

RESOLUTION #08-01

**Resolution of the Board of Directors
of the Fort Ord Reuse Authority
Approving Non-substantive Changes to the Master Resolution**

WHEREAS, the Fort Ord Reuse Authority Board of Directors ("Authority") adopted the Fort Ord Reuse Authority Master Resolution ("Master Resolution") on March 14, 1997; and

WHEREAS, the Authority adopted changes or amendments to the Master Resolution on November 20, 1998, February 19, 1999, January 21, 2000, January 18 and February 8, 2002, and April 16, 2004; and

WHEREAS, members of the public or staff have noted some non-substantive typographical or syntactical inconsistencies in the amended Master Resolution; and

WHEREAS, the Authority reviewed the attached errata on February 8, 2008, noting non-substantive changes to the Master Resolution; and

WHEREAS, approving these minor adjustments will result in better general understanding of the Master Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Authority approves the errata (corrections and adjustments) as appended hereto (as Exhibit 1) amending the Master Resolution to take effect from and after adoption of this resolution.

Upon motion by Mayor Rubio, seconded by Supervisor Mettee-McCutchon, the foregoing resolution was passed by the Fort Ord Reuse Authority Board of Directors on this 8th day of February, 2008, by the following vote:

Ayes: 11 Mayors Russell, Mettee-McCutchon, Pendergrass, McCloud and Rubio;
Supervisor Salinas; Council Members Davis, Mancini, Downey, and
Wilmot, and Jim Cook

Noes: -0-

Abstain: -0-

Absent: 2 Council Member Barnes and one County of Monterey representative

I, Joseph Russell, Chair of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, do hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered in the minutes hereof in Item 5b, page 2 of the duly approved minutes dated February 8, 2008.

DATED: 2/27/08


BY: 
Joseph Russell
Chair, Board of Directors
Fort Ord Reuse Authority



Exhibit 1 to RESOLUTION #08-01

Corrections and minor edits to the Fort Ord Reuse Authority Master Resolution

Errata

Page	Article	Sub-heading	Line	Correction/Edit
1	1.01.020		3	Remove comma after "right"
1	1.01.040		2	Remove word "headings"
3	1.01.050	Habitat Management Plan		Remove underline from period at end of sentence
7	1.01.100	(g)	6	Change second "of" to "or"
11	1.02.080		5	Change "County" to "Authority"
11	1.02.100		2	Change "any other provision" to "other provisions"
19	2.03.020		1	Add "(5)" after the word "five"
19	2.03.020		6	Change "provide" to "assign"
21	2.03.051	(a)	3	Remove "FORA"
29	3.01.020	Subcontractor	2	Change "who" to "that"
41	5.01.020	(b)	1	Change "Subsections" to "Subsection"
48	8.01.020	(b) (6)	3	Add space and "fifteen" between "within" and "(15)"
48	8.01.020	(c)	1	Add "ninety" between "within" and "(90)"
49	8.01.020	(c)	11	Add "(10)" between "ten" and "days"
50	8.01.040		1	Add "thirty-five" between "Within" and "(35)"
50	8.01.040		6	Add "thirty-five" between "the" and "(35)"
50	8.01.050	(a)	1	Add "ten" between "Within" and "(10)"
51	8.01.050	(a)	11	Add "sixty" between "within" and "(60)"
51	8.01.050	(a)	13	Add "(10)" between "ten" and "days"
51	8.01.050	(c)	2	Add "thirty-five" between "than" and "(35)"
51	8.01.080		2	Add "fifteen" between "within" and "(15)"
52	8.02.010	(a)	4	Add colon to the end of the sentence
52	8.02.010	(a) (3)	3	Add semi-colon to the end of the sentence
54	8.02.020	(i) (1)	5	Add semi-colon to the end of the sentence
54	8.02.020	(i) (2)	2	Change "action" to "actions"
55	8.02.020	(j) (2)	2	Add "of" between "development" and "additional"
55	8.02.020	(j) (3)	5	Change period at end of sentence to semi-colon
55	8.02.020	(j) (4)	6	Change period at end of sentence to semi-colon
55	8.02.020	(j) (5)	4	Change period at end of sentence to semi-colon
55	8.02.020	(j) (6)	6	Change period at end of sentence to semi-colon
55	8.02.020	(j) (7)	4	Change period at end of sentence to semi-colon
55	8.02.020	(j) (8)	3	Change period at end of sentence to semi-colon, add "and" after semi-colon
57	8.02.020	(o) (1)	5	Change colon at end of sentence to semi-colon

RESOLUTION #08-01

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of the Fort Ord Reuse Authority
Approving Non-substantive Changes to the Master Resolution**

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WHEREAS, the Authority adopted changes or amendments to the Master Resolution on November 20, 1998, February 19, 1999, January 21, 2000, January 18 and February 8, 2002, and April 16, 2004; and

WHEREAS, members of the public or staff have noted some non-substantive typographical or syntactical inconsistencies in the amended Master Resolution; and

WHEREAS, the Authority reviewed the attached errata on February 8, 2008, noting non-substantive changes to the Master Resolution; and

WHEREAS, approving these minor adjustments will result in better general understanding of the Master Resolution.

