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FORA

Before the Board of Supervisors in and for the
County of Monterey, State of California



Agreement No. A-10336 / 2005 CONST 0088

- a. Approve a Reimburse Agreement between)
the Fort Ord Reuse Authority and the County)
of Monterey for funding of the Davis Road)
Widening and Bridge Replacement Project,)
Federal Project No. BRLS-5944 (068))
(Project No. 360065); and)
)
- b. Authorize the Chair to execute the)
Agreement, related documentation necessary)
to effectuate the Agreement, and future)
amendments that do not significantly alter)
the scope of work or change the approved)
Agreement amount.)

Upon motion of Supervisor Smith, seconded by Supervisor Armenta, and carried by those members present, the Board hereby:

- a. Approves a Reimburse Agreement between the Fort Ord Reuse Authority and the County of Monterey for funding of the Davis Road Widening and Bridge Replacement Project, Federal Project No. BRLS-5944 (068) (Project No. 360065); and
- b. Authorizes the Chair to execute the Agreement, related documentation necessary to effectuate the Agreement, and future amendments that do not significantly alter the scope of work or change the approved Agreement amount.

PASSED AND ADOPTED on this 6th day of December 2005, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Lindley, and Smith

NOES: None

ABSENT: Supervisor Potter

I, Lew C Bauman, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book 72, on December 6, 2005.

DATED: December 14, 2005

LEW C. BAUMAN, Clerk of the Board of Supervisors,
County of Monterey, State of California

By: Cynthia Juarez
Cynthia Juarez, Deputy

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When recorded mail to:

OCT 27 2005

Fort Ord
Reuse Authority

County of Monterey
Department of Public Works
168 West Alisal Street, 2nd Floor
Salinas, CA 93901-2680

PUBLIC WORKS - ADMIN

**REIMBURSEMENT AGREEMENT BETWEEN THE FORT ORD REUSE
AUTHORITY AND THE COUNTY OF MONTEREY FOR CONSTRUCTION OF
DAVIS ROAD WIDENING AND BRIDGE REPLACEMENT ON DAVIS ROAD
BETWEEN BLANCO AND RESERVATION ROADS.**

THIS AGREEMENT is made and signed on this 19th day of October, 2005,
by and between the COUNTY OF MONTEREY, hereinafter called "County" and the FORT
ORD REUSE AUTHORITY, hereinafter called "FORA".

RECITALS

A. In June 1997, the FORA Board adopted a Final Environmental Impact Report ("FEIR") and a Fort Ord Base Reuse Plan ("Plan"). The Plan defines a series of project obligations of the Plan as the Public Facilities Implementation Plan ("PFIP"). The PFIP serves as the baseline Capital Improvement Program ("CIP") for the Plan. The FORA Board annually revisits, reviews and considers a modified CIP that includes reprogramming of projects or other modifications deemed appropriate and necessary, such as the inclusion of the Transportation Agency for Monterey County's ("TAMC") most recent study that reallocated transportation mitigation funds. That study, entitled "FORA Fee Reallocation Study," was endorsed by the FORA Board on April 8, 2005.

B. The "FORA Fee Reallocation Study" programmed \$9,251,663 in FORA fees for the preliminary engineering, design, environmental, construction, and construction management of the "Davis Road South of Blanco Road" project. The "Davis Road South of Blanco Road" project includes Davis Road Widening and Bridge Replacement on Davis Road Between Blanco Road and Reservation Road ("Project"). The funds are currently programmed in FY 2006/2007.

C. On June 10, 2005, the FORA Board revisited, reviewed, and approved the FY 2005/2006 through 2021/2022 CIP. Development fees for the construction of the Project are included in the FY 2005/2006 through 2021/2022 CIP and are programmed in FY 2006/2007.

D. The purpose of this Agreement is to establish the extent and manner in which the County will be entitled to reimbursement by FORA for the FORA CIP portion of the Project cost.


