

# **FORT ORD REUSE AUTHORITY / ESCA REMEDIATION PROGRAM**

## **RIGHT OF ENTRY PROCEDURE AND REQUIREMENTS**

The Fort Ord Reuse Authority (FORA) utilizes a Right of Entry (ROE) letter as one of its basic tools to control access to the property it owns. The basic ROE template has evolved since 2009 when FORA received ownership of the ESCA properties for the purpose of performing Munitions and Explosive of Concern (MEC) remediation.

This basic ROE template was developed with the help of FORA's Authority Counsel. The basic ROE template may be used "as is" or may be modified to fit the needs of FORA; the Regulators (U.S. Environmental Protection Agency [EPA] and Department of Toxic Substances Control [DTSC]); Covenants Restricting the Use of Property (CRUP); ARCADIS; field conditions; and, the request of neighboring property owners with the addition of specific requirements. FORA reserves the right to deny or rescind an ROE for any reason.

### **ROEs are issued to groups that:**

- Have liability insurance coverage for their activities;
- Their members comply with signage, deed restrictions, habitat concerns or the basic ROE conditions;
- Their activities conform with, but are not limited to ESCA MEC remediation, U.S. Army (Army) remediation, Bureau of Land Management (BLM) activities and MOUT use activities;
- Do not overlap with other proposed activities; and
- Compensate FORA for any costs of oversight.

### **The basic elements of a ROE are:**

- Hold harmless agreement;
- Requirement for Liability Insurance listing FORA as additionally insured;
- Use of the property is "as is";
- Ground disturbing activities must have Unexploded Ordnance (UXO) support;
- Adherence to the environmental and habitat restrictions;

- To control activity traffic impacts;
- To obtain a FORA Master Vehicle Access Permit (VAP) and issue their own subordinate vehicle access permits to their members/participants using FORA-owned roads; and
- The ROE can be revoked if necessary.

## **ADDITIONAL SPECIFIC ROE REQUIREMENTS**

The basic ROE template is modified as required to provide for three (3) types of different access needs: public agencies, Army historic uses and community organizations. More specifics on the modifications for the specific ROE types are as follows:

### **Public Agencies:**

Example conditions (required in past ROEs):

- Must be performing work on-site
- Map locating/limiting activities
- Meet jurisdiction requirements
  - meet Ordinance Ordinance
  - Permits
- Meet Regulatory requirements
  - Review proposed work
  - Technical Information Paper (TIP), Soils Management Plan, UXO construction support documents may be required
- Meet ARCADIS requirements
  - Review proposed work
  - UXO escorts for ground disturbing activities
- Meet additional FORA requirements
  - Reimbursement agreement for UXO support

- ARCADIS support as required
  - UXO construction support
  - Project submittal documents
  - Installation of work
- Access permitted during work hours
  - Check in with UXO Safety Officer
  - Escort

### **Army Historic Uses:**

Example conditions:

- The proven history of previous use under Army ownership
- Meet Regulatory requirements
- Meet ARCADIS requirements
- Meet additional FORA requirements
- Access permitted during work hours
- Map locating/limiting activities

### **Community Organizations:**

Example conditions:

- Access permitted after-work hours
- Access restricted to daylight hours
- Access restricted to specified areas
- Map locating/limiting activities
- Meet Regulatory requirements
- Meet ARCADIS requirements
- Meet additional FORA requirements

- Adherence to the environmental and habitat restrictions
- Habitat/species awareness for member/participants
- Only for activities that directly support organization's mission
- I.D. required for group members/participants
  - While on site
  - Copy of ROE Agreement in-hand
  - "Buddy-system" (in place for safety and to keep the members/participants together)

## **ROE APPLICATION PROCEDURE**

An applicant must request access to FORA-owned property through the FORA Real Property and Facilities Manager. The applicant must submit a completed ROE Application form to the FORA Real Property and Facilities Manager to begin the ROE process. The Real Property and Facilities Manager will review the ROE Application form and determine if the request meets the basic ROE requirements. The Real Property and Facilities Manager will contact the group's representative to discuss how to proceed with the request and what conditions will be added to the basic ROE template to address the activities proposed in the areas requested.

The Real Property and Facilities Manager will coordinate with ARCADIS, the future land-use jurisdiction, the Regulatory agencies and others as needed before issuing the ROE and adjust the ROE conditions as required to address their concerns.

The ROE is not valid until FORA has a copy of the liability insurance certificate on file in the FORA offices. The group will be asked to coordinate with the neighboring property owners (i.e. BLM, California State University Monterey Bay [CSUMB], Army) and are reminded that the ROE is not valid on any neighboring property. Oftentimes, a ROE is issued in combination with a VAP if the event requires access to the FORA ESCA property roadways.

## RIGHT OF ENTRY TYPES, BASE FEES AND REIMBURSEMENT AGREEMENT REQUIREMENTS

### Type 1 ROE: No Ground disturbing activities. (Jurisdictions' Ordinance-Ordinance not triggered)

Base Fee: FORA staff and Admin costs                      **Total Base Fee =        \$115**

**Type 1 A - ROE**: For areas with Regulatory site closure.

**Reimbursement Agreement**: Not required

**Type 1 B - ROE**: For areas without Regulatory site closure.

**Reimbursement Agreement**: Required, \$10,000 estimated total cost, FORA Board notified when signed, Includes reimbursement for FORA staff and required supporting contractors

### Type 2 ROE: Ground disturbing activities under 10CY. (Jurisdictions' Ordinance-Ordinance not triggered)

Base Fee: FORA staff and Admin costs                      **Total Base Fee =        \$580**

**Type 2 A - ROE**: For areas with Regulatory site closure.

**Reimbursement Agreement**: Required, \$5,000 estimated total cost, FORA Board notified when signed, Includes reimbursement for FORA staff and required supporting contractors

**Type 2 B - ROE**: For areas without Regulatory site closure.

**Reimbursement Agreement**: Required, \$10,000 estimated total cost, FORA Board notified when signed, Includes reimbursement for FORA staff and required supporting contractors

### Type 3 ROE: Ground disturbing activities over 10 CY of soil. (Triggers Jurisdictions' Ordinance-Ordinance)

Base Fee: FORA attorney, staff and Admin costs                      **Total Base Fee =        \$5,580**

**Type 3 A - ROE**: For areas with Regulatory site closure.

**Reimbursement Agreement**: Required, \$24,000 estimated total cost, FORA Board notified when signed, Includes reimbursement for FORA staff and required supporting contractors

**Type 3 B - ROE**: For areas without Regulatory site closure with a discrete event of short term duration.

**Reimbursement Agreement**: Required, \$24,000 estimated total cost, Bring to FORA Board for approval before signed, Includes reimbursement for FORA staff and required supporting contractors

**Type 3 C - ROE**: For areas without Regulatory site closure and continued support and review is required.

**Reimbursement Agreement**: Required, Value estimated after full review of project scope, Bring to FORA Board for approval before signed, Includes reimbursement for FORA staff and required supporting contractors

These requests are outside of the scope of the ESCA Grant Munitions and Explosives of Concern scope of work therefore, ESCA Funds cannot be used to support these requests.