NOW, THEREFORE, BE IT RESOLVED that the Authority approves the errata (corrections and adjustments) as appended hereto (as Exhibit 1) amending the Master Resolution to take effect from and after adoption of this resolution.

PASSED AND ADOPTED on February 8, 2008, by the Fort Ord Reuse Authority Board of Directors by the following vote:

Ayes:

Noes:

Abstain:

Absent:

I, Joseph Russell, Chair of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered in the minutes hereof in Item 5b, page ___ of the duly approved minutes dated February 8, 2008.

DATED: _____

BY: _____

Joseph Russell
Chair, Board of Directors
Fort Ord Reuse Authority

Chapter 1. GENERAL PROVISIONS

Article 1.01. THE MASTER RESOLUTION

1.01.010. SHORT TITLE.

This Master Resolution shall be known and may be cited as the "Fort Ord Reuse Authority Master Resolution" or the "Authority Master Resolution."

1.01.015. EXISTING LAW CONTINUED.

The provisions of this Master Resolution, insofar as such provisions are substantially the same provisions of ordinances relating to the same subject matter and existing at the time of the adoption of this Master Resolution, shall be continued as restatements and continuations of ordinances in existence at the time of the adoption of this Master Resolution and shall not be considered as new enactments.

1.01.020. THE EFFECTS OF PENDING ACTIONS AND ACCRUED RIGHTS.

The adoption of this Master Resolution as well as the provisions of this Master Resolution shall in no way affect the legality or enforceability of any action or proceeding commenced before this Master Resolution takes effect or any right which accrued before this Master Resolution takes effect. All procedures taken after adoption of this Master Resolution shall conform to the provisions of this Master Resolution so far as possible.

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1.01.030. RIGHTS UNDER EXISTING LICENSES AND CERTIFICATES.

No rights given by any license, permit or certificate under prior actions of any predecessor or governmental entities are affected by the enactment of this Master Resolution; however, such rights shall be exercised according to this Master Resolution from the effective date of this Master Resolution.

1.01.040. HEADINGS OF PROVISIONS.

The headings of the part, title, chapter, section, and subsection contained in this Master Resolution are intended to indicate the contents of such provisions and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of such provisions.

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1.01.050. DEFINITIONS.

(a) In the interpretation and construction of this Master Resolution, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the Authority Board or the context clearly required otherwise:

"Affected territory," means property within the Fort Ord Territory that is the subject of a legislative land use decision or an application for a development entitlement and such additional territory within the Fort Ord Territory that may be subject to an adjustment in density or intensity of allowed development to accommodate development on the property subject to the development entitlement.

- (6) Replacement of any building or structure destroyed by a natural disaster with a comparable or like building or structure.
- (7) Final subdivision or parcel maps issued consistent with a development entitlement subject to previous review and approval by the Authority Board.
- (8) Building permit issued consistent with a development entitlement subject to previous review by the Authority Board.

"Enforcement" shall mean: the making of investigations as may be required; demanding and signing criminal complaints or civil declarations; appearing as a witness in any prosecution or proceeding when so required; and generally doing all things necessary and proper to enforce and obtain compliance with the provisions of this Master Resolution.

"Entitlement" means any license, permit, authorization, or grant, which is issued, granted, or given by the Authority or any of its officers, officials, agents, employees, departments, or agencies to any person.

"Executive Officer" means and includes the appointed official of the Authority who occupies the position of Executive Officer of the Authority pursuant to the Authority Act or any person designated by the Executive Officer to perform certain duties pursuant to this Master Resolution under the direction of the Executive Officer.

"Ex-Officio Members" means the persons or entities designated in the Authority Act as ex-officio members or such persons or entities as the FORA Board may designate as ex-officio members. Ex-Officio Members include the Monterey Peninsula Community College District, the Monterey Peninsula Unified School District, the Member of Congress from the 17th Congressional District, the Senator from the 15th Senate District, the Assembly Member from the 27th District, the United States Army, the Chancellor of the California State University, the President of the University of California, the Transportation Agency of Monterey County, the Monterey-Salinas Transit Authority and Marina Coast Water District.