**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES
HERETO AS FOLLOWS:**

1. Design, Consulting, Construction, and Initial Financing of Project.
 - 1.1 Lead Agency. The County shall serve as lead agency for this Project.
 - 1.2 Engineering, Design, Environmental, Construction, Construction Management, and Other Services. The County shall retain necessary services and prepare all studies and documents required for environmental clearance for the Project. The County shall also provide all required engineering, design, environmental, and other services for environmental clearance, permitting, design, construction, bidding, and construction management of the Project. The County shall prepare the design documents in full conformance with the design requirements for the Project approved by Caltrans and County and in full conformance with the provisions of the applicable state and local codes. The FORA FY 2005/2006 through 2021/2022 CIP budgets \$9,251,663 in FY 2006/2007 to the Project. The County shall commence engineering, design, environmental, and other services in FY 2005/2006.
 - 1.3 Construction Contract. The County shall bid and construct the Project as a public works project. The County shall provide FORA a copy of the executed construction contract. Construction of the Project shall commence at County's discretion.
 - 1.4 Project Reprogramming. FORA shall not reprogram the Project to a later period unless development is delayed by market conditions as noted in Article 2 below.
2. Reimbursement to County. FORA's obligation to reimburse the County is contingent upon the development market and FORA's corresponding collection of development fees. Development fees collected under the FORA Community Facilities District are the only source of funds obligated for reimbursement under this Agreement. FORA shall reimburse the County for costs incurred from July 1, 2005 through Project completion.
3. Amount of Reimbursement. FORA, under this agreement with the County, shall reimburse the County for FORA's share of the total project cost not to exceed \$9,242,411, which represents FORA's budgeted share of the project cost of \$9,251,663, less \$9,252 for FORA engineering and accounting fees (corresponding to 1/10% of the total budgeted project cost). FORA shall allocate a minimum of .3669 cents to the Project from every Transportation/Transit dollar collected; beginning in FY 2006/2007 until the \$9,242,411 has been funded.
4. Invoices to FORA. The County shall submit quarterly invoices to FORA. The final invoice shall include a copy of a Notice of Completion filed with the County Recorder's office for the project.
5. Timing of Reimbursement. FORA shall commence reimbursement payments to the County when development fees programmed to fund the Project become available with the first payment due in a quarter when projected development fees are collected by FORA.

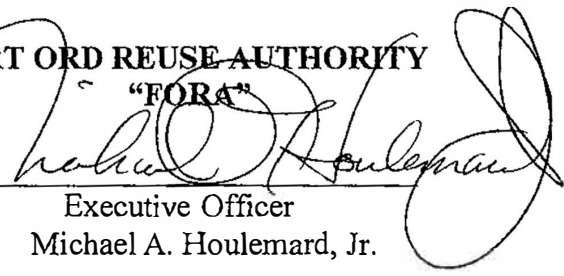
6. Audit. The County agrees that the County's books and expenditures related to the Project shall be subject to audit by FORA.
7. Amendment by Written Recorded Instrument. This Agreement may be amended or modified in whole or in part, only by a written and recorded instrument executed by both of the parties.
8. Indemnity and Hold Harmless. County agrees to indemnify, defend and hold FORA harmless from and against any loss, cost claim or damage directly related to County's actions or inactions under this Agreement.
9. Governing Law. This Agreement shall be governed by and interpreted by and in accordance with the laws of the State of California.
10. Entire Agreement. This Agreement along with any exhibits and attachments hereto, constitutes the entire agreement between the parties hereto concerning the subject matter hereof.
11. Interpretation. It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.

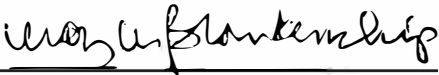
IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year set out opposite their respective signatures.

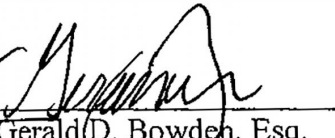
COUNTY OF MONTEREY
"COUNTY"

Date: 8 Dec 05 By: 
Chair of Board of Supervisors

FORT ORD REUSE AUTHORITY
"FORA"

Date: 10/19/05 By: 
Executive Officer
Michael A. Houlemard, Jr.

APPROVED AS TO FORM:
By: 
County Counsel

By: 
Gerald D. Bowden, Esq.
FORA Counsel