Management generally includes fencing, fuelbreak creation and maintenance, and other actions.
 2. Interim management. The remainder of the borderland parcel will be managed for Habitat Management Plan (HMP) species until developed. Management actions will be determined in consultation with the Bureau of Land Management (BLM).

- b. Multipliers. The relative proportion of the total amount of CFD funds to be allocated between HMA management and Borderland and Interim Management is identified in the “multiplier” cells in row 4. Alternative 1 assumes that because HMA management is more intensive and costly, 70% of the total CFD funds should be allocated to jurisdictions with HMA management responsibilities. The remaining 30% is divided between Borderland management (18%) and Interim Management (12%). Note that HMA and DWR management are included together and is allocated 70% of the total CFD funds in this scenario.
 - c. The total amount of CFD funds to be allocated is currently estimated to be \$16,601,541. This amount was provided by FORA.
 - d. The dollar and percent allocation by jurisdiction are provided in columns R and S.
2. Alternative 2. This worksheet includes two tables to show two variations of Alternative 2. The structure and CFD allocation categories are the same as Alternative 1, except more entities are include in each variation/scenario.
 - a. All entities. All entities are shown in the top table.
 - b. All entities except Monterey Peninsula Regional Park District and California Department of Parks and Recreation (State Parks). This is in the table below the “all entities” table.
 - c. The dollar and percent allocation by jurisdiction are provided in columns R and S.
3. Alternative 3. Allocation based on contribution to the CFD. In this alternative, CFD funds are allocated based on relative contribution to the CFD funds made through each jurisdiction and entity. This information is available from FORA upon request.
 - a. In total, Monterey County, the City of Seaside, and the City if Marina have contributed \$59,145,561 to date.
 - b. Approximately 30% of the contributions will be allocated to habitat management, which is currently \$16,601,541.
 - c. Total amount and percent allocated to each jurisdiction is provided in columns G and H.

The alternative allocation scenarios are provided in an Excel file so you can change the values of multipliers or other components of the allocation models to evaluate different scenarios or assumptions. The two worksheet tabs to the right of ALT_3 in the Excel file includes some background calculations that are used to inform the three alternatives. You don’t need to review those two tabs to understand the CFD allocation alternatives.

Fort Ord Reuse Authority
Vendor Activity
From 7/1/1995 Through 6/30/2020

Vendor ID	Vendor Name	Session ID	Check/Voucher Number	Transaction Description	Expenses
UCR	UC Regents	API-0052	1260	FONR/UCSC FY 12-13	84,000.00
	UC Regents	API-0118	2112	FONR/UCSC FY 13-14	86,184.00
	UC Regents	API-0190	4180	FONR/UCSC FY 14-15	88,769.52
	UC Regents	API-0255	4464	FONR/UCSC FY 15-16	90,811.22
	UC Regents	API-0315	4770	FONR/UCSC FY 16-17	93,263.12
	UC Regents	API-0370	5073	FONR/UCSC FY 17-18	96,527.33
	UC Regents	API-0439	5440	FONR/UCSC FY 18-19	100,291.90
	UC Regents	API-0492	005815	FONR/UCSC FY 19-20	103,501.24
	UC Regents	CD-0019	9896	FONR/UCSC 7/1/11-6/30/12	81,920.00
	UC Regents	CD-0021	9942	MBEST/Visioning to 07/11	<u>15,117.60</u>
				Transaction Total	<u>840,385.93</u>
Total UCR	UC Regents				<u>840,385.93</u>
Report Opening/Current Balance					
Report Transaction Totals					<u>840,385.93</u>
Report Current Balances					

Potential JPA Attorneys Policy Guidance Request Summary

Last updated: 3/11/20

The Habitat Working Group coming up with a recommendation as to how the habitat funds should be allocated is one key to moving the draft JPA Agreement forward to the next stage. At the last working group meeting, Authority Counsel was asked to summarize the main areas with regard to which the potential JPA members' attorneys would appreciate receiving some policy guidance. That summary appears below.

1. Should we develop only the minimum provisions necessary to start up the JPA and leave additional details to future decisions by the JPA's Board or should we develop a more comprehensive and robust document from the outset?
2. Assuming that the working group comes up with an allocation algorithm, how should we handle allocation of habitat funds if some, but not all, potential members decide to join the JPA? If a member joins but then withdraws, should it be able to withdraw its full share of any then unexpended habitat funds? Should that change after cooperative habitat management has begun? If a member contributes additional funds before the JPA decides whether to undertake cooperative habitat management, should the JPA be able to spend those funds before reaching that decision?
3. Should the \$17M be preserved in its entirety for the direct costs of habitat management? Should the JPA be allowed to spend part or all of the \$17M on additional studies, negotiations with wildlife agencies, costs of administration, etc.? Should FORA provide the JPA with additional unrestricted "seed money"? If so, how should the JPA's costs be funded after the "seed money" runs out?
4. Should the JPA be allowed to hire employees? Should hiring be allowed if the JPA is restricted from providing employees with PERS benefits? Should the JPA pay one of its members to run things? If not, are the members willing to donate the necessary administrative services? If there should be no employees, how should staffing needs be addressed?

HWG Members - Please consider how your jurisdictions might address these questions and come prepared with some responses for discussion at the next and potentially other future meetings.



CFD Allocation Alternatives

Habitat Working Group
March 13, 2020

Aaron Gabbe, Ph.D. ICF
Bernadette Clueit, ICF



CFD Allocation Alternatives

- **Alternatives based on March 6 Habitat Working Group discussion**
- **Alternative 1. Presented March 6.**
 - **Allocated between County of Monterey and cities of Seaside, Marina, Monterey, and Del Rey Oaks**
 - **Simple allocation based on amount of HMP management responsibilities**
 - **Acres**
 - **HMP species (negligible difference between jurisdictions)**

CFD Allocation Alternatives

Alternative 1. Cont'd

- **Allocation divided into HMP land management categories to reflect different management efforts**
 - **Habitat Management Areas (HMAs) & Development with Restrictions (70%)**
 - **Borderland Parcels (30%)**
 - **Borderland**
 - **Interim Management**
- **\$16,601,541 available to allocate (same for all Alternatives)**

CFD Allocation Alternatives

Alternative 2.

- **Same allocation assumptions as Alt. 1**
- **Scenario A. All jurisdictions and entities**
- **Scenario B. MPRPD and State Parks removed**

CFD Allocation Alternatives

Alternative 3.

- **Allocation based on relative contribution to CFD funds**
- **Contributions from Monterey County, City of Seaside, and City of Marina**

CFD Allocation Alternatives

Jurisdiction/Entity	Alternative 1		Alternative 2a		Alternative 2b		Alternative 3	
	Allocation	Percent	Allocation	Percent	Allocation	Percent	Allocation	Percent
Monterey County	\$13,270,377	79.9%	\$7,659,201	46.1%	\$9,559,774	57.6%	\$6,966,317	42.0%
Seaside	\$1,222,026	7.4%	\$875,891	5.3%	\$875,891	5.3%	\$2,830,564	17.1%
Marina	\$1,316,015	7.9%	\$704,308	4.2%	\$947,022	5.7%	\$6,804,660	41.0%
Monterey City	\$45,053	0.3%	\$30,977	0.2%	\$30,977	0.2%		
Del Rey Oaks	\$748,071	4.5%	\$531,528	3.2%	\$531,528	3.2%		
CSUMB			\$410,400	2.5%	\$410,400	2.5%		
University of California			\$1,808,519	10.9%	\$2,431,759	14.6%		
Monterey Peninsula College			\$1,602,330	9.7%	\$1,814,190	10.9%		
Monterey Peninsular Regional Parks			\$56,703	0.3%				
State Parks			\$2,921,684	17.6%				
	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier	
Total Funds to be allocated		70%		70%		18%		12%	
\$	16,601,541	\$ 11,621,079				\$ 2,988,277		\$ 1,992,185	

Jurisdiction	HMA	HMA Monitoring Effort	HMA Monitoring Allocation	Development with Reserve (DWR)	DWR Monitoring Effort	DwR Allocation	Borderland	Borderland	Borderland Effort	Borderland Allocation	Interim Mgmt in Development Parcels	Interim Mgmt Effort	Interim Mgmt Allocation	Total Allocation	Percent
	acres	%	\$	acres	%	\$	linear ft	acres	%	\$	acres	%	\$		
Monterey County	1,571	0.75	\$ 8,760,420	277	0.13	\$ 1,544,644	43,500	100	0.67	\$ 1,989,441	693	0.49	\$ 975,872	\$ 13,270,377	80%
Seaside	0	0.00	\$ -	0	0.00	\$ -	14,740	34	0.23	\$ 674,123	389	0.28	\$ 547,902	\$ 1,222,026	7%
Marina	236	0.11	\$ 1,316,015	0	0.00	\$ -	0	0	0.00	\$ -	0	0.00	\$ -	\$ 1,316,015	8%
Monterey City	0	0.00	\$ -	0	0.00	\$ -	0	0	0.00	\$ -	32	0.02	\$ 45,053	\$ 45,053	0.27%
Del Rey Oaks	0	0.00	\$ -	0	0.00	\$ -	7,100	16	0.11	\$ 324,713	301	0.21	\$ 423,358	\$ 748,071	5%
Total	1,807	0.87	\$ 10,076,434	277	0.13	\$ 1,544,644	65,340	150	1.00	\$ 2,988,277	1,415	1.00	\$ 1,992,185	\$ 16,601,541	100%

0.886756238

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is only jurisdiction that we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers. Interim mgmt columns hidden
- Interim management cannot be defined at this time because the required activities are unknown.

ALL ENTITIES INCLUDED

		HMA Mgmt Multiplier			DwR Multiplier (same as HMA)			Borderland Multiplier			Interim Mgmt Multiplier				
Total Funds to be allocated		70%			70%			18%			12%				
\$	16,601,541	\$ 11,621,079						\$ 2,988,277			\$ 1,992,185				
Jurisdiction	HMA	HMA Monitoring Effort	HMA Monitoring Allocation	Development with Reserve (DWR)	DWR Monitoring Effort	DwR Allocation	Borderland	Borderland	Borderland Effort	Borderland Allocation	Interim Mgmt in Development Parcels	Interim Mgmt Effort	Interim Mgmt Allocation	Total Allocation	Percent
	acres	%	\$	acres	%	\$	linear ft	acres	%	\$	acres	%	\$		
Monterey County	1,571	0.40	\$ 4,688,422	277	0.07	\$ 826,666	43,500	100	0.49	\$ 1,473,142	693	0.34	\$ 670,971	\$ 7,659,201	46%
Seaside	0	0.00	\$ -	0	0.00	\$ -	14,740	34	0.17	\$ 499,175	389	0.19	\$ 376,716	\$ 875,891	5%
Marina	236	0.06	\$ 704,308	0	0.00	\$ -	0	0	0.00	\$ -	0	0.00	\$ -	\$ 704,308	4%
Monterey City	0	0.00	\$ -	0	0.00	\$ -	0	0	0.00	\$ -	32	0.02	\$ 30,977	\$ 30,977	0.19%
Del Rey Oaks	0	0.00	\$ -	0	0.00	\$ -	7,100	16	0.08	\$ 240,444	301	0.15	\$ 291,084	\$ 531,528	3%
CSUMB	0	0.00	\$ -	0	0.00	\$ -	2,600	6	0.03	\$ 88,050	333	0.16	\$ 322,351	\$ 410,400	2%
University of California	598	0.15	\$ 1,784,644	8	0.00	\$ 23,875	0	0	0.00	\$ -	0	0.00	\$ -	\$ 1,808,519	11%
Monterey Peninsula College	206	0.05	\$ 614,777	0	0.00	\$ -	20,300	47	0.23	\$ 687,466	310	0.15	\$ 300,086	\$ 1,602,330	10%
Monterey Peninsular Regional Parks	19	0.00	\$ 56,703	0	0.00	\$ -	0	0	0.00	\$ -	0	0.00	\$ -	\$ 56,703	0.34%
State Parks	837	0.21	\$ 2,497,905	142	0.04	\$ 423,778	0	0	0.00	\$ -	0	0.00	\$ -	\$ 2,921,684	18%
Total	3,467	0.89	\$ 10,346,759	427	0.11	\$ 1,274,320	88,240	203	1.00	\$ 2,988,277	2,058	1.00	\$ 1,992,185	\$ 16,601,541	100%

STATE PARKS AND REGIONAL PARKS EXCLUDED

		HMA Mgmt Multiplier			DwR Multiplier (same as HMA)			Borderland Multiplier			Interim Mgmt Multiplier				
Total Funds to be allocated		70%			70%			18%			12%				
\$	16,601,541	\$ 11,621,079						\$ 2,988,277			\$ 1,992,185				
Jurisdiction	HMA	HMA Monitoring Effort	HMA Monitoring Allocation	Development with Reserve (DWR)	DWR Monitoring Effort	DwR Allocation	Borderland	Borderland	Borderland Effort	Borderland Allocation	Interim Mgmt in Development Parcels	Interim Mgmt Effort	Interim Mgmt Allocation	Total Allocation	Percent
	acres	%	\$	acres	%	\$	linear ft	acres	%	\$	acres	%	\$		
Monterey County	1,571	0.54	\$ 6,304,114	277	0.10	\$ 1,111,547	43,500	100	0.49	\$ 1,473,142	693	0.34	\$ 670,971	\$ 9,559,774	58%
Seaside	0	0.00	\$ -	0	0.00	\$ -	14,740	34	0.17	\$ 499,175	389	0.19	\$ 376,716	\$ 875,891	5%
Marina	236	0.08	\$ 947,022	0	0.00	\$ -	0	0	0.00	\$ -	0	0.00	\$ -	\$ 947,022	6%
Monterey City	0	0.00	\$ -	0	0.00	\$ -	0	0	0.00	\$ -	32	0.02	\$ 30,977	\$ 30,977	0.19%
Del Rey Oaks	0	0.00	\$ -	0	0.00	\$ -	7,100	16	0.08	\$ 240,444	301	0.15	\$ 291,084	\$ 531,528	3%
CSUMB	0	0.00	\$ -	0	0.00	\$ -	2,600	6	0.03	\$ 88,050	333	0.16	\$ 322,351	\$ 410,400	2%
University of California	598	0.21	\$ 2,399,656	8	0.00	\$ 32,102	0	0	0.00	\$ -	0	0.00	\$ -	\$ 2,431,759	15%
Monterey Peninsula College	206	0.07	\$ 826,638	0	0.00	\$ -	20,300	47	0.23	\$ 687,466	310	0.15	\$ 300,086	\$ 1,814,190	11%
Total	2,611	0.90	\$ 10,477,430	285	0.10	\$ 1,143,649	88,240	203	1.00	\$ 2,988,277	2,058	1.00	\$ 1,992,185	\$ 16,601,541	100%

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is only jurisdiction that we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers. Interim mgmt columns hidden
- Interim management cannot be defined at this time because the required activities are unknown.