"First Generation Construction" means construction performed during the development and completion of each parcel of real property contemplated in a disposition or development agreement at the time of transfer from each member agency to a developer(s) or other transferee(s) and until issuance of a certificate of occupancy by the initial owners or tenants of each parcel.

"Fort Ord Territory" means all territory within the jurisdiction of the Authority.

"Goods" means and includes wares or merchandise.

"Habitat Management Plan", means the Fort Ord Installation-Wide Multi-Species Habitat Management Plan dated April 1997,

"Land use agency" means a member agency with land use jurisdiction over territory within the jurisdiction of the Authority Board.

"Legislative land use decisions" means general plans, general plan amendments, redevelopment plans, redevelopment plan amendments, zoning ordinances, zone district maps or amendments to zone district maps, and zoning changes.

"Master Resolution" or "this Master Resolution" means the Authority Master Resolution.

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(g) The sections, paragraphs, sentences, clauses, and phrases of this Master Resolution are severable and any declaration of unconstitutionality of any phrase, clause, sentence, paragraph, or section of this Master Resolution or any amendment to this Master Resolution by the valid judgment or decree of a court of competent jurisdiction shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Master Resolution or any amendment to this Master Resolution.

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1.01.110. GRAMMATICAL INTERPRETATION.

(a) General Rules.

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural, and the plural includes the singular.
- (3) Words used in the present tense include the past and the future tenses and vice versa.
- (4) The word "or" may be read "and" and the word "and" may be read "or" if the sense requires it.
- (5) Words and phrases used in this Master Resolution that are not specifically defined shall be construed according to the context and approved usage of the language. The provisions of Section 13 and 1645 of the Civil Code of the State of California are adopted in the interpretation of words and phrases, unless otherwise provided in this Master Resolution.

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(b) Specific Rules.

- (1) It is the policy of the Authority Board that the legal documents of this Authority, including all ordinances, resolutions, and contracts, should be gender neutral.
- (2) It is the policy of the Authority Board that the legal documents of this Authority including all ordinances, resolutions, and contracts, should be written in "plain English."

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Article 1.02. ENFORCEMENT OF MASTER RESOLUTION

1.02.010. RESPONSIBILITIES FOR ENFORCEMENT.

(a) Whenever the enforcement of any provision of this Master Resolution is imposed upon or delegated to a specific official, such official shall be primarily responsible for the enforcement of such provision. In the absence of any specific impositions or delegation or enforcement responsibility, the Executive Officer shall be primarily responsible for enforcing the provisions of this Master Resolution.

(b) Enforcing Officers Generally.

under which to proceed; but not more than one recovery shall be had against the same person for the same offense. The provisions of this section apply only to criminal sanctions pursuant to Section 1.02.040 of this Master Resolution. Nothing in this section shall be construed as limiting or prohibiting the Executive Officer or the Authority from securing compliance with the provisions of the Master Resolution through the civil remedies provisions authorized pursuant to Section 1.02.040 or Sections 1.02.070, 1.02.080, and 1.02.090 of this Master Resolution.

1.02.070. PUBLIC NUISANCES; CONTINUING OFFENSES.

Any condition caused or permitted to exist in violation of any of the provisions of this Master Resolution shall be deemed a public nuisance and may be abated as such in a manner consistent with law. Each and every day during which such condition is allowed to exist shall be deemed a separate offense and may be abated accordingly.

1.02.080. ABATEMENT AND ENJOINMENT OF PUBLIC NUISANCES.

Any violation of any provision of this Master Resolution is unlawful and a public nuisance. The District Attorney or the Authority Counsel, or their respective designees, may commence such actions or proceedings for the abatement, removal, and enjoinder in the manner provided by law and may take such other steps and initiate such judicial proceedings as the District Attorney or Authority Counsel deems necessary or appropriate to abate and restrain such violation. The remedies provided in this section shall be cumulative and not exclusive.

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1.02.090. REIMBURSEMENT OF COSTS AND CIVIL PENALTIES.

(a) Any person, firm, or corporation who creates or maintains a public nuisance in violation of this Master Resolution shall be liable for the cost of abatement, which shall include, but not be limited to:

- (1) Cost of Investigation;
- (2) Court costs;
- (3) Attorneys' fees; and
- (4) Costs of monitoring compliance.

