

## RESOLUTION NO. 10-07

### ***Resolution of the Fort Ord Reuse Authority establishing the Fort Ord Reuse Authority Environmental Self-Insurance Fund under the Environmental Services Cooperative Agreement***

#### **I. Recitals**

- A. The Fort Ord Reuse Authority ("FORA") is party to an Environmental Services Cooperative Agreement ("ESCA") with the United States Army ("Army"). The ESCA pertains to a portion of the former Fort Ord in Monterey County, California. The purpose of the ESCA is to define the terms and conditions pursuant to which FORA will remove environmental hazards on ESCA property in exchange for a grant award from the Army.
- B. FORA has contracted with LFR, Inc. to perform the removal actions. LFR, Inc. has named FORA as an additional insured on their insurance policies for their work, including their contractor's pollution legal liability (CPLL) policy. LFR, Inc.'s obligation in that regard does not extend beyond the period of their performance of their contractual obligations to FORA under the Fort Ord Remediation Services Agreement, effective 30 March 2007.
- C. The ESCA grant award includes funds that may be used to obtain Pollution Legal Liability coverage if reasonably available. The purpose of this resolution is to establish the FORA Environmental Self-Insurance Fund, using the funds available for that exclusive purpose, having determined that pollution legal liability insurance is not reasonably available based on cost, self-insured retention amounts, limitations on the term of coverage and exclusions from coverage.
- D. FORA recognizes the need to insure for unanticipated costs and expenses that may arise from claims associated with remnant explosives remediation not covered by the CPLL insurance supplied by LFR, Inc. Therefore, FORA has set aside \$916,056 (+interest) of the ESCA funds into a segregated, interest bearing account.

#### **II. Resolutions**

##### **The Board of Directors resolves as follows**

- A. The FORA Environmental Self-Insurance Fund is established. The sum of \$916,056 together with accrued interest from April 9, 2010, shall be set aside from the ESCA Grant. That Fund shall be maintained in perpetuity or until it is exhausted by successful claims, defense costs, or used to purchase PLL insurance if the opportunity arises. The Fund shall be used exclusively to satisfy environmental liability claims that (1) arise from the area covered by