						CFD Funds for Habitat Mgmt 0.302			
Total Funds to be allocated									
\$	16,601,541					\$	16,601,541		
Jurisdiction	Contributions to CFD thru FY 18-19	Contributions to CFD FY 19-20	Total Contribution to Date	%	\$	Total Allocation	Percent		
	\$	\$	\$	%	\$				
Monterey County	\$ 22,278,699	\$ 2,539,569	\$ 24,818,268	0.42	\$ 6,966,317	\$ 6,966,317	42%	212	89
Seaside	\$ 10,084,195	\$ -	\$ 10,084,195	0.17	\$ 2,830,564	\$ 2,830,564	17%	212	36
Marina	\$ 23,836,552	\$ 405,792	\$ 24,242,344	0.41	\$ 6,804,660	\$ 6,804,660	41%	212	87
Monterey City	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		212
Del Rey Oaks	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		
State Parks	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		
University of California	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		
Monterey Peninsula College	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		
Monterey Peninsula Regional Parks	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		
CSUMB	\$ -	\$ -	\$ -	0.00	\$ -	\$ -	0%		0.280795
Total	\$ 56,199,445	\$ 2,945,361	\$ 59,145,561		\$ 16,601,541	\$ 16,601,541	100%		
To Date Total CFD Contributions		\$ 59,145,561						\$	0
Funds Received at 0.25 rate thru FY 6/14		\$ 24,238,818		0.25	\$ 6,059,704				
Funds Received at 0.302 rate FY 14/15 thru current		\$ 34,906,743		0.302	\$ 10,541,836.52				
East Garrison (MOCO) CFD Credits FY 14/15 - 16/17		\$ 2,021,053		0.302	\$ 610,358				
Shea (Marina) CFD Credits FY 14/15 - 16/17		\$ 1,018,890		0.302	\$ 307,705				

Plant seedlings in
coast live oak
woodland (10% of
total every yr)

Aerial Mapping every 10 years

Jurisdiction	HMA acres	HMA % of Total %	Restoration acres	Habitat Enhancement acres	Plants - Group 1 acres	Plants - Group 2 acres	Plants - Group 3 acres	Abundance Sampling # species	Wildlife P/A surveys # species	Notes
Monterey County	1848	89	8	376	1950	493	109	9	5 MOCO has 91% of the plant/wildlife monitoring effort and 89% of the aerial mapping effort	
Seaside	0	0	0	0	0	0	0	0		
Marina	236	11	0	0	201	55	53	6	5 Marina has 9% of the plant/wildlife monitoring effort, and 11% of the aerial mapping effort	
Monterey City	0	0	0	0	0	0	0	0		
Del Rey Oaks	0	0	0	0	0	0	0	0		

Assumptions & Notes

Group 1 Plant Species: Sand gilia, Monterey spineflower, seaside
bird's-beak
Group 2 Plant Species: Maritime Chapparral
Group 3 Plant Species: Coast Wallflower

mapping %
2552 89
309 11
2861

Species	Acres of Habitat			
	Monterey County	%	Marina	%
<i>Plants</i>				
Sand gilia	799	97	26	3
Monterey Spineflower	967	85	174	15
Seaside bird's beak	184	100	0	0
Eastwood's ericameria	276	90	32	10
Hooker's manzanita	229	100	0	0
Toro manzanita	467	100	0	0
Coast Wallflower	109	67	53	33
Monterey ceanothus	570	91	57	9
Sandmat manzanita	1682	88	235	12
<i>Animals</i>				
Smith's blue butterfly	0	0	0.01	100
California tiger salamander	1599	94	107	6
California red-legged frog	1517	98	33	2
Black legless lizard	257	82	58	18
Linderiella	2	100	0	0
Monterey ornate shrew	1828	89	235	11
Overall totals	10486	91	1010	9

Habitat Type	Acres of Habitat							
	Monterey County		Seaside		Monterey City		Del Rey Oaks	
		%		%		%		%
Maritime Chaparral	120	14	384	46	31	4	302	36
Coast live oak woodland/savannah	589	100	0.01	0	0	0	0	0
Grassland	27	76	9	24	0	0	0	0
Wetland and open water	1	43	0	0	0	0	2	57
Overall totals	738	0.50	393	0.27	31	0.02	304	0.21



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE
Friday, March 20, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

AGENDA

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

3. APPROVAL OF MEETING MINUTES

ACTION

- a. March 6, 2020

4. BUSINESS ITEMS

- a. March 13, 2020 meeting recap

INFORMATION

- b. Habitat formula review with breakdown of options

INFORMATION/ACTION

- c. Habitat-related 2018 Transition Plan Recommendation(s)

INFORMATION/ACTION

- d. JPA DRAFT Agreement review/discussion

INFORMATION/ACTION

- e. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: March 27, 2020



FORT ORD REUSE AUTHORITY

REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
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5. FUTURE AGENDA ITEMS

DISCUSSION

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

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NEXT MEETING: March 27, 2020



**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 6, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Ian Oglesby called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Councilmember Frank O'Connell (City of Marina) – Co-Chair

Mayor Ian N. Oglesby (City of Seaside) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Jeff Oyn (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Bernadette Clueit (ICF) – via phone

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS) – via phone

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

No public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 21, 2020

MOTION: On motion by Mr. Uslar, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved to approve the February 21, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 28, 2020 meeting recap

Mr. Metz gave an overview of the last meeting, noting that the HWG discussed providing a formula for the potential allocation of funds which will be discussed in item 4b on today's agenda. Mr. Metz noted that last night, the Seaside City Council gave unanimous approval for their Campus Town Project.

b. Habitat formula review

Ms. Flint started off the item, giving the HWG a background on the formula drafted by the consultants for the HWG consideration. Mr. Gabbe gave a presentation on the habitat formula. He presented an interactive Excel spreadsheet that showed different potential percentage breakdowns. Mr. Gabbe, Ms. Harwayne, and Mr. Willoughby answered questions and responded to comments from the HWG. Discussion followed regarding whether the universities and parks should be included in this model. Mr. Oglesby noted that he'd like the HWG to establish consensus on "who's in and who's out" of the JPA.

Public comment was received on this item.

Mr. Haffa noted that there could be three different options with regard to the formula breakdown: the original option as presented by Mr. Gabbe, an option without State Parks, and an option with all entities included. Mr. Gaglioti and Mr. Malin noted their preference is to vote today on this item and make a decision. Mr. Oglesby asked that the HWG move on to the next item due to time.

c. JPA Draft Agreement review/discussion

Mr. Metz noted that Mr. Willoughby will be giving an update on the JPA draft process. Mr. Willoughby said that BLM and the Monterey Regional Park District asked not be a part of the potential JPA. He noted that if the HWG is going to move down a JPA path, FORA will need to be part of the JPA, and it will no longer be a member after FORA dissolves. He noted that the ad-hoc legal group has made significant process and that they will need guidance from the HWG on certain areas. Those areas needing guidance are as follows:

- Should the JPA be a skeletal framework just so that it can exist in order to receive the \$17 million from FORA or should there be a more fleshed-out JPA that has more capabilities?
- Regarding the allocation of the habitat funds, and the best way to split the funds. The initial impression is that the formula will also apply to the JPA, and the legal group expects consistency between the several relevant documents.
- If a JPA is formed but not everyone wants to join, are those who are left out going to receive any money? These questions depend on when the hypothetical jurisdiction potentially withdraws from the JPA.
- What will the source of operational funds for the JPA be? Will it come from depleting the \$17 million? Will FORA provide unrestricted seed money?
- Does the JPA have the authority to hire employees? Because of PERS liability changes, there's a possibility that members could have liabilities.
- The HWG needs to receive an opinion from the bond counsel at some point in this process.

Mr. Willoughby then answered questions from the HWG regarding these areas with further discussion made.

Public comment on this item was received.

d. Habitat-related 2018 Transition Plan Recommendation(s)

Ms. Flint asked that this item be brought back next week for discussion.

e. Other discussion

None

5. FUTURE AGENDA ITEMS

- Reduced take scenario phasing discussion
- Habitat formula review with breakdown of options
- JPA Draft Agreement review/discussion
- Habitat-related 2018 Transition Plan Recommendation(s)

6. ADJOURNMENT at 11:45 a.m.

DRAFT



FORT ORD REUSE AUTHORITY

REVISED REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

Friday, March 27, 2020 at 10:00 a.m.

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

AGENDA

This meeting may **only** be accessed remotely using the following Zoom link:

<https://zoom.us/j/956115894>

Please review FORA's updated meeting protocol and remote meeting best practices here:

https://fora.org/remote_meetings_protocols

1. CALL TO ORDER

2. PUBLIC COMMENT PERIOD

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3. APPROVAL OF MEETING MINUTES

ACTION

- a. March 6, 2020

4. BUSINESS ITEMS

- a. March 13, 2020 meeting recap **INFORMATION**
- b. Habitat formula review with breakdown of options **INFORMATION/ACTION**
- c. Habitat-related 2018 Transition Plan Recommendation(s) **INFORMATION/ACTION**
- d. JPA DRAFT Agreement review/discussion **INFORMATION/ACTION**
- e. Other discussion

5. FUTURE AGENDA ITEMS

DISCUSSION

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

6. ADJOURNMENT

NEXT MEETING: April 3, 2020

Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at www.fora.org.



FORT ORD REUSE AUTHORITY

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**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
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1. CALL TO ORDER

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Vicki Nakamura (MPC)

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Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Bernadette Clueit (ICF) – via phone

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS) – via phone

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

No public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 21, 2020

MOTION: On motion by Mr. Uslar, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved to approve the February 21, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 28, 2020 meeting recap

Mr. Metz gave an overview of the last meeting, noting that the HWG discussed providing a formula for the potential allocation of funds which will be discussed in item 4b on today's agenda. Mr. Metz noted that last night, the Seaside City Council gave unanimous approval for their Campus Town Project.

b. Habitat formula review

Ms. Flint started off the item, giving the HWG a background on the formula drafted by the consultants for the HWG consideration. Mr. Gabbe gave a presentation on the habitat formula. He presented an interactive Excel spreadsheet that showed different potential percentage breakdowns. Mr. Gabbe, Ms. Harwayne, and Mr. Willoughby answered questions and responded to comments from the HWG. Discussion followed regarding whether the universities and parks should be included in this model. Mr. Oglesby noted that he'd like the HWG to establish consensus on "who's in and who's out" of the JPA.

Public comment was received on this item.

Mr. Haffa noted that there could be three different options with regard to the formula breakdown: the original option as presented by Mr. Gabbe, an option without State Parks, and an option with all entities included. Mr. Gaglioti and Mr. Malin noted their preference is to vote today on this item and make a decision. Mr. Oglesby asked that the HWG move on to the next item due to time.

c. JPA Draft Agreement review/discussion

Mr. Metz noted that Mr. Willoughby will be giving an update on the JPA draft process. Mr. Willoughby said that BLM and the Monterey Regional Park District asked not be a part of the potential JPA. He noted that if the HWG is going to move down a JPA path, FORA will need to be part of the JPA, and it will no longer be a member after FORA dissolves. He noted that the ad-hoc legal group has made significant process and that they will need guidance from the HWG on certain areas. Those areas needing guidance are as follows:

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- The HWG needs to receive an opinion from the bond counsel at some point in this process.

Mr. Willoughby then answered questions from the HWG regarding these areas with further discussion made.

Public comment on this item was received.

d. Habitat-related 2018 Transition Plan Recommendation(s)

Ms. Flint asked that this item be brought back next week for discussion.

e. Other discussion

None

5. FUTURE AGENDA ITEMS

- Reduced take scenario phasing discussion
- Habitat formula review with breakdown of options
- JPA Draft Agreement review/discussion
- Habitat-related 2018 Transition Plan Recommendation(s)

6. ADJOURNMENT at 11:45 a.m.

DRAFT



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 27, 2020 at 10:00 a.m.
~~940 2nd Avenue, Marina, CA 93933 (Carpenters Hall)~~

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Bill Collins (BRAC)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Councilmember Frank O'Connell (City of Marina)

Mayor Ian N. Oglesby (City of Seaside)

Dino Pick (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS)

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. March 6, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the March 6, 2020 HWG meeting minutes with one correction.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. March 13, 2020 meeting recap

Mr. Metz recapped the previous meeting for the HWG, noting that the group discussed the habitat formula review in some depth. The group also discussed the Transition Plan, but recognized that the work of the habitat formula was most critical. He also noted that the group tabled the JPA discussion until the appropriate time, which will be informed by the deliberations on the habitat formula. The group also discussed the makeup of the voting body for the HWG.

b. Habitat formula review with breakdown of options

Ms. Flint started off the item noting that the HWG asked the consultant team to go over the CFD allocation options. She noted that Mr. Gabbe will present the four options and that Mr. Malin will have a fifth option to discuss after that. Mr. Gabbe gave a quick review of the four alternatives. He gave a quick breakdown of each, going over the different allocations of CFD funds and how they are distributed to each jurisdiction. Following this, Mr. Malin gave a presentation of his allocation model. Then the HWG members had a robust discussion regarding the various options

MOTION: On motion by Mr. Haffa, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved that they recommend Option 5 (the Seaside Proposal) to the FORA Board.

MOTION PASSED MAJORITY

Supervisor Jane Parker	NO
Mayor Ian Oglesby	YES
Mayor Pro-Tem Gail Morton	YES
Councilmember John Gaglioti	YES
Councilmember Alan Haffa	YES

c. Habitat-related 2018 Transition Plan Recommendation(s)
None

d. JPA DRAFT Agreement review/discussion

Ms. Parker noted that those jurisdictions that are interested in forming a JPA set up a time and place to meet to discuss that.

e. Other discussion

Ms. Flint discussed that the HWG’s recommendation will be brought to the FORA Board at the April 9, 2020 meeting. Ms. Parker noted that with the habitat recommendation made, the work of the HWG is finished. She thanked all jurisdictions for joining in the discussions these past few months. Josh thanked all members for participating and for all work that the consultants put in and that he appreciated the opportunity to facilitate this discussion. Members of the HWG thanked Ms. Parker for leading the group.

5. FUTURE AGENDA ITEMS

None

6. ADJOURNMENT at 11:49 a.m.



Memorandum

Date:	March 26, 2020
To:	Fort Ord Reuse Authority Habitat Working Group
Cc:	Josh Metz
From:	Aaron Gabbe, Ph.D. Bernadette Clueit
Subject:	CFD Allocation Alternatives

This memorandum provides a brief overview of the four alternative strategies for allocating Community Facility District (CFD) fees to the local jurisdictions and entities for habitat management purposes, which have previously been presented to the Fort Ord Reuse Authority (FORA) Habitat Working Group (HWG) during HWG meetings on March 6 and March 13, 2020. The alternatives are provided as Attachment A to this memorandum and are summarized below.

The first three alternatives allocate CFD funds based on the acreage controlled by the relevant jurisdiction and differ significantly only in which jurisdictions are included in the distribution of funds.

- **Alternative 1.** CFD funds are allocated to the County and to the Cities only.
- **Alternative 2.** CFD funds are allocated to all jurisdictions.
- **Alternative 3.** CFD funds are allocated to the County, the Cities, the Universities, and the College. State Parks and Regional Parks are excluded.

The fourth alternative differs substantially from the first three, in that funds are allocated only to those jurisdictions which have made contributions to the CFD fees to date.

- **Alternative 4.** CFD funds are allocated to Monterey County, Seaside, and Monterey City as a percentage of total fee contribution to date.