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(b) Upon continuation of a public nuisance after notice from the Authority to cease the nuisance, any person, firm, or corporation shall be liable for the costs of abatement set forth in Subsection (a) of this section plus a civil penalty of fifty percent (50%) of those costs payable to the Authority in addition to any other costs of enforcement imposed by the court or such other amount as may be specified in the Authority Fee Resolution. Penalties imposed pursuant to the provisions of this subsection are in addition to any civil penalties that may be imposed pursuant to Section 1.02.040.

1.02.100. REMEDIES CUMULATIVE.

Unless otherwise expressly provided, the remedies provided in this Article or other provisions of this Master Resolution are cumulative and not exclusive. Nothing in this Master Resolution bars any legal, equitable, administrative, or summary remedy to which any aggrieved person, the Authority, or any Official may otherwise be

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exclusion shall be effected by an appropriate peace officer upon being so directed by the Chair.

2.02.070. NOTICE OF ABSENCE.

If any member of the Board is to be unable to attend a meeting, that Board member shall, if possible, notify the Executive Officer prior to the meeting.

2.02.080. VACATION PERIOD.

The Authority Board shall determine by resolution each calendar year vacation periods during which no regular meetings will be held.

Article 2.03. COMMITTEES

2.03.010. PURPOSE.

Committees and subcommittees may be established, as the Authority may deem appropriate to provide the Board with options, critique, analysis, and other information as the Board may request from time to time.

2.03.020. EXECUTIVE COMMITTEE.

The Executive Committee shall be comprised of not more than five (5) members of the Board. The Committee shall be comprised of the Chair, First Vice-Chair, Second Vice-Chair, a Past Chair, and one representative member appointed by the Board. If the Past Chair position is vacant, the Board may appoint another representative. The Executive Committee will provide such duties as the Board may assign. If any designated representative is unable to serve on the Executive Committee, the Board may fill such vacancy with another member of the Board.

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2.03.021. EXECUTIVE COMMITTEE DUTIES.

The Executive Committee shall meet on a date and time the Committee determines is convenient or necessary. The Executive Officer and Authority Counsel shall attend the meetings of the Executive Committee. The duties of the Executive Committee are:

- (a) Review and approve all agendas of all regular and special meetings of the Board of Directors;
- (b) Provide initial performance evaluation of the Executive Officer and make recommendations to the Board of Directors regarding employment and personnel matters relating to the Authority staff; and
- (c) Perform such other duties as the Board of Directors may direct.

2.03.030. ADMINISTRATIVE COMMITTEE.

The chief administrative officer, county administrative officer, or city manager of each member agency, or designee, may serve on an administrative

(a) Review and evaluate the annual budget of the Authority as presented by the Controller. Recommend action to the Executive Committee and the Authority Board, including parameters to staff compensation budgets.

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(b) Review and evaluate the scope of services for the selection of the Authority auditor as prepared by the Controller. Comment, as appropriate, on modifications to the scope of services. Serve as an advisory selection committee to the Authority Board on the selection of the auditor. Review and evaluate the annual audit of the Authority financial statements as presented by the selected auditor.

(c) Consult with the Authority Administrative Committee, the Executive Officer, the Controller and/or Director of Planning and Finance, and advise and inform the Authority Board on proposed financing mechanisms to fund the obligations of the Authority. The Finance Advisory Committee will develop recommendations to the Authority Board for actions associated with its advice and information responsibilities.

Article 2.04. EXECUTIVE OFFICER

2.04.010. OFFICE CREATED.

The office of the Executive Officer is created and established, as provided in the Authority Act. The Executive Officer shall be appointed by the Authority Board wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the Authority Board.

2.04.020. BOND.

The Executive Officer shall furnish a corporate surety bond to be approved by the Authority Board in such sum as may be determined by the Authority Board, and shall be conditioned upon the faithful performance of the duties imposed upon the Executive Officer and as prescribed in this Article. Any premium for such bond shall be a proper charge against the Authority.

2.04.030. COMPENSATION.

The Executive Officer shall receive such compensation as the Board shall from time to time determine. In addition, the Executive Officer shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.

2.04.040. POWERS AND DUTIES OF THE EXECUTIVE OFFICER.

(a) The Executive Officer shall be the administrative head of the Authority under the direction and control of the Authority Board except as otherwise provided in this Master Resolution. The Executive Officer shall be responsible for the efficient administration of all the affairs of the Authority, which are under the control of the Executive Officer. In addition to general powers of the Executive Officer as administrative head, and not as a limitation thereon, it shall be the duty of the Executive Officer and the

Chapter 3. PROCUREMENT CODE

Article 3.01. GENERAL PROVISIONS

3.01.010. GENERAL PROVISIONS.

This chapter of the Fort Ord Reuse Authority Master Resolution shall be known and may be cited as the "Procurement Code of the Fort Ord Reuse Authority."

3.01.020. DEFINITIONS.

As used in this chapter the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"Area" means Monterey County, San Benito County, and Santa Cruz County.

"Construction" means the process of building, altering, repairing, improving, or demolishing any structure or building owned or leased by the Authority or other improvements of any kind to any real property owned or maintained by the Authority or within any public right-of-way or easement within the jurisdictional limits of the Authority.

"Contractor" means any person, firm, corporation (including nonprofit), partnership, joint venture, association, or enterprise having a contract or attempting to obtain a contract with the Authority.

"Procurement" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supplies, services, or construction, including description of requirements, selection and solicitation of sources, preparation, and award of contracts, and all phases of contracting administration.

"Public project" means a project for construction.

"Resident" means a person who: (1) Maintains a domicile within the Area and such domicile is a person's true, fixed, established principal and permanent home; (2) Has no claim of residency elsewhere; and (3) Intends to remain in the Area indefinitely.

"Subcontractor" means any person, firm, corporation, partnership, joint venture, association, or enterprise that has or seeks to have a contract with a contractor to perform work required as part of a contract or agreement between a contractor and the Authority.

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3.01.030. WAIVER.

The Board, in an appropriate circumstance as determined by the Board, may waive any provision of this chapter when deemed in the best interests of the Authority.

Chapter 5. FINANCES AND CLAIMS

Article 5.01. CLAIMS AGAINST THE AUTHORITY.

5.01.010. FILING REQUIREMENT.

All claims against the Authority shall be filed with the Clerk to the Authority. The Clerk to the Authority Board shall transmit copies of all such claims to the Executive Officer. For the purpose of this Article, the term "Executive Officer" shall mean a person designated by the Executive Officer, including the Executive Officer, and such person may include a contractor of the Authority who performs risk management or claims adjustment duties for the Authority.

5.01.020. PROCESSING OF CLAIMS AGAINST THE AUTHORITY.

(a) The Executive Officer shall evaluate the sufficiency and form of all claims against the Authority and give notices relative to any deficiency of such claims to the claimant. The Executive Officer shall have all such claims investigated and shall prepare an investigative report and a recommendation relating to each such claim. The Executive Officer, with the concurrence of the Authority Counsel, may approve for payment any claim within the jurisdictional limits of a municipal court in the State of California, deny any claim amounting to \$50,000 or less, or compromise any claim in an amount less than the jurisdictional limits of a municipal court in the State of California. The Executive Officer shall be responsible for immediately notifying the claimant of such decision and expediting payment of any claim, which has been approved or compromised.

(b) For all claims not disposed of pursuant to Subsection (a) or of this section, the Authority Counsel shall prepare and submit, as soon as practicable, a report to the Authority Board either in open session or in closed session, at the Authority Counsel's election, together with a recommendation that such claim be approved, compromised, or denied. The Authority Counsel shall advise the Executive Officer of the Board's decision in the matter. The Executive Officer shall thereupon notify the claimant, in writing, of the decision and expedite payment of any claim, which has been approved or compromised.

(c) Notwithstanding the above provisions, the Executive Officer shall notify and send copies of all claims which are determined by the Executive Officer to be covered by insurance to the insurance carrier which provides coverage to the Authority, and shall be the Authority liaison with such carriers for the purpose of any claim involvement.

(d) In order to protect the best interest of the Authority and the officers, employees, and agents of the Authority with regard to the investigation, defense, or adjustment of applicable claims incurred against the Authority or its officers, employees, and agents, the Executive Officer and the Authority Counsel are directed to establish and maintain necessary administrative procedures and incident report forms to ensure the confidential coordination of case facts and related information. The

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Authority, including the Master Resolution, and/or constraints on development identified in the Reuse Plan, including lack of available water supply, wastewater and solid waste disposal capacity, and inadequate transportation and other services and infrastructure.

8.01.020. PROCEDURES FOR CONSISTENCY DETERMINATIONS FOR LEGISLATIVE LAND USE DECISIONS.

(a) Each land use agency shall submit all legislative land use decisions affecting property in the territory of the Authority to the Executive Officer for review and processing.