It should be noted that CFD fees collected to date that are set aside for habitat management activities totals \$17,441,927. University of California Santa Cruz (UCSC) has already received disbursement totaling \$840,386 of the available habitat management funds. Therefore, under Alternative 1 and Alternative 4 (where UCSC is not included as a recipient of funds) the total amount available for allocation to the jurisdictions included in these alternatives is \$16,601,541.

Alternative 1 - Allocation based on Acreage
County and Cities Only

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier			
Total Funds to be allocated		70%		70%		18%		12%			
\$	16,601,541	\$ 11,621,079				\$ 2,988,277		\$ 1,992,185			
Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation \$	Percent	
Monterey County	1,571	\$ 8,760,420	277	\$ 1,544,644	100	\$ 1,989,441	693	\$ 975,872	\$ 13,270,377	80%	
Seaside	0	\$ -	0	\$ -	34	\$ 674,123	389	\$ 547,902	\$ 1,222,026	7%	
Marina	236	\$ 1,316,015	0	\$ -	0	\$ -	0	\$ -	\$ 1,316,015	8%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 45,053	\$ 45,053	0.27%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 324,713	301	\$ 423,358	\$ 748,071	5%	
Total	1,807	\$ 10,076,434	277	\$ 1,544,644	150	\$ 2,988,277	1,415	\$ 1,992,185	\$ 16,601,541	100%	

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is the only jurisdiction we have data we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers.
- Interim management cannot be defined at this time because the required activities are unknown.
- Be advised that \$840,386 of CFD Funds have been previously distributed to USCSC, therefore the total funds to be allocated is reduced by this amount.



Alternative 2 - Allocation by Acreage
All Jurisdictions Included

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier					
Total Funds to be allocated		70%		70%		18%		12%					
\$	17,441,927	\$ 12,209,349				\$ 3,139,547		\$ 2,093,031					
Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation \$	Funds Already Received \$	Net Allocation \$	Percent	
Monterey County	1,571	\$ 4,925,754	277	\$ 868,513	100	\$ 1,547,714	693	\$ 704,936	\$ 8,046,918	\$ -	\$ 8,046,918	46%	
Seaside	0	\$ -	0	\$ -	34	\$ 524,444	389	\$ 395,786	\$ 920,230	\$ -	\$ 920,230	5%	
Marina	236	\$ 739,961	0	\$ -	0	\$ -	0	\$ -	\$ 739,961	\$ -	\$ 739,961	4%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 32,545	\$ 32,545	\$ -	\$ 32,545	0.19%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 252,615	301	\$ 305,819	\$ 558,435	\$ -	\$ 558,435	3%	
CSUMB	0	\$ -	0	\$ -	6	\$ 92,507	333	\$ 338,668	\$ 431,175	\$ -	\$ 431,175	2%	
University of California	598	\$ 1,874,985	8	\$ 25,083	0	\$ -	0	\$ -	\$ 1,900,068	\$ 840,386	\$ 1,059,682	11%	
Monterey Peninsula College	206	\$ 645,898	0	\$ -	47	\$ 722,267	310	\$ 315,277	\$ 1,683,441	\$ -	\$ 1,683,441	10%	
Monterey Peninsula Regional Parks	19	\$ 59,573	0	\$ -	0	\$ -	0	\$ -	\$ 59,573	\$ -	\$ 59,573	0.34%	
State Parks	837	\$ 2,624,352	142	\$ 445,230	0	\$ -	0	\$ -	\$ 3,069,582	\$ -	\$ 3,069,582	18%	
Total	3,467	\$ 10,870,522	427	\$ 1,338,827	203	\$ 3,139,547	2,058	\$ 2,093,031	\$ 17,441,927	\$ 840,386	\$ 16,601,541	100%	

Assumptions & Notes

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- Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.



Alternative 3 - Allocation by Acreage
State Parks and Regional Parks Excluded

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier					
Total Funds to be allocated		70%		70%		18%		12%					
\$	17,441,927	\$ 12,209,349				\$ 3,139,547		\$ 2,093,031					
Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation \$	Funds Already Received \$	Net Allocation \$	Percent	
Monterey County	1,571	\$ 6,623,235	277	\$ 1,167,814	100	\$ 1,547,714	693	\$ 704,936	\$ 10,043,699	\$ -	\$ 10,043,699	58%	
Seaside	0	\$ -	0	\$ -	34	\$ 524,444	389	\$ 395,786	\$ 920,230	\$ -	\$ 920,230	5%	
Marina	236	\$ 994,961	0	\$ -	0	\$ -	0	\$ -	\$ 994,961	\$ -	\$ 994,961	6%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 32,545	\$ 32,545	\$ -	\$ 32,545	0.19%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 252,615	301	\$ 305,819	\$ 558,435	\$ -	\$ 558,435	3%	
CSUMB	0	\$ -	0	\$ -	6	\$ 92,507	333	\$ 338,668	\$ 431,175	\$ -	\$ 431,175	2%	
University of California	598	\$ 2,521,129	8	\$ 33,727	0	\$ -	0	\$ -	\$ 2,554,857	\$ 840,386	\$ 1,714,471	15%	
Monterey Peninsula College	206	\$ 868,483	0	\$ -	47	\$ 722,267	310	\$ 315,277	\$ 1,906,026	\$ -	\$ 1,906,026	11%	
Total	2,611	\$ 11,007,807	285	\$ 1,201,542	203	\$ 3,139,547	2,058	\$ 2,093,031	\$ 17,441,927	\$ 840,386	\$ 16,601,541	100%	

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
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- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers.
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- Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.



Alternative 4 - Allocation by CFD Contribution

				CFD Funds for Habitat Mgmt	
				0.302	
Total Funds to be allocated					
\$	16,601,541				
Jurisdiction	Contributions to CFD thru 18-19	Contributions to CFD FY 19-20	Total Contribution to Date	Total Allocation	Percent
	\$	\$	\$		
Monterey County	\$ 22,278,699	\$ 2,539,569	\$ 24,818,268	\$ 6,966,317	42%
Seaside	\$ 10,084,195	\$ -	\$ 10,084,195	\$ 2,830,564	17%
Marina	\$ 23,836,552	\$ 405,792	\$ 24,242,344	\$ 6,804,660	41%
Monterey City	\$ -	\$ -	\$ -	\$ -	0%
Del Rey Oaks	\$ -	\$ -	\$ -	\$ -	0%
State Parks	\$ -	\$ -	\$ -	\$ -	0%
University of California	\$ -	\$ -	\$ -	\$ -	0%
Monterey Peninsula College	\$ -	\$ -	\$ -	\$ -	0%
Monterey Peninsula Regional Parks	\$ -	\$ -	\$ -	\$ -	0%
CSUMB	\$ -	\$ -	\$ -	\$ -	0%
Total	\$ 56,199,445	\$ 2,945,361	\$ 59,145,561	\$ 16,601,541	100%

Assumptions & Notes

1. Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.



Summary of CFD Alternatives

Jurisdiction/Entity	Alternative 1		Alternative 2		Alternative 3		Alternative 4	
	Allocation	Percent	Net Allocation	Percent	Net Allocation	Percent	Allocation	Percent
Monterey County	\$13,270,377	79.9%	\$8,046,918	46.1%	\$10,043,699	57.6%	\$6,966,317	42.0%
Seaside	\$1,222,026	7.4%	\$920,230	5.3%	\$920,230	5.3%	\$2,830,564	17.1%
Marina	\$1,316,015	7.9%	\$739,961	4.2%	\$994,961	5.7%	\$6,804,660	41.0%
Monterey City	\$45,053	0.3%	\$32,545	0.2%	\$32,545	0.2%		
Del Rey Oaks	\$748,071	4.5%	\$558,435	3.2%	\$558,435	3.2%		
CSUMB			\$431,175	2.5%	\$431,175	2.5%		
University of California			\$1,059,682	10.9%	\$1,714,471	14.6%		
Monterey Peninsula College			\$1,683,441	9.7%	\$1,906,026	10.9%		
Monterey Peninsula Regional Parks			\$59,573	0.3%				
State Parks			\$3,069,582	17.6%				
	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%

Assumptions & Notes

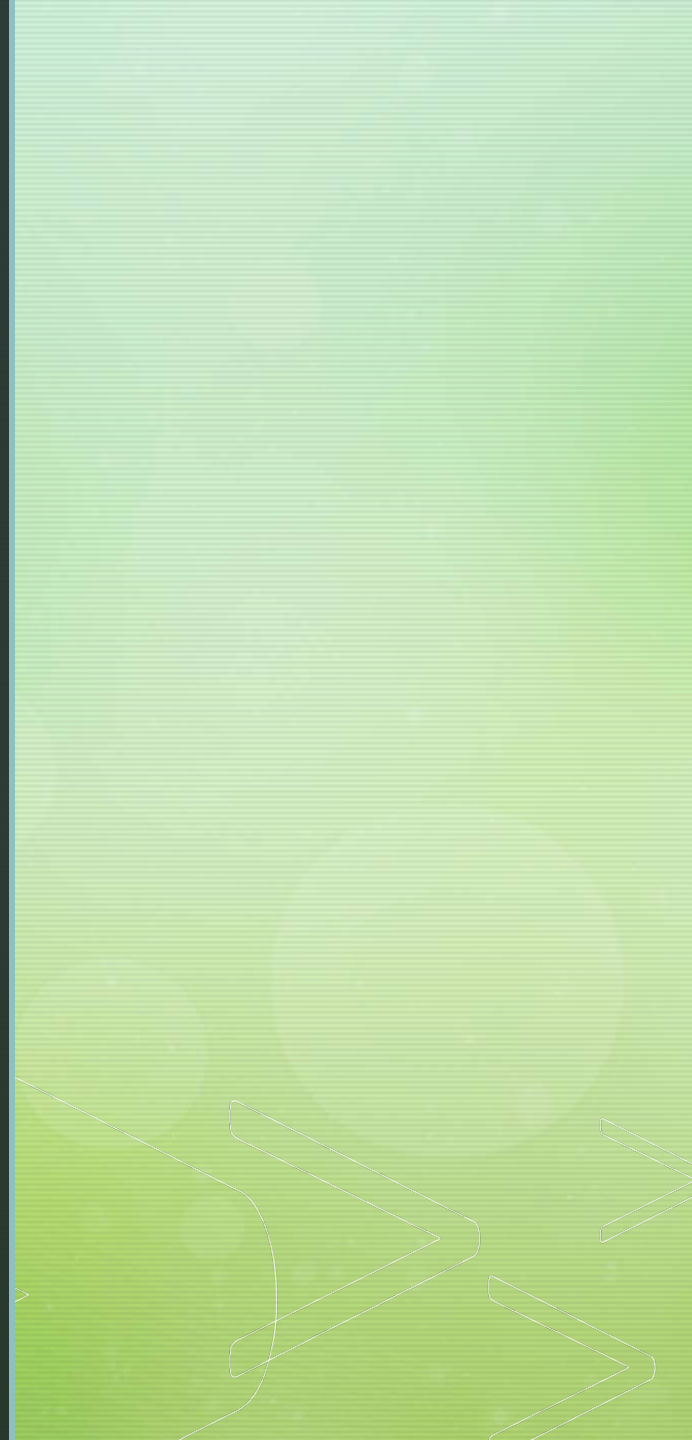
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CFD Allocation Alternatives

Habitat Working Group
March 27, 2020

Aaron Gabbe, Ph.D. ICF
Bernadette Clueit, ICF



CFD Allocation Alternatives

Four alternatives based on March 6 Habitat Working Group discussion

- **Alternative 1.** CFD funds are allocated to the County and to the Cities only.
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- **Alternative 4.** CFD funds are allocated to Monterey County, Seaside, and Monterey City as a percentage of total fee contribution to date.

CFD Allocation Alternatives

Total Amount to Allocate

- **\$17,441,927 includes \$840,386 previously distributed to UCSC**
- **\$16,601,541 without funds previously distributed to UCSC**

Alternative 1 - Allocation based on Acreage
County and Cities Only

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier			
Total Funds to be allocated		70%		70%		18%		12%			
\$	16,601,541	\$ 11,621,079				\$ 2,988,277		\$ 1,992,185			
Jurisdiction	HMA	HMA Monitoring Allocation	Development with Reserve (DwR)	DwR Allocation	Borderland	Borderland Allocation	Interim Mgmt in Development Parcels	Interim Mgmt Allocation	Total Allocation	Percent	
	acres	\$	acres	\$	acres	\$	acres	\$			
Monterey County	1,571	\$ 8,760,420	277	\$ 1,544,644	100	\$ 1,989,441	693	\$ 975,872	\$ 13,270,377	80%	
Seaside	0	\$ -	0	\$ -	34	\$ 674,123	389	\$ 547,902	\$ 1,222,026	7%	
Marina	236	\$ 1,316,015	0	\$ -	0	\$ -	0	\$ -	\$ 1,316,015	8%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 45,053	\$ 45,053	0.27%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 324,713	301	\$ 423,358	\$ 748,071	5%	
Total	1,807	\$ 10,076,434	277	\$ 1,544,644	150	\$ 2,988,277	1,415	\$ 1,992,185	\$ 16,601,541	100%	

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Alternative 2 - Allocation by Acreage
All Jurisdictions Included

Total Funds to be allocated	HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier		Total Allocation	Funds Already Received	Net Allocation	Percent
	70%	70%	18%	12%								
\$ 17,441,927	\$ 12,209,349				\$ 3,139,547		\$ 2,093,031					

Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation	Funds Already Received	Net Allocation	Percent
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Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 32,545	\$ 32,545	\$ -	\$ 32,545	0.19%
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CSUMB	0	\$ -	0	\$ -	6	\$ 92,507	333	\$ 338,668	\$ 431,175	\$ -	\$ 431,175	2%
University of California	598	\$ 1,874,985	8	\$ 25,083	0	\$ -	0	\$ -	\$ 1,900,068	\$ 840,386	\$ 1,059,682	11%
Monterey Peninsula College	206	\$ 645,898	0	\$ -	47	\$ 722,267	310	\$ 315,277	\$ 1,683,441	\$ -	\$ 1,683,441	10%
Monterey Peninsula Regional Parks	19	\$ 59,573	0	\$ -	0	\$ -	0	\$ -	\$ 59,573	\$ -	\$ 59,573	0.34%
State Parks	837	\$ 2,624,352	142	\$ 445,230	0	\$ -	0	\$ -	\$ 3,069,582	\$ -	\$ 3,069,582	18%
Total	3,467	\$ 10,870,522	427	\$ 1,338,827	203	\$ 3,139,547	2,058	\$ 2,093,031	\$ 17,441,927	\$ 840,386	\$ 16,601,541	100%