(b) All submissions regarding a legislative land use decision shall include:

- (1) A complete copy of the legislative land use decision, including related or applicable text, maps, graphics, and studies;
- (2) A copy of the resolution or ordinance of the legislative body approving the legislative land use decision, adopted at the conclusion of a noticed hearing certifying that the portion of a legislative land use decision applicable to the Fort Ord Territory is intended to be carried out in a manner fully in conformity with the Reuse Plan and the Authority Act;
- (3) A copy of all staff reports and materials presented or made available to the legislative body approving the legislative decision, or any advisory agency relating to the legislative land use decision;
- (4) A copy of the completed environmental assessment related to the legislative land use decision;
- (5) A statement of findings and evidence supporting the findings that the legislative land use decision is consistent with the Reuse Plan, the Authority's plans and policies, including the Master Resolution, and is otherwise consistent with the Authority Act; and
- (6) Such other materials as the Executive Officer deems necessary or appropriate and which have been identified within fifteen (15) days of the receipt of the items, described in subsection (b) of this Section.

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(c) Within ninety (90) days of the receipt of all of the items described in subsection (b) above, or from the date the Executive Officer accepts the submission as complete, whichever event occurs first, the Authority Board shall conduct a noticed public hearing, calendared and noticed by the Executive Officer, to certify or refuse to certify, in whole or in part, the portion of the legislative land use decision applicable to Fort Ord Territory. The Authority Board shall adopt a resolution making findings in support of its decision, such decision shall be rendered within the time frame described in this section, and such decision shall be final. In the event the Authority

Board fails, within the time frames described in this section, to conduct a public hearing or take action on determining whether the land use decision is consistent with the Plan and the Authority Act, the land use agency may file, upon ten (10) days notice, a request with the Executive Officer to have the matter placed on the next Board agenda for a noticed public hearing to take action to consider the consistency finding and the Board shall take action at such noticed public hearing and such decision shall be final.

(d) In the event the Authority Board finds, on the basis of substantial evidence supported on the record, that the legislative act is consistent with the Reuse Plan and this chapter, the Authority Board shall certify the legislative act pursuant to the provisions of the Authority Act.

(e) In the event the Authority Board refuses to certify the legislative land use decision in whole or in part, the Authority Board's resolution making findings shall include suggested modifications which, if adopted and transmitted to the Authority Board by the affected land use agency, will allow the legislative land use decision to be certified. If such modifications are adopted by the affected land use agency as suggested, and the Executive Officer confirms such modifications have been made, the legislative land use decision shall be deemed certified. In the event the affected land use agency elects to meet the Authority Board's refusal or certification in a manner other than as suggested by the Authority Board, the legislative body of the affected land use agency shall resubmit its legislative land use decision to the Executive Officer and follow the procedures contained in this section.

(f) No legislative land use decision shall be deemed final and complete, nor shall any land use entitlement be issued for property affected otherwise permitted by such legislative land use decision unless it has been certified pursuant to the procedures described in this section.

(g) The Authority Board may only refuse to certify zoning ordinances, zoning district maps, or other legislative land use decision on the grounds that such actions do not conform with, or are inadequate to carry out, the provisions of the general plan, certified as consistent with the Reuse Plan pursuant to the provisions of this section, applicable to the affected property.

(h) Nothing in this section or in this chapter shall apply to be or construed as adversely affecting any consistency determination previously obtained by a land use agency and certified by the Authority Board pursuant to the Authority Act.

8.01.030. REVIEW OF DEVELOPMENT ENTITLEMENTS.

(a) After the portion of a general plan applicable to Fort Ord Territory has become effective, development review authority within such portion of territory shall be exercised by the land use agency with jurisdiction lying within the area to which the general plan applies. Each land use agency may issue or deny, or conditionally issue, development entitlements within their respective jurisdictions so long as the land use agency has a general plan certified pursuant to Section 8.01.020 and the

decisions issuing, denying, or conditionally issuing development entitlements are consistent with the adopted and certified general plan, the Reuse Plan, and is in compliance with CEQA and all other applicable laws.

(b) All decisions on development entitlements of a land use agency affecting property within the territory of the Authority may be reviewed by the Authority Board on its own initiative, or may be appealed to the Authority Board, subject to the procedures specified in this Section. No development entitlement shall be deemed final and complete until the appeal and review procedures specified in this Section and Sections 8.01.040 and 8.01.050 of this chapter have been exhausted.

(c) The land use agency approving a development entitlement within the jurisdiction of the Authority shall provide notice of approval or conditional approval to the Executive Officer. Notice of approval or conditional approval of a development entitlement shall include:

- (1) A complete copy of the approved development entitlement, including related or applicable text, maps, graphics, and studies.
- (2) A copy of all staff reports and materials presented or made available to any hearing body that reviewed the development entitlement.
- (3) A copy of the completed environmental assessment related to the development entitlement.