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Marina	236	\$ 994,961	0	\$ -	0	\$ -	0	\$ -	\$ 994,961	\$ -	\$ 994,961	6%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 32,545	\$ 32,545	\$ -	\$ 32,545	0.19%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 252,615	301	\$ 305,819	\$ 558,435	\$ -	\$ 558,435	3%	
CSUMB	0	\$ -	0	\$ -	6	\$ 92,507	333	\$ 338,668	\$ 431,175	\$ -	\$ 431,175	2%	
University of California	598	\$ 2,521,129	8	\$ 33,727	0	\$ -	0	\$ -	\$ 2,554,857	\$ 840,386	\$ 1,714,471	15%	
Monterey Peninsula College	206	\$ 868,483	0	\$ -	47	\$ 722,267	310	\$ 315,277	\$ 1,906,026	\$ -	\$ 1,906,026	11%	
Total	2,611	\$ 11,007,807	285	\$ 1,201,542	203	\$ 3,139,547	2,058	\$ 2,093,031	\$ 17,441,927	\$ 840,386	\$ 16,601,541	100%	

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Alternative 4 - Allocation by CFD Contribution

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Jurisdiction	Contributions to CFD thru 18-19	Contributions to CFD FY 19-20	Total Contribution to Date	Total Allocation	Percent
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Seaside	\$ 10,084,195	\$ -	\$ 10,084,195	\$ 2,830,564	17%
Marina	\$ 23,836,552	\$ 405,792	\$ 24,242,344	\$ 6,804,660	41%
Monterey City	\$ -	\$ -	\$ -	\$ -	0%
Del Rey Oaks	\$ -	\$ -	\$ -	\$ -	0%
State Parks	\$ -	\$ -	\$ -	\$ -	0%
University of California	\$ -	\$ -	\$ -	\$ -	0%
Monterey Peninsula College	\$ -	\$ -	\$ -	\$ -	0%
Monterey Peninsula Regional Parks	\$ -	\$ -	\$ -	\$ -	0%
CSUMB	\$ -	\$ -	\$ -	\$ -	0%
Total	\$ 56,199,445	\$ 2,945,361	\$ 59,145,561	\$ 16,601,541	100%

Assumptions & Notes

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Summary of CFD Alternatives

Jurisdiction/Entity	Alternative 1		Alternative 2		Alternative 3		Alternative 4	
	Allocation	Percent	Net Allocation	Percent	Net Allocation	Percent	Allocation	Percent
Monterey County	\$13,270,377	79.9%	\$8,046,918	46.1%	\$10,043,699	57.6%	\$6,966,317	42.0%
Seaside	\$1,222,026	7.4%	\$920,230	5.3%	\$920,230	5.3%	\$2,830,564	17.1%
Marina	\$1,316,015	7.9%	\$739,961	4.2%	\$994,961	5.7%	\$6,804,660	41.0%
Monterey City	\$45,053	0.3%	\$32,545	0.2%	\$32,545	0.2%		
Del Rey Oaks	\$748,071	4.5%	\$558,435	3.2%	\$558,435	3.2%		
CSUMB			\$431,175	2.5%	\$431,175	2.5%		
University of California			\$1,059,682	10.9%	\$1,714,471	14.6%		
Monterey Peninsula College			\$1,683,441	9.7%	\$1,906,026	10.9%		
Monterey Peninsula Regional Parks			\$59,573	0.3%				
State Parks			\$3,069,582	17.6%				
	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%

Assumptions & Notes

1. Be advised that UCSC has already received \$840,386 of CFD Funds, therefore the total funds to be allocated is reduced by this amount.

Contribution Respectful Formula

Originally Presented March 13, 2020

by Craig Malin

Habitat Contributions To Date

- Monterey County
\$6,966,317
- Marina
\$6,804,660
- Seaside
\$2,830,563
- Del Rey Oaks
\$0
- Monterey
\$0

*Contributions Are NOT
Projections, Based On
“Modeling”*

*Contributions Are REAL
Numbers*

Habitat Contributions v. “Alternate #1” Distributions

Contributions

- Monterey County
\$6,966,317
- Marina
\$6,804,660
- Seaside
\$2,830,563
- Del Rey Oaks
\$0
- Monterey
\$0

Distributions

- Monterey County
\$13,270,277
- Marina
\$1,316,015
- Seaside
\$1,222,026
- Del Rey Oaks
\$748,071
- Monterey
\$45,053

Obvious disparity between contributions and proposed distributions

To Address The Disparity ...

- Provide 80% of funding to Monterey and Del Rey Oaks from Alternative #1 ($\$793,124 \times .80 = \$634,499$)
So every land use jurisdiction gets something
- Compute % of total contributions to date from Monterey County (41.96%), Marina (40.98%) and Seaside (17.06%) and subtract that percentage amount from what each jurisdiction has actually paid to provide the \$634,449 to Del Rey Oaks and Monterey
So the land use jurisdictions which have paid share the pro-rata cost of making sure every land use jurisdiction gets something

Resulting In

Contributions

- Monterey County
\$6,966,317
- Marina
\$6,804,660
- Seaside
\$2,830,563
- Del Rey Oaks
\$0
- Monterey
\$0

Distributions

- Monterey County
\$6,700,082
- Marina
\$6,544,643
- Seaside
\$2,722,319
- Del Rey Oaks
\$598,456
- Monterey
\$36,042

*Every land use jurisdiction gets something,
and land use jurisdictions which have paid don't suffer huge losses*

FORT ORD REUSE AUTHORITY BOARD REPORT		
BUSINESS ITEMS		
Subject:	Habitat Working Group (HWG) Ad-Hoc Committee Report & Set Aside Funds Distribution Recommendation	
Meeting Date:	April 9, 2020	INFORMATION
Agenda Number:	8b	

RECOMMENDATION(s):

- i. Receive HWG Ad-Hoc Committee Report.
- ii. Approve HWG 3/13 & 3/27 minutes.
- iii. Approve habitat set-aside funds distribution.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority (“FORA”) Board requested that staff assist and support the Habitat Working Group (“HWG”) Ad-Hoc Committee to evaluate options for agencies to address environmental compliance with state and federal endangered species laws (**Attachment A**). These options included the viability of implementation via the Fort Ord Habitat Management Plan (“HMP”), basewide Habitat Conservation Plan (“HCP”) and/or other approaches if possible.

The HWG consisted of Board Members representing member agencies, and meetings were jointly noticed as Special Meetings of the FORA Administrative Committee to allow members of the FORA Board and Administrative Committee to attend and share information freely. Public comment was allowed following each business item.

Meetings were held on January 10: Potential Topics for Discussion , January 17: Presentation from Regulatory Agencies , January 24: Consideration of Revised Land Use Projections , January 31: Possible Options for Future Collaboration/Discussion , February 14: Discussion of Possible JPA , February 21: HMP Cost Model Presentation and HCP Options , February 28: EIR Options and Phasing Discussion , March 6: Habitat Formula Review and Draft JPA agreement , March 13: Habitat Formula Review Update , and March 27: Final Review of Habitat Funds Distribution. Compiled approved minutes for Jan 10- March 6, 2020 are attached (**Attachment B**). Draft minutes for March 13 (**Attachment C**) and March 27 (**Attachment D**) are attached separately.

During the March 27, 2020 meeting, the HWG considered 5 alternative approaches to allocating habitat conservation set aside funds collected under the FORA Community Facilities District (“CFD”). Alternatives 1-4 were developed by HCP consultants ICF & Denise Duffy & Associates (“DDA”) and used habitat acres as a proxy for need (**Attachment E**). Alternative 5 was developed by the City of Seaside, and allocated funds based on a combination of a) where funds were generated, and b) habitat need (**Attachment F**). The HWG recommended the Board adopt Alternative 5 and allocate the habitat funds to individual land use jurisdictions as shown in Table 1 below:

Table 1. Alternative 5 Habitat Set Aside Funds Allocation

Jurisdiction	Habitat Set Aside Funds Allocation
Monterey County	\$6,700,082 or 40% ¹
City of Marina	\$6,544,643 or 39%
City of Seaside	\$2,722,319 or 16%
City of Del Rey Oaks	\$598,456 of 4%
City of Monterey	\$36,042 or 1%

Over the course of HWG meetings, members and Authority Counsel discussed a range of possible avenues for conveying the CFD funds within the constraints of the Mello-Roos Community Facilities Act of 1982. Those alternatives are summarized in the attached memo for discussion (**Attachment G**).

At the conclusion of the March 27 meeting, it was recommended that the HWG conclude its meetings and encourage member agencies with interest in a potential post-FORA, habitat conservation and management joint powers authority to organize meetings as soon as possible.

FISCAL IMPACT:

Reviewed by FORA Controller  _____

COORDINATION:

Authority Counsel, Administrative and Executive Committees, land use jurisdictions, relevant agencies.

ATTACHMENTS:

- A. HWG Committee Charge
- B. Jan10-Mar 6, 2020 Approved Minutes
- C. DRAFT HWG Mar 13, 2020 Minutes
- D. DRAFT HWG Mar 27, 2020 Minutes
- E. ICF Habitat Set Aside Funds Allocation Alternative 1-4
- F. City of Seaside - Habitat Set Aside Funds Allocation, Alternative 5
- G. April 3, 2020 – Authority Counsel memo regarding CFD Fund Transfer Options

Prepared by Kendall Flint RGS and Approved by


Joshua Metz

¹ In each case funds would be allocated by the total amount of percentage, whichever is higher.



FORT ORD REUSE AUTHORITY

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Habitat Working Group Ad Hoc Committee

Committee Charge

The Habitat Working Group (“HWG”) Ad Hoc Committee is comprised of FORA land use jurisdictions and potential Habitat Conservation Plan (“HCP”) permittees, and is charged with understanding and evaluating questions and concerns regarding long-term habitat management options on the former Fort Ord, coming to agreement(s), and reporting back to the full Board. FORA staff supported by consultants will provide technical and administrative support to the HWG. The HWG effort is anticipated to have a limited duration, with goals of formulating agreements and forwarding priority recommendations to the Board in February or March 2020.



APPROVED

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

10:00 a.m. Friday, January 10, 2020 | FORA Board Room
920nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County)
Mayor Pro Tem Gayle Morton (City of Marina)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Councilmember Ian Oglesby (City of Seaside)
Layne Long (City of Marina)
Hans Uslar (City of Monterey)
Craig Malin (City of Seaside)
Patrick Breen (MCWD)

Members of the Consultant Team included:

Kendall Flint (RGS)
Tom Graves (RGS)
Aaron Gabbe (ICF)
Erin Harwayne (DDA)
Ellen Martin (EPS)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Discussion of Meeting Objectives

The group held a brief discussion outlining the purpose of the Habitat Working Group: to identify possible options for agencies to address environmental compliance with state and federal requirements for habitat management and/or mitigation on the former Fort Ord. This would include discussions regarding the viability of implementation via a Habitat Management Plan, a Habitat Conservation Plan and/or a hybrid approach if possible.

b. Committee Structure

Co-Chair Parker described the proposed structure of the committee with herself and Executive Officer Josh Metz serving as Co-Chairs. No objections were made.

Meetings will be jointly noticed to allow members of the FORA Board and Administrative Committee to attend and share information freely. Public comment will be allowed following each business item discussed.

Any public agency with property in the former Fort Ord that may require habitat management may participate in the Working Group. It is anticipated that participation would include a Board member representing the agency, an Administrative Committee member representing the agency and/or staff members including but not limited to legal counsel. The group determined that there was no set number of participants per agency as the objective was to achieve consensus as opposed to voting on specific items. Co-Chair Parker said the Working Group would be informing the FORA Board what it has come up with. If actions are taken, they would be shared with the Board as recommendations.

c. Group Exercise: Define Key Topic Areas for Future Meetings

The Working Group held a breakout session by Agency to identify key areas of concerns, questions for the Group and its consultant team to address at future meetings, and challenges to the environmental compliance process including fiscal impacts and potential liabilities to each agency. A list of questions already identified by agencies were provided to all participants for review. Each group reported back its concerns with the goal of identifying common concerns for future meeting discussions.

Monterey County**Habitat**

If we reduce the scale of the HCP, would this reduce the costs and stay ahead provision? Would this reduction in scope lower start-up costs for implementation?

Finance

What is the mechanism for collection of fees for future development to replace the existing CFD? Who will defend and pay for litigation over HCP/EIR approval? Would this fall to the JPA or to agencies?

Take Permits

Should we reduce the permit for realistic near-term development over the next 25 years?

Other

Who would manage the proposed JPA if one is established by July 1, 2020? What can we feasibly accomplish by June 30, 2020? If the EIR is approved but no project (the HCP) has been selected?

City of Monterey

Habitat

Prefers the JPA concept for governance as it allows for joint management of the habitat at a reduced cost, facilitates access to take permits, offers legal protection and shared risks. The City also noted that the EIR/EIS is almost complete

How long (planning horizon) do we really need to plan for?

City of Marina and City of Del Rey Oaks

Habitat

If we reduce the scale of the HCP would the EIR and EIS still be valid? Can we reopen the HCP to better reflect development assumptions?

Finance

Marina has already established and set a fee for development yielding a set amount. How will other agencies collect set and collect fees and will they be enough to cover the cost of establishing a proposed endowment to fund the HCP?

City of Seaside

Habitat

What species does each agency have, where are they located and how many acres must be maintained/restored?

What protections do agencies have if others are non-compliant?

How can we best optimize mitigation areas within habitat management areas?

Non-Land Use Agencies

What liability/responsibilities would these agencies incur if a JPA is formed?

d. Approve Draft Schedule

Co-Chair Metz then focused on upcoming meeting topics and agendas. A series of eight additional meetings are planned. Topics for future meetings will be discussed each week. The group agreed on the next two subject areas for upcoming meetings:

- January 17th will focus on compliance requirements with representative from United States Fish & Wildlife Service and California Fish and Game.
- January 24th will focus on legal and financial issues related to establishing a “cooperative” and/or other mechanism(s) to address environmental compliance and review options related to reducing the size of the proposed mitigation and management areas.

4. ITEMS FROM MEMBERS

None.

5. ADJOURNMENT 12:00 p.m.

Co-Chair Parker adjourned the meeting at noon.



APPROVED

REGULAR MEETING

**FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP
And
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

10:00 a.m. Friday, January 17, 2020 | FORA Board Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:02 a.m.

The following FORA Board and Administration Committee members were present:

- Supervisor Jane Parker (Co-Chair, Monterey County)
- David Martin (Monterey Peninsula College)
- Mayor Pro Tem Gail Morton (City of Marina)
- Councilmember John Gaglioti (City of Del Rey Oaks)
- Councilmember Alan Haffa (City of Monterey)
- Mayor Ian Oglesby (City of Seaside)
- Dino Pick, (City of Del Rey Oaks)
- Layne Long (City of Marina)
- Hans Uslar (City of Monterey)
- Craig Malin (City of Seaside)
- Patrick Breen (Marina Coast Water District)
- Josh Metz, (Executive Officer, Co-Chair)

Members of the Consultant Team included:

- Kendall Flint (RGS)
- Aaron Gabbe (ICF)
- Erin Harwayne (DDA)
- Ellen Martin (EPS)
- David Willoughby, FORA Counsel's Office

Other Attendees included:

- Matt Mogensen, City of Marina, Assistant City Manager
- Sheri Damon, City of Seaside, City Attorney
- Wendy Strimling, Monterey County Sr. Deputy County Counsel
- Mike Wegley, Marina Coast Water District, District Engineer

2. PUBLIC COMMENT PERIOD

No public comments were received.

Co-Chair Parker explained that there were actually two Committees in attendance today: The Fort Ord Reuse Authority Habitat Working Group (HWG) as a Regular Meeting and the Fort Ord Reuse Authority Administrative Committee as a Special Meeting.

3. BUSINESS ITEMS

a. Approve meeting minutes from January 10, 2020 (No action taken).

b. Today's Meeting Objective

Co-Chair Parker encouraged members to take advantage of the representatives here today from State and Federal agencies, and to listen carefully to their responses.

c. Review of Environmental Compliance Requirements and Address Questions

Staff from California Department of Fish and Wildlife and the US Fish and Wildlife Service were in attendance to answer questions.

Julie Vance Regional Manager, Central Region
California Department of Fish and Wildlife

Annee Ferranti, Environmental Program Manager Habitat Conservation Planning
California Department of Fish and Wildlife Central Region

Leilani Takano, Assistant Field Supervisor North Coast Division
US Fish and Wildlife Service, Ventura Fish and Wildlife Office

Rachel Henry, Habitat Conservation Plan Coordinator
U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office

i. What are the basic requirements for each agency to comply with State and Federal provisions?

Regarding permits in general, pursuant to the California Endangered Species Act (CESA). Fort Ord has been on the Incidental Take Permit (ITP) track. That said, if people are interested it might be worth exploring the Natural Community Conservation Plan as opposed to an HCP, but that can be decided at a later date. The take has to be fully mitigated, which is a pretty high standard, and the way that is done is impacts to the covered species and, in this case, there are several State species. Only State species would be addressed in the State program. The impacts are described in the project. There will be a large list of covered activities and generally the mitigation is in the form of perpetual mitigation land conservation. Typically, that's done with recreation and conservation activities, and an endowment that funds the management of those properties for the purpose of species conservation. The idea is that those management activities provide a lift to those habitats such that impacts are mitigated by enhancing numbers of the species. Otherwise, there would be a net loss.

The State can't issue a take permit to one entity and allow other entities to do the take. That's why the State has always believed that FORA as an umbrella agency would be the perfect transfer agency transitioning to a JPA. The State was assuming that the regional conservation approach was moving forward. If not, for an individual basis, things would have to be looked at differently. Also, on BLM lands, the State has difficulty approving mitigation on Federal land for obvious reasons.

ii. If we reduce the scale of the HCP - would this reduce the costs and stay ahead provision? Would this reduction in scope lower start-up costs for implementation?

Yes, but this depends on how the scale is reduced and on which species would be more or less impacted. State permits can also be amended but it depends on the complexity of the change. Regarding start-up costs, the simple answer is yes. Costs can be scaled, starting lower and rising thereafter.

iii. How long do we really need to plan for?

Currently, the regional HCP is permitting activities for 50 years. This is very atypical. Normally, the Service is comfortable with permitting projects for 25 or 30 years because we are able to analyze effects on species. Permit length really depends on the needs of the applicant and the covered activities. That said, the mitigation or conservation for selected species should be in perpetuity.

The State added that by shortening the horizon from 50 years to 25 or 30 years, they are able to have more confidence in their analysis.

iv. Can we reopen the HCP to better reflect development assumptions?

(Clarified by Co-Chair Metz to add "before we go to final draft.") The answer is definitely yes, since applicants should be comfortable with the final HCP. It not only assures compliance, but now is the time to change things that need to be changed. So just to put the caveat there that yes, it can be reopened.

v. If we reduce the scale of the HCP would the EIR and EIS still be valid?

As long as it is within the scope of the original document, then yes.

vi. Does Borderland management qualify for a different type of take permit?

From the federal perspective - no.

CESA has another provision under Section 21(a) of the Fish & Game Code that allows take for things that are for management or recovery or for research purposes, but it can't be in association of the project.

vii. The HCP will cover a subset of the species addressed by the HMP. The HCP will manage natural communities and covered species habitats. Will the permittees still

need to implement management, monitoring, and reporting actions for HMP species not covered by the HCP?

Leilani Takano said that implementation of the HCP was a condition of receiving the land from the Army, and since that is not within the purview of Fish & Wildlife, she didn't want to speak to that. However, USFWS did do an analysis for the Army which resulted in the establishment of the HMP in 1993

viii. Can you confirm that HCP permittees need to apply for CDFW 2081 permits?

Yes.

ix. How will regulatory agencies enforce environmental compliance?

There are environmental complaints in the context of permit compliance, and then there are environmental complaints in the context of someone deciding to engage in take without authorization. The Committee asked for information on both.

If someone was engaging in take without authorization, there are enforcement options either pursued through the attorney general as a civil or criminal complaint.

If there are complaints in the context of permit compliance, there would be an attempt to resolve those issues through the administrative process. If things remain unresolved, the permit can be suspended or pulled.

x. Do individual agencies have the ability to mitigate onsite?

It depends. The State would also want to check in and make sure there was not what is described as "postage stamp mitigation" that really don't contribute to the recovery of the species. Mainly it has to be of sufficient size to support the species.

xi. Other questions?

One question was left out: Can you describe the agency view on individual versus collective HMA area management?

CDFW declined to speak about the HMA but did comment on whether it's managed as a unit as opposed to jurisdictions. Ideally, things are being managed consistently and collaboratively, and there's a benefit to the economy of scale that provides. On a per acre basis, it's going to be much more expensive to break it down and do it individually. But that said, it could be done but assurances would be sought that there was a consistent management approach across the landscape.

Questions to the presenters

John Gaglioti asked about the cost of the HCP.

CDFW responded that there was some flexibility, but ultimately the take has to be mitigated slightly in advance of the impact. They wouldn't require mitigation for things that were yet to occur. Mr. Gaglioti asked if it was even necessary then to open the HCP, or could jurisdictions just live within the boundaries of the Plan? CDFW expressed a willingness to sit and work out the details, and to take another look at the question. Mr. Gaglioti then spoke about the \$40M endowment planning number in everybody's' heads, and the "donut hole" between what's available and what needs to be contributed. CDFW cautioned that the costs will go up over time, and if not fully capitalized the agency will not be able to have the benefit of a larger endowment building interest. There are pros and cons to that.

Wendy Strimling asked if the totality of the mitigation can be scaled back based on a different projection of the development?

CDFW said maybe. It would necessitate an in-depth discussion but it might be doable. Strimling's other question was on follow-up to two questions: can individual permittees apply for 2081 permits, or does the JPA get the 2081? CDFW said developers would be added to the permit by amendment for their specific element, but it would still all be under the original permit. And finally, Ms. Strimling asked if there was a JPA, and an HCP, and a 2081, and one jurisdiction does something that's out of compliance with the plan, does the permit get revoked or suspended as to all entities? CDFW – Not necessarily. It would depend on the severity of the infraction and the nature of it.

FORA dissolves June 30, 2020. Will this HCP approval make that deadline?

CDFW was unable to answer the question. USFWS said it depends. It really depends on whether the applicants want to move forward with the HCP in its entirety and whether minor changes are wanted versus substantial changes. They asked to be informed as soon as possible if major changes are contemplated because there is a Federal Register process as well. In the meantime they can still issue individual permits to individual applicants. If one permit was issued to the JPA, inclusion would be given to each applicant.

If agencies carve out certain areas where there are endangered species and decide those lands won't be developed – is a take permit still necessary?

CDFW answered that if developments could be done in a way where endangered species areas were set aside, that would be fantastic. Of course, there would be ways to do less, and obviously if you're setting aside impacted land, this could be phased for really large development projects. In the Central Valley, there are large residential development mixed use projects which are hundreds of acres of development, but it's all going to occur at the same time. What developers will generally say is the first phase will be 75 acres with mitigation land somewhere in the neighborhood of 10-15%. That's the first phase mitigation. and then have to work toward mitigating those lands and depositing a non-

wasting endowment for the perpetual management of those lands. Then they can decide how big phase two will be, phase three and so forth.

Regarding enforcement, can you outline the plan by which you would enforce the provisions of a habitat management plan, and in particular, how the Service would look at what's going on in management areas?

The Service believe the agreement states that the Army will be the enforcer. Having said that, the Service did issue files that contained a list of all species that would be impacted by the transfer, and that was part of the biological assessment that the Army submitted in the early 90's. They originally proposed that they would develop the original HMP. The HCP could be a tool for restoration actions that have already been decided on about twenty years ago, so that will help facilitate management.

Is it fair to say that if a jurisdiction has a HMA within their jurisdictional boundaries and there is no reason for a HCP, would they need to go back and look at your 1993 biological opinion and see what management actions are required under that opinion for certain types of species, and then take those actions to the services?

It goes back to the Army in that original agreement. If the jurisdiction has been managing all this time through benign neglect, then the Service would step in and try to get that entity into compliance, and to try to do restoration.

How are violations enforced if we are all collectively responsible for the management of the lands?

CDFW – You have no obligation with us, aside from the people that have their own permit. And they have their own specific duties. One thing I didn't talk about is that before someone can engage in development, they either have to put up a Letter of Credit for the full amount of mitigation, which we can cash out if necessary, or they have to have it in place in advance. So, it seems if there's a violation and we're all doing it collectively, the entire permit would be pulled. Maybe, but there are remedies besides permit suspension. It's not in the State's interest to blow the whole thing up and start from scratch.

Going back to the idea of Phasing, in our financial scenario we currently have \$17M. Can we set up Phase A with our \$17M, and then Phase B with, say \$25M, and we decide to stop there. Can you stop there and amend the permit?

Yes. However, \$17M is not a lot of money. If you're going to phase it, and I understand why you would want to do that, you're going to have to need to redo the financials. The other thing I want to say is that I hope you are all passing these costs on to your developers.

The caveat in the permit says that at the time you begin your second phase and the endowment gets deposited, it's been adjusted for inflation using the CPI.

Can we really calibrate the totality of the mitigation to the amount of development if the projects are done in phases?

The permits can be structured any way you want them to be; either everything up front or a structured phase. It's a little bit more complicated to think how that might work on Fort Ord because, in terms of the mitigation of lands, we would have to think about whether that means you're only managing this one area, or perhaps smaller managing levels in larger areas. We can talk about these issues by sitting down with a map and having small conversations.

In Metro Bakersfield there was a developer who did not complete all of the required mitigations. In a series of meetings with staff and the other developers (who were very unhappy about this other developer) sufficient peer pressure was applied to cause this developer to complete their phase of mitigation. So here, too, any conditions of approval for any developer are going to require that they comply with the terms of your permit. And if they don't, you can suspend their permit or red tag them.

At 11:26 a.m., Co-Chair Parker opened the meeting to members of the public.

Kristy Markey, Supervisor Parker's Office

Looking at the financing questions, it said \$40M seemed like a good deal, and that seems about right. Are there any assumptions about the ROI? And then also, looking at the actual expense of the activity, you require a certain number of years. Did any of you have. Chance to read our letter?

No.

Fred Watson

Have public comments been circulated yet? If not, when will they be?

Comments will be circulated with the Final Environmental Impact Report, Final Environmental Impact Statement and the Final Habitat Conservation Plan.

4. FUTURE AGENDA ITEMS

The group expressed a desire to immediately explore phasing options but continue to review components of a potential Joint Powers Agreement.

January 24, 2020: Exploration of HCP Reduced Scope & Phasing Options

- i. Opportunity and Constraints Overview (Erin Harwayne DDA)
- ii. Jurisdiction Scenarios – Caucus & Report
- iii. Group Discussion

Proposed Future Topics:

January 31, 2020: Governance Structure & Priorities

February 7, 2020: Finances

February 14, 2020: Revised Governance Agreement

5. ADJOURNMENT

Co-Chair Parker adjourned the meeting at 12:09 p.m.



REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)

And

SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE

10:00 a.m. Friday, January 24, 2020 | FORA Board Room

910^{2nd} Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County)
David Martin (Monterey Peninsula College)
Mayor Pro Tem Gail Morton (City of Marina)
Councilmember Frank O'Connell (City of Marina)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Councilmember Ian Oglesby (City of Seaside)
Layne Long (City of Marina)
Hans Uslar (City of Monterey)
Craig Malin (City of Seaside)
Patrick Breen (MCWD)
Josh Metz (Executive Director, Co-Chair)

Members of the Consultant Team included:

Kendall Flint – Regional Government Services (“RGS”)
Tom Graves –RGS
Aaron Gabbe – ICF International
Erin Harwayne – Denise Duffy & Associates
Ellen Martin – Economic & Planning Systems (“EPS”)
David Willoughby – Kennedy Archer & Giffen

2. PUBLIC COMMENT PERIOD

No public comments were received.

Co-Chair Parker explained that there are two Committees in attendance today: The FORA HWG as a Regular Meeting and the FORA Administrative Committee as a Special Meeting.

3. BUSINESS ITEMS

- a. Approve meeting minutes of January 10, 2020.

MOTION Haffa/Gaglioti Unanimous

- b. Approve meeting minutes of January 17, 2020.

MOTION Oglesby/Gaglioti Unanimous

c. Today's Meeting Objective
INFORMATION

Co-Chair Metz reminded attendees that what was agreed upon previously was a simple discussion within jurisdictional teams to bring everyone up to speed and to review what has been done. If that isn't necessary, then jurisdictions can step up to their whiteboards and put up three to five key points to share with the other jurisdictions. In addition, he would like jurisdictions to identify which parcels, or parts of parcels, might be kept on the development side, and which might be kept in perpetuity for wildlife habitat. For the parcels designated for development, designate those as short-term, with 10-15-year windows. And then designate the rest of the development parcels as the second phase, sometime in the next 15-20 years. Those initial development parcels would be included in the initial impact assessment, and therefore mitigation and cost allocations would be necessary. The goal is that the HWG wants to be able to look at a map and see instead of all red, see Phase 1, Phase 2, and so forth. And that in turn will help inform our costs model and/or our impact assessments.

The group broke into jurisdictional working groups at 10:30 for 15 minutes.

d. Exploration of HCP Reduced Scope and Phasing Options **INFORMATION**

- i. Opportunity and Constraints Overview (Erin Harwayne DDA)
- ii. Jurisdiction Scenarios – Caucus and Report
- iii. Group Discussions

Co-Chair Metz pointed out there was one hour left and urged members to take the opportunity to be as succinct as possible in their report out.

Seaside (City Manager Malin) reported out that they don't intend to develop all of their developable land and see a Phase One of about 164 acres out of 526, and they see Phase Two as being about 60 acres longer term.

Del Rey Oaks (City Councilmember Gaglioti) said they have 175 acres in commercial/residential and a 60% impact, so that works out to 105 acres for Phase One, short term 15-20 years.

Marina (Mayor pro tem Morton) said they are looking to restrict development north of the airport, which is 575 acres. North of the airport would be placed into Phase Three, fifty years. Most of the other project are already entitled, and it's not possible right now to say which other areas would be Phase One and Phase Two.

Monterey City Councilmember (Alan Haffa) said there are 25 or so acres which abut Open Space. This open space will create a wildland corridor, which is already in the general plan. For Phase One, the area is adjacent to Ryan Ranch; Phase Two would be to the south.

Monterey County (Co-Chair Parker) remarked that many of the areas in the County are open space already for habitat and trails; it's a relatively wide footprint. But there are also salamanders and other species and the County recognizes that it has to mitigate these. All of these parcels, excepting designated open space, are Phase One and all others will be Phase Two.