8.01.040. REVIEW OF DEVELOPMENT ENTITLEMENTS BY INITIATIVE OF THE AUTHORITY BOARD.

Within thirty-five (35) days of the receipt of all of the notice materials described in Subsection (c) of Section 8.01.030, the Authority Board, on its own initiative, may consider a resolution setting a hearing on a development entitlement affecting Fort Ord Territory. The Authority Board may continue the matter of setting a hearing once for any reason. In the event the Authority Board does not act to set the matter for hearing within the thirty-five (35) day time period or at the continued meeting, whichever event is last, the decision of the land use agency approving the development entitlement shall be deemed final and shall not be subject to review by the Authority Board pursuant to this section. Nothing in this section shall be construed as abrogating any rights that any person may have to appeal development entitlements to the Authority Board pursuant to Section 8.01.050. In the event the Authority Board sets the matter for hearing, such hearing shall commence at the first regular meeting of the Authority Board following the date the Authority Board passed its resolution setting the matter for hearing or at a special hearing date prior to such regular meeting. The Authority Board may continue the matter once. In the event the Authority Board fails to take action on the development entitlement within such time period, the development entitlement shall be deemed approved.

8.01.050. REVIEW OF DEVELOPMENT ENTITLEMENTS BY APPEAL TO AUTHORITY BOARD.

(a) Within ten (10) days of a land use agency approving a development entitlement, any person aggrieved by that approval and who participated either orally or in writing, in that agency's hearing on the matter, may file a written appeal of such approval with the Executive Officer, specifically setting forth the grounds for the appeal, which shall be limited to issues raised at the hearing before the land use agency. The person filing the appeal shall pay a filing fee in an amount equal to the fee for appeal of combined development permits as established by the Monterey County Board of Supervisors for the cost of processing the appeal. The Executive Officer shall set, schedule, and notice a public hearing before the Authority Board. In the event the Authority Board fails to act on the development entitlement within the time periods specified in this section to conduct a public hearing and take action within sixty (60) days on determining whether the development entitlement is consistent with the Reuse Plan and the Authority Act, the land use agency may file, upon ten (10) days notice, a request with the Authority Board to have the matter placed on the next Board agenda for a noticed public hearing to take action to consider the development entitlement.

(b) At the time and place noticed by the Executive Officer, the Authority Board will conduct a hearing on the development entitlement. The Authority Board may continue the matter once for any reason.

(c) Said continued hearing must be rescheduled to a date that is not later than thirty-five (35) days from the date of the initial hearing date. In the event the Authority Board determines the development entitlement is not consistent with the Reuse Plan, the development shall be denied and the Authority Board's decision shall be final. In the event the Authority Board determines the development entitlement is consistent with the Reuse Plan, the Authority Board shall approve the development entitlement.

8.01.060. SUPERCESSION.

In the event of a conflict or inconsistency between this chapter of the Master Resolution and the Reuse Plan, the Development and Resource Plan, and other adopted FORA policies and procedures in regards to legislative land use decisions and/or development entitlements affecting lands within the affected territory, the provisions of this chapter shall govern.

8.01.070. FORA AS RESPONSIBLE AGENCY UNDER CEQA.

In taking action on all legislative land decisions and for review of all development entitlements, the Authority Board shall act as a responsible agency under CEQA.

8.01.080. ADMINISTRATIVE APPEALS.

Any administrative decision made by the Executive Officer may be appealed to the Authority Board within fifteen (15) days by completing and filing a notice of appeal at the Office of the Executive Officer.

Article 8.02. CONSISTENCY DETERMINATION CRITERIA

8.02.010. LEGISLATIVE LAND USE DECISION CONSISTENCY.

(a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land use decision for which there is substantial evidence supported by the record, that

- (1) Provides a land use designation that allows more intense land uses than the uses permitted in the Reuse Plan for the affected territory;
- (2) Provides for a development more dense than the density of uses permitted in the Reuse Plan for the affected territory;
- (3) Is not in substantial conformance with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution;
- (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority;
- (5) Does not require or otherwise provide for the financing and/or installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the legislative land use decision; and
- (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.

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(b) FORA shall not preclude the transfer of intensity of land uses and/or density of development involving properties within the affected territory as long as the land use decision meets the overall intensity and density criteria of Sections 8.02.010(a)(1) and (2) above as long as the cumulative net density or intensity of the Fort Ord Territory is not increased.

(c) The Authority Board, in its discretion, may find a legislative land use decision is in substantial compliance with the Reuse Plan when the Authority Board finds that the applicant land use agency has demonstrated compliance with the provisions specified in this section and Section 8.020.020 of this Master Resolution.