CSUMB (Anya Spear) spoke next, with similar results as those for Co-Chair Parker.

Steve Matarazzo (UC Santa Cruz) commented that his predecessor got an incidental Take Permit from California Department of Fish and Wildlife with concurrence from US Fish & Wildlife. So, UCSC is in good shape, with 500 acres considered developable, and about 600 acres of habitat area controlled by the Fort Ord Natural Preserve.

Co-Chair Metz said the foregoing information had been very useful, and that discussions would continue with consultants to reach very fine grain cost analyses. Those cost analyses would be brought back to future meetings with the kind of financial analysis that members have been requesting.

Responding to a question asked by Marina a couple of meetings go, he said using the fee scenario of \$8,000/unit, that could be a starting point of discussion of potential revenues. Also needed is an analysis that would come up with this phased approach, breaking up this map into parcels that could be Phase One or Phase Two or Three and generate an analysis of habitat, and then talk about what will be needed to accommodate the Phase One. Those are some of the ways that we will be working to bring back information that would inform our conversation vis-à-vis what was discussed.

Ellen Martin (EPS) said that this discussion is to become familiar with the areas that have been or will be impacted. But what we will ultimately need in order to evaluate the financial feasibility of the plan is a more detailed development of projections.

Co-Chair Metz – In view of the discussions this morning about parcel designations are roll-out of development, asked each of the members here today to come back with potential land use designation like Monterey.

The group agreed to a common timeline for phasing with 15, 25- and 50-year plans.

The group discussed the potential need to form a governance structure to carry on these discussions post-FORA.

4. FUTURE AGENDA ITEMS.

DISCUSSION

Co-Chair Parker reviewed the following proposed topics for the group's next three meetings:

- 1/31/20: Governance Structure & Priorities
- 2/7/20: Finances
- 2/14/20: Revised Governance Agreement

5. ADJOURNMENT – 12:09 p.m.



APPROVED

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP

10:00 a.m. Friday, January 31, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:01 a.m.

The following FORA Board and Administration Committee members were present:

Melanie Beretti (County of Monterey)
Patrick Breen (MCWD)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
Steve Martin (MPC)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Councilmember Ian Oglesby (City of Seaside)
Supervisor Jane Parker (Monterey County)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)
Aaron Gabbe (ICF)
Tom Graves (RGS)
Erin Harwayne (DDA) (via phone)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Today's Meeting Objective

Not discussed.

b. Review and next steps on Habitat discussion

i. Recap discussion from January 24th

Not discussed.

ii. Pros and Cons of continued discussions on reduced scope HCP – Should discussions continue?

Co-Chair Parker asked the HWG whether they want to continue working as a group on habitat issues, or would they like to tackle the issues on their own. Mr. Haffa and Mr. Gaglioti noted that the City of Monterey and the City of Del Rey Oaks, respectively, are interested in a Joint Powers Authority (“JPA”) for a Habitat Conservation Plan (“HCP”), not a Habitat Management Plan (“HMP”). Co-Chair Parker noted that the County of Monterey is interested in a reduced scope or phased HCP. Ms. Morton stated that the City of Marina supports moving forward with an interim JPA with a cutoff date. Ms. Damon stated that the City of Seaside is interested in creating a structure that allows the basic habitat management functions to be funded. Mr. Martin of MPC said that they are very interested in continuing the discussion and moving the HCP forward. Mr. Matarazzo (UCSC), Mr. Breen (MCWD), Mr. Bachman (California State Parks), and Dr. Payan (Monterey Peninsula Regional Parks) affirmed their organizations’ support of an HCP. After receiving supportive comments, Co-Chair Parker stated that it is worth it to continue having this conversation. Co-Chair Metz stated that FORA staff will put together an agenda and that he’ll have Ms. Flint set up items for discussion, with Co-Chair Parker and himself moderating.

Ms. Flint stated to the group that they have three possible options moving forward: Option 1: certify the EIR and adopt the HCP in current form; Option 2: not adopt the HCP and consider certifying the EIR. Continue coordinated habitat planning beyond FORA via formation of a new JPA. Revise & republish HCP to reflect a “phased” approach and more closely align with development; or Option 3: do not adopt the HCP and continue individual implementation of the Habitat Management Plan. A discussion took place among the members regarding the three options and the legal ramifications for each, with Mr. Willoughby providing FORA Authority Counsel’s perspective on the issues. Ms. Morton asked CDFW if they are prepared to give the group a basewide permit. Ms. Vance noted that without the BLM lands for California Tiger Salamander and Sand Gilia, the basewide permit is an option, pending some revisions.

iii. If yes to ii, what steps needs to be taken in the next few weeks to preserve this option post June 30, 2020?

Mr. Haffa motioned for the HWG to move forward with Option 2 including the EIR/EIS and Mr. Gaglioti seconded. Mr. Pick noted that it seems the HWG is in agreement on most of the core tenets of Option 2 and that the HWG should move forward by recommending that the FORA board certifies the EIR/EIS. Ms. Flint made a recommendation to table the motion until the HWG hears back from FORA consultants regarding the financial and legal details of executing Option 2. She noted that the HWG could have that feedback by the end of February in time for the March 12 FORA board meeting. Ms. Morton asked that this recommendation be moved to the FORA Finance Committee so they can examine how it will impact the midyear budget. Mr. Oglesby suggested that the HWG move the recommendation to the Executive Committee so that it can then move to the Finance Committee. A discussion took

place regarding whether the HWG should move forward with Mr. Haffa’s motion, and if not, how to capture the group’s consensus so that it is officially recorded. Co-Chair Parker recommended taking a straw poll on the various points of the motion to see where the group stands on them.

Points	Consensus
1. FORA staff and consultants to contract with CEQA attorney to opine on legality and risks of certifying an EIR without approving a project (HCP).	YES
2. Interest in forming a legal entity (i.e. JPA) that could be delegated FORA Board’s habitat management and conservation responsibilities (Option 2).	YES
3. Establish an escrow account to hold funds currently planned to for use as HCP endowment while JPA-based habitat planning efforts continue.	YES
4. Request FORA Executive and Finance committees consider habitat endowment funds for the JPA process.	YES

iv. If no to ii, what steps needs to be taken convey the \$17M for existing habitat obligations?

Not applicable.

c. Review of option for focus of future working group

Co-Chair Metz stated that FORA can direct its Authority Counsel to start preparing a draft JPA for the HWG to consider. Mr. Willoughby stated that he can circulate a skeletal version of the last draft JPA to the various jurisdictions’ attorneys and have it serve as a clearinghouse for their comments and suggestions.

Co-Chair Parker suggested that the HWG discuss financial details in the next week’s meeting, however, Co-Chair Metz noted that FORA consultant Ellen Martin has not received any feedback from the jurisdictions and that she would be hard-pressed to bring back anything of substance by the February 7 HWG meeting. The HWG heard from Ms. Harwayne and Mr. Gabbe regarding the timing and substance of their analyses that they are preparing for the HWG. Based on this feedback, Ms. Morton recommended that the HWG not meet on February 7, and that instead the jurisdictions take the time to meet with Ms. Harwayne and hone in on phasing projections.

d. Review of options for staffing and meetings

Co-Chair Metz noted the following tentative meeting schedule and topics:

- February 7 – meeting cancelled
- February 14 – discussion of the JPA draft document and its language
- February 21 – discussion of finances and the HMP management cost model

- February 28 – discussion of the phasing (hopefully with feedback from regulators and consultants)

Co-Chair Metz noted that the points listed in the straw poll will be included in the next meeting's agenda for members to review.

e. Other discussion

None

4. ITEMS FROM MEMBERS

None

5. ADJOURNMENT at 11:57 a.m.



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
10:00 a.m. Friday, February 14, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933**

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Melanie Beretti (County of Monterey)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
David Martin (MPC)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Vicki Nakamura (MPC)
Frank O'Connell (City of Marina)
Mayor Ian Oglesby (City of Seaside)
Supervisor Jane Parker (Monterey County)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)
Mike Wegley (MCWD)

Members of the Consultant Team included:

Kendall Flint (RGS)
Erin Harwayne (DDA)
Kristie Reimer (RMA)
David Willoughby (KAG)

2. PUBLIC COMMENT PERIOD

No public comments were received.

3. BUSINESS ITEMS

a. Approve meeting minutes from January 31, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the January 31, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

b. Today's Meeting Objective

Not discussed.

c. **Recap discussion from January 31, 2020 meeting**

Not discussed.

d. **Discussion of JPA draft document and its language (Attachment A)**

Co-Chair Parker started the item by noting that Mr. Willoughby will be leading the HWG through the draft JPA paragraph by paragraph. Mr. Willoughby walked the HWG through the contents of the document, answering questions from members of the HWG when asked, and noting any requested changes. Once Mr. Willoughby finished, members of the HWG discussed the language used in sections throughout the draft document. Mr. Haffa opined that it would be helpful if all members of the HWG spoke about whether they would feel comfortable bringing it to their agencies for approval. Representatives from each jurisdiction expressed their thoughts on the idea, with some voicing their approval, some voicing their rejection, and some voicing approval pending some changes and clarifications.

Members of the HWG began to discuss next steps as far as the HWG's responsibilities go to carry on this process. Co-Chair Parker recommended that Mr. Willoughby and attorneys from the various jurisdictions hold a meeting to go over the draft JPA and bring forward a new draft of the documents to the HWG meeting on February 28, so that the HWG can discuss a document that has been approved by its jurisdictions' attorneys. This would give the HWG the ability to make a recommendation to the FORA Board. Co-Chair Metz suggested conducting a straw poll on various ideas so that when the attorneys meet, they have some policy direction to base their work off of. The HWG continued the discussion of the draft document, going over legal ramifications, the schedule of how the JPA will be implemented, and ways that the \$17 million can be protected. Co-Chair Parker recommended that the group come to an agreement on consensus points and listed them as follows:

- Clarifying the purpose in recital C to include more explicit language about the negotiations that the JPA was going to be undertaking.
- The handling and possible disposition of the \$17 million.
- Put in a more explicit end date for the JPA for this particular purpose.
- Have the attorneys look into the risk of liability.

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Oglesby and carried by the following vote, the Habitat Working Group moved to memorialize those consensus points.

MOTION PASSED UNANIMOUSLY

e. Other discussion

None

4. FUTURE AGENDA ITEMS

Not discussed

5. ADJOURNMENT at 12:04 p.m.



APPROVED

REGULAR MEETING

**FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
And
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

**10:00 a.m. Friday, February 21, 2020 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933**

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:05 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Councilmember Frank O’Connell (City of Marina)

Mayor Ian Oglesby (City of Seaside)

Supervisor Jane Parker (Monterey County)

Dino Pick (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS)

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. BUSINESS ITEMS

a. Today’s Meeting Objective

Ms. Parker went over the agenda for the meeting and noted that the objective was to have a good conversation.

b. February 14, 2020 meeting recap

Mr. Metz noted that FORA attorneys are reviewing the JPA document with the jurisdictions' redlines and that they will bring it back for review and consideration at subsequent meetings.

c. Habitat Management Plan (HMP) – Cost Model presentation

Mr. Gabbe gave a presentation on the HMP cost model. He started by going over the methods and assumptions that he used to create the HMP cost model. He broke down the cost model by jurisdiction, species, acreage, and responsibilities and answered questions from the committee. He discussed the differences between the HMP and HCP, and the details regarding species' takes and mitigation. Ms. Morton asked if it would be possible for the Bureau of Land Management (BLM) to compile all reports from the last five years and have them posted on FORA's website. Mr. Metz affirmed that he'd work with Mr. Morgan of BLM to get all the reports and put them on the website for jurisdictions to access. Mr. Pick noted that the regulatory agencies will be in charge of these things, and would like them on the phone next time. Ms. Parker wrapped up the item due to time constraints and noted that this was a good conversation, but that it will need to be discussed in future meetings.

d. CEQA Attorney – Habitat Conservation Plan (HCP) / EIR options

Mr. Metz noted that as instructed by the FORA Board, FORA staff requested Holland & Knight (HK) provide a legal opinion regarding CEQA/NEPA ramifications regarding the HCP EIR/EIS. Mr. Willoughby walked the HWG through the legal memo provided by HK. He broke down the five options as laid out in the memo as well as the details of EIR certification. Mr. Willoughby then answered questions from members of the HWG regarding the contents of the memo. Following this, Ms. Flint gave a presentation on HCP/EIR considerations. She broke down HK's five options in terms of who the lead agency would be and the benefits and challenges of each. She then showed the HWG an action calendar for all the steps that would need to take place to publish and certify an EIR before FORA's sunset.

e. Other discussion

None

4. FUTURE AGENDA ITEMS

Not discussed.

5. ADJOURNMENT at 12:15 p.m.



APPROVED

**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, February 28, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:03 a.m.

The following FORA Board and Administration Committee members were present:

- Supervisor Jane Parker (Monterey County) – Co-Chair
- Melanie Beretti (County of Monterey)
- Patrick Breen (MCWD)
- Councilmember John Gaglioti (City of Del Rey Oaks)
- Councilmember Alan Haffa (City of Monterey)
- Layne Long (City of Marina)
- Craig Malin (City of Seaside)
- David Martin (MPC)
- Steve Matarazzo (UCSC)
- Mayor Pro Tem Gail Morton (City of Marina)
- Vicki Nakamura (MPC)
- Councilmember Frank O’Connell (City of Marina)
- Mayor Ian N. Oglesby (City of Seaside)
- Dino Pick (City of Del Rey Oaks)
- Hans Uslar (City of Monterey)

Members of the Consultant Team included:

- Kendall Flint (RGS)
- Aaron Gabbe (ICF)
- Erin Harwayne (DDA)
- David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 14, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the February 14, 2020 HWG meeting minutes with one correction.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 21, 2020 meeting recap

Mr. Metz recapped the previous meeting for the HWG. He discussed the Holland & Knight memo that the HWG had received last week. He noted that the memo provided a significant amount of discussion, so much so that the HWG was not able to make a recommendation. He continued, noting that the FORA Board took action on the memo and recommended moving ahead with the certification of the EIR. He also discussed the business items on today's agenda.

b. EIR Options Review & Recommendation

Mr. Metz opened the item by asking if the HWG could hear from Ms. Harwayne regarding her conversations with the regulators and then hear from each jurisdiction regarding how they see the potential utility of this EIR. Ms. Harwayne spoke to the HWG regarding a phone call she had with the state and federal regulators regarding phasing. She then went over the schedule: the phasing information will be provided to the agencies next week and then will bring the info to the HWG on March 13. She answered questions from members of the HWG. Mr. Pick asked if certification can be achieved by June 30. Ms. Harwayne said it was feasible to get that to the board and passed with two votes. He also asked if there would be additional cost and she noted that DDA and ICF will not be needing additional funds.

c. Phasing discussion with feedback from regulators and consultants

Mr. Metz noted that the phasing discussion has been delayed. Ms. Parker noted that at the next meeting the HWG will hear about the draft JPA from authority counsel and jurisdictions' counsel.

d. 2018 Transition Plan Review & Recommendation(s)

Mr. Metz started the item and noted that Ms. Flint will be giving a presentation. Ms. Flint gave a presentation on the Transition Plan and answered questions from HWG members. Mr. Willoughby opined on the topic of litigation, backing up Ms. Flint on legal questions that she received. The HWG had a robust discussion on the topic and implications of the habitat language in the Transition Plan. Ms. Morton asked that a formula for the species, acreage, and mitigation ratios be identified before the HWG moves forward with the JPA. Ms. Harwayne opined on the formula, noting that it is complex, and that it is determined by borderlands, HMAs, and land management, not just acreage or species.

MOTION: On motion by Mr. Uslar, seconded by Mr. Pick and carried by the following vote, the Habitat Working Group moved that FORA staff and consultants bring to the HWG, within a week, the aforementioned formula based on percentages of species, acreage, borderlands, land monitoring, and already existing projects.

Public comment was received on this item.

MOTION PASSED UNANIMOUSLY

Mr. Gabbe shared his initial thoughts on this formula. He said it could be something very simple, proportionally based on species, acreage, land management, borderland management, and assumptions. He thought that overall, it could be a very simple set of equations or equation.

e. Other discussion

Ms. Flint strongly encouraged the Co-Chairs to come up with decision points over the next several meetings. She feels that if the HWG does not set target dates to get certain tasks accomplished, the group will not be able to accomplish what it set out to do.

Ms. Strimling noted that the word “baseline” has a CEQA specific meaning and she requested that HWG members use words like “foundation” or “starting point” so as not to cause any confusion between the colloquial definition and the legal definition.

5. FUTURE AGENDA ITEMS

- The March 6 meeting’s items will be:
 - Draft habitat formula
 - JPA draft discussion
 - Transition plan language
- The March 13 meeting’s items will be:
 - Phasing discussion
 - A continuation of the Habitat formula

6. ADJOURNMENT at 11:49 a.m.



**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 6, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Ian Oglesby called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Councilmember Frank O'Connell (City of Marina) – Co-Chair

Mayor Ian N. Oglesby (City of Seaside) – Co-Chair

Melanie Beretti (County of Monterey)

Patrick Breen (MCWD)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Jeff Oyn (City of Del Rey Oaks)

Anya Spear (CSUMB)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Bernadette Clueit (ICF) – via phone

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS) – via phone

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

No public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 21, 2020

MOTION: On motion by Mr. Uslar, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved to approve the February 21, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. February 28, 2020 meeting recap

Mr. Metz gave an overview of the last meeting, noting that the HWG discussed providing a formula for the potential allocation of funds which will be discussed in item 4b on today's agenda. Mr. Metz noted that last night, the Seaside City Council gave unanimous approval for their Campus Town Project.

b. Habitat formula review

Ms. Flint started off the item, giving the HWG a background on the formula drafted by the consultants for the HWG consideration. Mr. Gabbe gave a presentation on the habitat formula. He presented an interactive Excel spreadsheet that showed different potential percentage breakdowns. Mr. Gabbe, Ms. Harwayne, and Mr. Willoughby answered questions and responded to comments from the HWG. Discussion followed regarding whether the universities and parks should be included in this model. Mr. Oglesby noted that he'd like the HWG to establish consensus on "who's in and who's out" of the JPA.

Public comment was received on this item.

Mr. Haffa noted that there could be three different options with regard to the formula breakdown: the original option as presented by Mr. Gabbe, an option without State Parks, and an option with all entities included. Mr. Gaglioti and Mr. Malin noted their preference is to vote today on this item and make a decision. Mr. Oglesby asked that the HWG move on to the next item due to time.

c. JPA Draft Agreement review/discussion

Mr. Metz noted that Mr. Willoughby will be giving an update on the JPA draft process. Mr. Willoughby said that BLM and the Monterey Regional Park District asked not be a part of the potential JPA. He noted that if the HWG is going to move down a JPA path, FORA will need to be part of the JPA, and it will no longer be a member after FORA dissolves. He noted that the ad-hoc legal group has made significant process and that they will need guidance from the HWG on certain areas. Those areas needing guidance are as follows:

- Should the JPA be a skeletal framework just so that it can exist in order to receive the \$17 million from FORA or should there be a more fleshed-out JPA that has more capabilities?
- Regarding the allocation of the habitat funds, and the best way to split the funds. The initial impression is that the formula will also apply to the JPA, and the legal group expects consistency between the several relevant documents.
- If a JPA is formed but not everyone wants to join, are those who are left out going to receive any money? These questions depend on when the hypothetical jurisdiction potentially withdraws from the JPA.
- What will the source of operational funds for the JPA be? Will it come from depleting the \$17 million? Will FORA provide unrestricted seed money?
- Does the JPA have the authority to hire employees? Because of PERS liability changes, there's a possibility that members could have liabilities.
- The HWG needs to receive an opinion from the bond counsel at some point in this process.

Mr. Willoughby then answered questions from the HWG regarding these areas with further discussion made.

Public comment on this item was received.

d. Habitat-related 2018 Transition Plan Recommendation(s)

Ms. Flint asked that this item be brought back next week for discussion.

e. Other discussion

None

5. FUTURE AGENDA ITEMS

- Reduced take scenario phasing discussion
- Habitat formula review with breakdown of options
- JPA Draft Agreement review/discussion
- Habitat-related 2018 Transition Plan Recommendation(s)

6. ADJOURNMENT at 11:45 a.m.



**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 13, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:04 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair

Melanie Beretti (County of Monterey)

Bill Collins (BRAC)

Councilmember John Gaglioti (City of Del Rey Oaks)

Councilmember Alan Haffa (City of Monterey)

Nicole Hollingsworth (CSUMB)

Layne Long (City of Marina)

Craig Malin (City of Seaside)

David Martin (MPC)

Steve Matarazzo (UCSC)

Mayor Pro Tem Gail Morton (City of Marina)

Vicki Nakamura (MPC)

Mayor Ian N. Oglesby (City of Seaside)

Dino Pick (City of Del Rey Oaks)

Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)

Aaron Gabbe (ICF)

Erin Harwayne (DDA)

Ellen Martin (EPS) – via phone

David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. February 28, 2020

MOTION: On motion by Mr. Haffa, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved to approve the February 28, 2020 HWG meeting minutes.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. March 6, 2020 meeting recap

Mr. Metz discussed the potential likelihood of future FORA meetings being conducted remotely via Zoom. He noted that most of today's agenda items are reprised from the previous meeting, save for the reduced take scenario phasing discussion that Ms. Harwayne will lead.

b. Reduced take scenario phasing discussion

Mr. Metz introduced the item, noting that Ms. Harwayne will lead the discussion and receive feedback from the HWG and the regulators. Ms. Harwayne introduced the item and gave the HWG a broad overview of the topic. She then answered questions from the HWG and went over her Excel spreadsheet that listed each jurisdiction's responsibility by phase, acre, species, and other criteria. Mr. Gabbe, Ms. Ferranti, Ms. Harwayne, Ms. Bono, and Ms. Henry answered questions from the HWG and spoke on the topic of a CEQA document and phasing. Ms. Harwayne asked if the land-use jurisdictions could give feedback on the model. Mr. Haffa noted that the City of Monterey is okay with it, but that they need to know the cost. Mr. Gaglioti stated that the City of Del Rey Oaks is happy with it because it tees off of what they've previously talked about. Mr. Malin stated that the City of Seaside believes that anything that makes the process more efficient, less costly, and enhances preservation is a good idea. Ms. Parker noted that Monterey County believes it is helpful and that they will see where it leads. Ms. Morton stated the City of Marina concurs with what Mr. Malin had stated.

Public comment was received.

c. Habitat formula review with breakdown of options

Mr. Gabbe started off the item and gave a presentation on additional alternatives for additional CFD funds. He gave an overview on various allocation scenarios and walked the HWG through each. Mr. Gabbe, Ms. Flint, and Mr. Willoughby answered questions from the HWG. Mr. Malin presented his proposed alternative to the HWG. A robust discussion took place between the members of the HWG. Due to time constraints, Ms. Parker recommended that the HWG continue this item at the next meeting.

d. JPA DRAFT Agreement review/discussion

Not discussed.

e. Habitat-related 2018 Transition Plan Recommendation(s)

Not discussed.

5. FUTURE AGENDA ITEMS

- Continued conversation on habitat formula options – first priority
- Habitat-related 2018 Transition Plan Recommendation(s) – second priority
- JPA draft agreement review/discussion – third priority

6. ADJOURNMENT at 12:10 p.m.



**REGULAR MEETING
FORT ORD REUSE AUTHORITY (FORA) HABITAT WORKING GROUP (HWG)
and
SPECIAL MEETING OF THE FORA ADMINISTRATIVE COMMITTEE**

Friday, March 27, 2020 at 10:00 a.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Hall)

1. CALL TO ORDER

Co-Chair Jane Parker called the meeting to order at 10:00 a.m.

The following FORA Board and Administration Committee members were present:

Supervisor Jane Parker (Monterey County) – Co-Chair
Melanie Beretti (County of Monterey)
Patrick Breen (MCWD)
Bill Collins (BRAC)
Councilmember John Gaglioti (City of Del Rey Oaks)
Councilmember Alan Haffa (City of Monterey)
Layne Long (City of Marina)
Craig Malin (City of Seaside)
Steve Matarazzo (UCSC)
Mayor Pro Tem Gail Morton (City of Marina)
Vicki Nakamura (MPC)
Councilmember Frank O’Connell (City of Marina)
Mayor Ian N. Oglesby (City of Seaside)
Dino Pick (City of Del Rey Oaks)
Anya Spear (CSUMB)
Hans Uslar (City of Monterey)

Members of the Consultant Team included:

Kendall Flint (RGS)
Aaron Gabbe (ICF)
Erin Harwayne (DDA)
Ellen Martin (EPS)
David Willoughby (KAG)

FORA Staff:
Joshua Metz – Co-Chair
Harrison Tregenza

2. PUBLIC COMMENT PERIOD

Public comment was received.

3. APPROVAL OF MEETING MINUTES

a. March 6, 2020

MOTION: On motion by Mr. Gaglioti, seconded by Mr. Haffa and carried by the following vote, the Habitat Working Group moved to approve the March 6, 2020 HWG meeting minutes with one correction.

MOTION PASSED UNANIMOUSLY

4. BUSINESS ITEMS

a. March 13, 2020 meeting recap

Mr. Metz recapped the previous meeting for the HWG, noting that the group discussed the habitat formula review in some depth. The group also discussed the Transition Plan, but recognized that the work of the habitat formula was most critical. He also noted that the group tabled the JPA discussion until the appropriate time, which will be informed by the deliberations on the habitat formula. The group also discussed the makeup of the voting body for the HWG.

b. Habitat formula review with breakdown of options

Ms. Flint started off the item noting that the HWG asked the consultant team to go over the CFD allocation options. She noted that Mr. Gabbe will present the four options and that Mr. Malin will have a fifth option to discuss after that. Mr. Gabbe gave a quick review of the four alternatives. He gave a quick breakdown of each, going over the different allocations of CFD funds and how they are distributed to each jurisdiction. Following this, Mr. Malin gave a presentation of his allocation model. Then the HWG members had a robust discussion regarding the various options

MOTION: On motion by Mr. Haffa, seconded by Mr. Gaglioti and carried by the following vote, the Habitat Working Group moved that they recommend Option 5 (the Seaside Proposal) to the FORA Board.

MOTION PASSED MAJORITY

Supervisor Jane Parker	NO
Mayor Ian Oglesby	YES
Mayor Pro-Tem Gail Morton	YES
Councilmember John Gaglioti	YES
Councilmember Alan Haffa	YES

c. Habitat-related 2018 Transition Plan Recommendation(s)
None

d. JPA DRAFT Agreement review/discussion

Ms. Parker noted that those jurisdictions who are interested in forming a JPA set up a time and place to meet and discuss.

e. Other discussion

Ms. Flint noted that the HWG’s recommendation will be brought to the FORA Board at the April 9, 2020 meeting. Ms. Parker added that with the habitat recommendation made, the work of the HWG is finished. She thanked all jurisdictions for joining in the discussions these past few months. Josh thanked all members for participating and all work the consultants put in and that he appreciated the opportunity to facilitate this discussion. Members of the HWG thanked Ms. Parker for leading the group.

5. FUTURE AGENDA ITEMS

None

6. ADJOURNMENT at 11:49 a.m.



Memorandum

Date:	March 26, 2020
To:	Fort Ord Reuse Authority Habitat Working Group
Cc:	Josh Metz
From:	Aaron Gabbe, Ph.D. Bernadette Clueit
Subject:	CFD Allocation Alternatives

This memorandum provides a brief overview of the four alternative strategies for allocating Community Facility District (CFD) fees to the local jurisdictions and entities for habitat management purposes, which have previously been presented to the Fort Ord Reuse Authority (FORA) Habitat Working Group (HWG) during HWG meetings on March 6 and March 13, 2020. The alternatives are provided as Attachment A to this memorandum and are summarized below.

The first three alternatives allocate CFD funds based on the acreage controlled by the relevant jurisdiction and differ significantly only in which jurisdictions are included in the distribution of funds.

- **Alternative 1.** CFD funds are allocated to the County and to the Cities only.
- **Alternative 2.** CFD funds are allocated to all jurisdictions.
- **Alternative 3.** CFD funds are allocated to the County, the Cities, the Universities, and the College. State Parks and Regional Parks are excluded.

The fourth alternative differs substantially from the first three, in that funds are allocated only to those jurisdictions which have made contributions to the CFD fees to date.

- **Alternative 4.** CFD funds are allocated to Monterey County, Seaside, and Monterey City as a percentage of total fee contribution to date.

It should be noted that CFD fees collected to date that are set aside for habitat management activities totals \$17,441,927. University of California Santa Cruz (UCSC) has already received disbursement totaling \$840,386 of the available habitat management funds. Therefore, under Alternative 1 and Alternative 4 (where UCSC is not included as a recipient of funds) the total amount available for allocation to the jurisdictions included in these alternatives is \$16,601,541.

Alternative 1 - Allocation based on Acreage
County and Cities Only

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier			
Total Funds to be allocated		70%		70%		18%		12%			
\$	16,601,541	\$ 11,621,079				\$ 2,988,277		\$ 1,992,185			
Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation \$	Percent	
Monterey County	1,571	\$ 8,760,420	277	\$ 1,544,644	100	\$ 1,989,441	693	\$ 975,872	\$ 13,270,377	80%	
Seaside	0	\$ -	0	\$ -	34	\$ 674,123	389	\$ 547,902	\$ 1,222,026	7%	
Marina	236	\$ 1,316,015	0	\$ -	0	\$ -	0	\$ -	\$ 1,316,015	8%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 45,053	\$ 45,053	0.27%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 324,713	301	\$ 423,358	\$ 748,071	5%	
Total	1,807	\$ 10,076,434	277	\$ 1,544,644	150	\$ 2,988,277	1,415	\$ 1,992,185	\$ 16,601,541	100%	

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is the only jurisdiction we have data we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers.
- Interim management cannot be defined at this time because the required activities are unknown.
- Be advised that \$840,386 of CFD Funds have been previously distributed to USCSC, therefore the total funds to be allocated is reduced by this amount.