8.02.020. SPECIFIC PROGRAMS AND MITIGATION MEASURES FOR INCLUSION IN LEGISLATIVE LAND USE DECISIONS.

(f) Each land use agency with jurisdiction over property in the Army urbanized footprint shall adopt the cultural resources policies and programs of the Reuse Plan concerning historic preservation, and shall provide appropriate incentives for historic preservation and reuse of historic property, as determined by the affected land use agency, in their respective applicable general, area, and specific plans.

(g) The County of Monterey shall amend the Greater Monterey Peninsula Area Plan and designate the Historic East Garrison Area as an historic district in the County Reservation Road Planning Area. The East Garrison shall be planned and zoned for planned development mixed uses consistent with the Reuse Plan. In order to implement this aspect of the plan, the County shall adopt at least one specific plan for the East Garrison area and such specific plan shall be approved before any development entitlement shall be approved for such area.

(h) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall support all actions necessary to ensure that sewage treatment facilities operate in compliance with waste discharge requirements adopted by the California Regional Water Quality Control Board.

(i) Each land use agency shall adopt the following policies and programs:

- (1) A solid waste reduction and recycling program applicable to Fort Ord Territory consistent with the provisions of the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 *et seq.*
- (2) A program that will ensure that each land use agency carries out all actions necessary to ensure that the installation of water supply wells comply with State of California Water Well Standards and well standards established by the Monterey County Health Department; and
- (3) A program that will ensure that each land use agency carries out all actions necessary to ensure that distribution and storage of potable and non-potable water comply with State Health Department regulations.

(j) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to address water supply and water conservation. Such policies and programs shall include the following:

- (1) Identification of, with the assistance of the Monterey County Water Resources Agency and the Monterey Peninsula Water Management District, potential reservoir and water impoundment sites and zoning of

such sites for watershed use, thereby precluding urban development;

- (2) Commence working with appropriate agencies to determine the feasibility of development of additional water supply sources, such as water importation and desalination, and actively participate in implementing the most viable option or options;
- (3) Adoption and enforcement of a water conservation ordinance which includes requirements for plumbing retrofits and is at least as stringent as Regulation 13 of the Monterey Peninsula Water Management District, to reduce both water demand and effluent generation;
- (4) Active participation in support of the development of "reclaimed" or "recycled" water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency to ensure adequate water supplies for the territory within the jurisdiction of the Authority;
- (5) Promotion of the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use;
- (6) Adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development of territory within the jurisdiction of the Authority to assure that it does not exceed resource constraints posed by water supply;
- (7) Adoption of appropriate land use regulations that will ensure that development entitlements will not be approved until there is verification of an assured long-term water supply for such development entitlements;
- (8) Participation in the development and implementation of measures that will prevent seawater intrusion into the Salinas Valley and Seaside groundwater basins; and
- (9) Implementation of feasible water conservation methods where and when determined appropriate by the land use agency, consistent with the Reuse Plan, including; dual plumbing using non-potable water for appropriate functions; cistern systems for roof-top run-off; mandatory use of reclaimed water for any new golf courses; limitation on the use of potable water for golf courses; and publication of annual water reports disclosing water consumption by types of use.

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contributed by development on territory within the jurisdiction of the Authority; and

- (2) Support and participate in regional and state planning efforts and funding programs to provide an efficient regional transportation effort to access Fort Ord Territory.

(o) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure that the design and construction of all major arterials within the territory under the jurisdiction of the Authority will have direct connections to the regional network consistent with the Reuse Plan. Such plans and policies shall include:

- (1) Preparation and adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development to assure that it does not exceed resource constraints posed by transportation facilities;
- (2) Design and construction of an efficient system of arterials in order to connect to the regional transportation system; and
- (3) Designate local truck routes to have direct access to regional and national truck routes and to provide adequate movement of goods into and out of the territory under the jurisdiction of the Authority.

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(p) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to provide regional bus service and facilities to serve key activity centers and key corridors within the territory under the jurisdiction of the Authority in a manner consistent with the Reuse Plan.

(q) Each land use agency shall adopt policies and programs that ensure development and cooperation in a regional law enforcement program that promotes joint efficiencies in operations, identifies additional law enforcement needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services.

(r) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure development of a regional fire protection program that promotes joint efficiencies in operations, identifies additional fire protection needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services

(s) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure that native plants from on-site stock will be used in all landscaping except for turf areas, where practical and appropriate. In areas of native plant restoration, all cultivars, including, but