Alternative 2 - Allocation by Acreage
All Jurisdictions Included

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier					
Total Funds to be allocated		70%		70%		18%		12%					
\$	17,441,927	\$ 12,209,349				\$ 3,139,547		\$ 2,093,031					
Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation \$	Funds Already Received \$	Net Allocation \$	Percent	
Monterey County	1,571	\$ 4,925,754	277	\$ 868,513	100	\$ 1,547,714	693	\$ 704,936	\$ 8,046,918	\$ -	\$ 8,046,918	46%	
Seaside	0	\$ -	0	\$ -	34	\$ 524,444	389	\$ 395,786	\$ 920,230	\$ -	\$ 920,230	5%	
Marina	236	\$ 739,961	0	\$ -	0	\$ -	0	\$ -	\$ 739,961	\$ -	\$ 739,961	4%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 32,545	\$ 32,545	\$ -	\$ 32,545	0.19%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 252,615	301	\$ 305,819	\$ 558,435	\$ -	\$ 558,435	3%	
CSUMB	0	\$ -	0	\$ -	6	\$ 92,507	333	\$ 338,668	\$ 431,175	\$ -	\$ 431,175	2%	
University of California	598	\$ 1,874,985	8	\$ 25,083	0	\$ -	0	\$ -	\$ 1,900,068	\$ 840,386	\$ 1,059,682	11%	
Monterey Peninsula College	206	\$ 645,898	0	\$ -	47	\$ 722,267	310	\$ 315,277	\$ 1,683,441	\$ -	\$ 1,683,441	10%	
Monterey Peninsula Regional Parks	19	\$ 59,573	0	\$ -	0	\$ -	0	\$ -	\$ 59,573	\$ -	\$ 59,573	0.34%	
State Parks	837	\$ 2,624,352	142	\$ 445,230	0	\$ -	0	\$ -	\$ 3,069,582	\$ -	\$ 3,069,582	18%	
Total	3,467	\$ 10,870,522	427	\$ 1,338,827	203	\$ 3,139,547	2,058	\$ 2,093,031	\$ 17,441,927	\$ 840,386	\$ 16,601,541	100%	

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is the only jurisdiction we have data we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers.
- Interim management cannot be defined at this time because the required activities are unknown.
- Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.

Alternative 3 - Allocation by Acreage
State Parks and Regional Parks Excluded

		HMA Mgmt Multiplier		DwR Multiplier (same as HMA)		Borderland Multiplier		Interim Mgmt Multiplier					
Total Funds to be allocated		70%		70%		18%		12%					
\$	17,441,927	\$ 12,209,349				\$ 3,139,547		\$ 2,093,031					
Jurisdiction	HMA acres	HMA Monitoring Allocation \$	Development with Reserve (DwR) acres	DwR Allocation \$	Borderland acres	Borderland Allocation \$	Interim Mgmt in Development Parcels acres	Interim Mgmt Allocation \$	Total Allocation \$	Funds Already Received \$	Net Allocation \$	Percent	
Monterey County	1,571	\$ 6,623,235	277	\$ 1,167,814	100	\$ 1,547,714	693	\$ 704,936	\$ 10,043,699	\$ -	\$ 10,043,699	58%	
Seaside	0	\$ -	0	\$ -	34	\$ 524,444	389	\$ 395,786	\$ 920,230	\$ -	\$ 920,230	5%	
Marina	236	\$ 994,961	0	\$ -	0	\$ -	0	\$ -	\$ 994,961	\$ -	\$ 994,961	6%	
Monterey City	0	\$ -	0	\$ -	0	\$ -	32	\$ 32,545	\$ 32,545	\$ -	\$ 32,545	0.19%	
Del Rey Oaks	0	\$ -	0	\$ -	16	\$ 252,615	301	\$ 305,819	\$ 558,435	\$ -	\$ 558,435	3%	
CSUMB	0	\$ -	0	\$ -	6	\$ 92,507	333	\$ 338,668	\$ 431,175	\$ -	\$ 431,175	2%	
University of California	598	\$ 2,521,129	8	\$ 33,727	0	\$ -	0	\$ -	\$ 2,554,857	\$ 840,386	\$ 1,714,471	15%	
Monterey Peninsula College	206	\$ 868,483	0	\$ -	47	\$ 722,267	310	\$ 315,277	\$ 1,906,026	\$ -	\$ 1,906,026	11%	
Total	2,611	\$ 11,007,807	285	\$ 1,201,542	203	\$ 3,139,547	2,058	\$ 2,093,031	\$ 17,441,927	\$ 840,386	\$ 16,601,541	100%	

Assumptions & Notes

- HMA Mgmt Allocation and DwR Allocation are all coming from the same pot of 70% of the money, so they are grouped together in the table.
- Borderland and interim management is 30% cost of baseline HCP management cost, calculations are based on MPC, which is the only jurisdiction we have data we can calculate costs from (baseline is management not including restoration and species monitoring)
- Borderlands acreage calculated from linear feet assuming a 100 ft wide area to be maintained.
- p. 4-1 of the HMP: "In general, landowners are expected to fund management of biological resources on reserve parcels".
- p. 4-3 of the HMP "Development with Reserve Areas: for development parcels that have habitat reserve areas within their boundaries, the management practices must be consistent with maintenance of the reserves".
- p. 4-3 of HMP: " Borderland Development Areas: Management requirements such as fire breaks and limitation to vehicle access are required along the the NRMA interface. Remaining portions of these parcels have no management restrictions"
- p. 4-3 of HMP: "Development lands have no management restrictions placed on them. Sensitive Bio resources within these areas must be identified and may be salvaged for restoration within reserve areas". Assume this cost will be covered by developers.
- Interim management cannot be defined at this time because the required activities are unknown.
- Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.

Alternative 4 - Allocation by CFD Contribution

				CFD Funds for Habitat Mgmt		
				0.302		
Total Funds to be allocated						
\$	16,601,541					
Jurisdiction	Contributions to CFD thru 18-19	Contributions to CFD FY 19-20	Total Contribution to Date	Total Allocation	Percent	
	\$	\$	\$			
Monterey County	\$ 22,278,699	\$ 2,539,569	\$ 24,818,268	\$ 6,966,317	42%	
Seaside	\$ 10,084,195	\$ -	\$ 10,084,195	\$ 2,830,564	17%	
Marina	\$ 23,836,552	\$ 405,792	\$ 24,242,344	\$ 6,804,660	41%	
Monterey City	\$ -	\$ -	\$ -	\$ -	0%	
Del Rey Oaks	\$ -	\$ -	\$ -	\$ -	0%	
State Parks	\$ -	\$ -	\$ -	\$ -	0%	
University of California	\$ -	\$ -	\$ -	\$ -	0%	
Monterey Peninsula College	\$ -	\$ -	\$ -	\$ -	0%	
Monterey Peninsula Regional Parks	\$ -	\$ -	\$ -	\$ -	0%	
CSUMB	\$ -	\$ -	\$ -	\$ -	0%	
Total	\$ 56,199,445	\$ 2,945,361	\$ 59,145,561	\$ 16,601,541	100%	

Assumptions & Notes

1. Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.



Summary of CFD Alternatives

Jurisdiction/Entity	Alternative 1		Alternative 2		Alternative 3		Alternative 4	
	Allocation	Percent	Net Allocation	Percent	Net Allocation	Percent	Allocation	Percent
Monterey County	\$13,270,377	79.9%	\$8,046,918	46.1%	\$10,043,699	57.6%	\$6,966,317	42.0%
Seaside	\$1,222,026	7.4%	\$920,230	5.3%	\$920,230	5.3%	\$2,830,564	17.1%
Marina	\$1,316,015	7.9%	\$739,961	4.2%	\$994,961	5.7%	\$6,804,660	41.0%
Monterey City	\$45,053	0.3%	\$32,545	0.2%	\$32,545	0.2%		
Del Rey Oaks	\$748,071	4.5%	\$558,435	3.2%	\$558,435	3.2%		
CSUMB			\$431,175	2.5%	\$431,175	2.5%		
University of California			\$1,059,682	10.9%	\$1,714,471	14.6%		
Monterey Peninsula College			\$1,683,441	9.7%	\$1,906,026	10.9%		
Monterey Peninsula Regional Parks			\$59,573	0.3%				
State Parks			\$3,069,582	17.6%				
	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%	\$16,601,541	100%

Assumptions & Notes

1. Be advised that \$840,386 of CFD Funds have been previously distributed to UCSC, therefore the total funds to be allocated is reduced by this amount.



April 2, 2020

Josh Metz, Executive Officer
FORA
920 2nd. Avenue
Marina, CA. 93933

Dear Josh:

As requested, this letter will provide background on the "Alternate 5" that was supported by the Habitat Working Group.

What is now known as "Alternate 5" has its origins in the four alternates presented by ICF. Of all the proposed allocations proposed through ICF modeling, the only allocation that reflected actual (as opposed to modeled) numbers was Alternate 4, which established the actual contributions made to date as follows:

Monterey County	\$6,966,317
Marina	\$6,804,660
Seaside	\$2,830,563

Comparing Alternate 1 allocations to Alternate 4 contributions results in the following:

	Actual Contribution (Alt. 4)	Proposed Allocation (Alt. 1)
Monterey County	\$6,966,317	\$13,270, 277
Marina	\$6,804,660	\$ 1,316,015
Seaside	\$2,830,563	\$ 1,222,026
Del Rey Oaks	\$0	\$ 748,071
Monterey	\$0	\$ 45,053

The disparities between actual contributions and proposed allocations of Alternate 1 are obvious, and are exacerbated by the land use jurisdiction which has a budget dwarfing all the others receiving a windfall of more than six million dollars under Alternate 1.

To propose an alternate in which there is a better relationship between what each jurisdiction has already paid and what they are allocated, and factoring in that each land-use jurisdiction should get something, the proposed Alternate 1 allocations to Del Rey Oaks and Monterey were each

reduced by 20%, creating a sum of \$634,499 to be funded by Monterey County, Marina and Seaside. The \$634,499 to be split between Monterey and Del Rey Oaks was reduced by the percentage share Monterey County (41.96%), Marina (40.98%) and Seaside (17.06) have paid, to date. These adjustments result in the following comparison between contributions and allocations:

	Actual Contribution (Alt. 4)	Proposed Allocation (Alt. 5)
Monterey County	\$6,966,317	\$6,700,083
Marina	\$6,804,660	\$6,544,643
Seaside	\$2,830,563	\$2,722,319
Del Rey Oaks	\$0	\$ 598,456
Monterey	\$0	\$ 36,042

In sum, "Alternate 5" has the following features:

- **Every land use jurisdiction gets something**
- **Land use jurisdictions that have paid do not suffer huge losses**
- **The land use jurisdiction with the greatest resources, by far, does not receive a multi-million dollar windfall to the detriment of others**

I thank the FORA Board, in advance, for their consideration.

Sincerely,



Craig Malin
City Manager

Cc: Mayor and City Council

MEMORANDUM

Kennedy, Archer & Giffen

A Professional Corporation

DATE: April 3, 2020

TO: FORA Board of Directors

FROM: Authority Counsel's office – David Willoughby

RE: Options for Transferring CFD Funds

Over the course of meeting with the Habitat Working Group, several options regarding how the Community Facilities District (“CFD”) funds that have been collected by FORA and earmarked for habitat management and related expenses might be distributed before FORA’s sunset were identified. Although there are a number of possible variations to each potential approach, the options can be grouped into the following three main categories.

1. Transfer the CFD Funds to a Joint Powers Authority (“JPA”). The CFD funds were collected pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code sections 53311 et seq.). Section 53316.2(d)(1) of that Act allows an existing CFD to enter into a joint exercise of powers agreement with a JPA when necessary to allow an orderly transition of governmental facilities and finances, whether that reorganization occurs pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code sections 56000 et seq.) or other law governing the reorganization of any agency that is a party to the JPA agreement (such as the FORA Act). Section 53316.6 specifically requires the agreement to provide for the allocation and distribution of the proceeds of any special tax levy among the parties to the agreement. Under this approach, FORA would need to initially be a party to the JPA agreement but could withdraw at or before FORA’s dissolution. Because this approach is specifically authorized by the same legislation pursuant to which the CFD funds were collected and because entry into an agreement with and transfer of funds to a JPA clearly fit within the purposes contemplated by the Act, this approach would be the least vulnerable to legal challenge. However, the approach would require the funds to be transferred as a lump sum and is not easily amenable to dividing the CFD funds among multiple recipients, some or all of which might not be members of a JPA formed before FORA’s sunset.

2. Enter into a Joint Community Facilities Agreement (“JCFA”) with each Recipient of CFD Funds. Section 53316.2(d)(1) of the Mello-Roos Act allows an existing CFD to enter into a JCFA under the same circumstances that would authorize entry into a joint exercise of powers agreement. Under this approach, FORA would need to initially be a party to the JCFA but could withdraw at or before FORA’s dissolution. Although this approach is specifically authorized by the same legislation pursuant to which the CFD funds were collected, it is less of a square fit than is approach 1 outlined above. Ordinarily, JCFA’s are entered into at the time of an entity formation or before a bond issuance. However, the wording of the statute appears to be broad enough to allow the use of a JCFA in connection with a reorganization (such as the dissolution of FORA). For that reason, this approach should not entail any high risk of litigation.

3. Transfer CFD Funds Pursuant to Another Form of Agreement. A review of the Mello-Roos Act and related regulations has not revealed any express prohibition against transferring CFD funds via another form of agreement entered into prior to FORA's sunset. Accordingly, a general agreement to the effect that FORA is providing each recipient with a share of the CFD funds in exchange for the recipient's commitment to use the funds only for the purposes for which they were collected might suffice. Using such an approach is a bit of a venture into uncharted territory. Although we are unaware of any explicit prohibition against taking such a course of action, we can't be sure that we would land in a safe harbor. However, a general agreement along the lines outlined above could be considerably more simple than a JCFA.



FORT ORD REUSE AUTHORITY

SPECIAL MEETING
FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS
Friday, April 17, 2020 at 1:00 p.m.
AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON APRIL 16, 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, one potential case

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. BUSINESS ITEMS

INFORMATION/ACTION

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

- a. Habitat Working Group (HWG) Ad-Hoc Committee Report & Set Aside Funds Distribution
Recommendation - *2nd vote*

Recommendation(s):

- i. Receive HWG Ad-Hoc Committee Report
- ii. Approve HWG 3/13 & 3/27 meeting minutes
- iii. Adopt a habitat set-aside funds distribution

- b. Building Removal Bond Distribution Methodology Review - *2nd vote*

Recommendation(s):

- i. Review building removal bond distribution methodology
- ii. Provide staff direction

- c. 2020 Transition Plan

Recommendation: Approve 2020 Transition Plan

- d. Mechanics of Habitat Funds Distribution

Recommendation(s):

- i. Receive report on mechanics of habitat funds distributions
- ii. Approve mechanism

- e. Federal Wildlife Agency Notification

Recommendation: Authorize Executive Officer to transmit letter to United States Fish & Wildlife Service (“USFWS”) regarding current habitat conservation directions.

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. 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 SPECIAL MEETING: Thursday, April 30, 2020 AT 2:00 P.M.