



FORT ORD REUSE AUTHORITY

920 2nd Avenue, Suite A, Marina, CA 93933

Phone: (831) 883-3672 | Fax: (831) 883-3675 | www.fora.org

REGULAR ADMINISTRATIVE COMMITTEE MEETING

8:15 A.M. WEDNESDAY, SEPTEMBER 4, 2013

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

AGENDA

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE**
4. **PUBLIC COMMENT PERIOD:**
Members of the audience wishing to address the Fort Ord Reuse Authority (FORA) Administrative Committee on matters within the jurisdiction of FORA, but not on this agenda, may do so during the Public Comment Period. Public comments are limited to three minutes. Public comments on specific agenda items will be heard under that item.
5. **APPROVAL OF MEETING MINUTES**
 - a. July 31, 2013 Administrative Committee minutes
 - b. August 7, 2013 Administrative Committee minutes
6. **SEPTEMBER 13, 2013 BOARD MEETING AGENDA REVIEW** INFORMATION/ACTION
7. **ITEMS FROM MEMBERS**
8. **ADJOURN TO JOINT WATER AND WASTEWATER OVERSIGHT COMMITTEE**

Next Scheduled Meeting: September 18, 2013

JOINT ADMINISTRATIVE AND WATER/WASTEWATER OVERSIGHT COMMITTEE (WWOC) MEETING

Immediately Following the Administrative Committee Meeting

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

AGENDA

1. **CALL TO ORDER**
2. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE**
3. **PUBLIC COMMENT PERIOD**
4. **APPROVAL OF MEETING MINUTES**
 - a. July 17, 2013 WWOC Minutes ACTION

5. OLD BUSINESS

- a. FY 2013/14 Ord Community Budget
 - i. MCWD Draft Rate Study

INFORMATION/ACTION

6. SCHEDULE NEXT MEETING

7. ADJOURN AT 10:00 A.M. TO FORT ORD HCP GOVERNANCE/IMPLEMENTATION MEETING

Next Scheduled Meeting: September 18, 2013

FORT ORD HCP GOVERNANCE/IMPLEMENTATION MEETING

10:00 A.M. WEDNESDAY, SEPTEMBER 4, 2013

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

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

4. PUBLIC COMMENT PERIOD

5. OLD BUSINESS

- a. HCP Governance Overview
 - i. Summary of Draft Documents' Key Elements
 - Habitat Conservation Plan (HCP)
 - Implementing Agreement
 - Joint Powers Authority (JPA) Agreement
 - Mitigation/Trust/Recipient Agreement, and
 - HCP Ordinance/Policies
 - ii. Next Steps
 - Review Period for Documents
 - JPA Agreement Approvals
 - Overall Schedule

6. ITEMS FROM MEMBERS

7. ADJOURNMENT

For information regarding items on this agenda or to request disability related modifications and/or accommodations please contact the Deputy Clerk by 5:00 p.m., one business day prior to the meeting. Agendas are available on the FORA website at www.fora.org.



FORT ORD REUSE AUTHORITY

ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES

8:15 a.m., Wednesday, July 31, 2013 | FORA Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER AND ROLL CALL

Chair Dawson called the meeting to order at 8:19 a.m. The following were present, as indicated by signatures on the roll sheet:

Daniel Dawson, City of Del-Rey-Oaks*
Elizabeth Caraker, City of Monterey*
Layne Long, City of Marina*
Benny Young, County of Monterey*
John Dunn, City of Seaside*
Debby Platt, City of Marina
Teresa Syzmanis, City of Marina
Christine D'Iorio, City of Marina
Diana Ingersoll, City of Seaside
Tim O'Halloran, City of Seaside
Ray Corpuz, City of Salinas

Graham Bice, UC MBEST
Anya Spear, CSUMB
Patrick Breen, MCWD
Mike Zeller, TAMC
Kathleen Lee, Sup. Potter's Office
Bob Schaffer
Scott Hilk, MCP
Crisand Giles, BIA Bay Area
Brian Boudreau, Monterey Downs
Scott Waltz, Sierra Club
Chuck Lande, Marina Heights

FORA Staff:
Steve Endsley
Jim Arnold
Crissy Maras
Jonathan Garcia
Lena Spilman

* Voting Members

2. PLEDGE OF ALLEGIANCE

Diana Ingersoll led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

a. Status of FORA Initiatives

Deputy Clerk Lena Spilman provided a brief status report regarding the FORA initiatives. She noted that the Board would consider a resolution at their August meeting, ordering the placement of both initiatives on the November 5, 2013 county-wide ballot and delegating to the County Registrar of Voters authority to render all services relating to the election.

b. Capital Improvement Program (CIP) Correspondence:

- i. July 25, 2013 Letter from the Building Industry Association-Bay Area
- ii. July 25, 2013 Letter from Best Best & Kreiger LLP
- iii. July 26, 2013 FORA Response

Assistant Executive Officer Steve Endsley stated the correspondence had been provided for informational purposes and would be discussed under agenda item 8a.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MEETING MINUTES

a. July 17, 2013 Administrative Committee Minutes

MOTION: John Dunn moved, seconded by Layne Long, to accept the July 17, 2013 minutes, as presented.

MOTION PASSED: unanimous.

6. AUGUST 9, 2013 BOARD MEETING – AGENDA REVIEW

Mr. Endsley provided an overview of items on the August 9, 2013 Board meeting agenda.

7. NEW BUSINESS

- a. Consistency Determination: The Promontory at California State University, Monterey Bay**
Senior Planner Jonathan Garcia introduced the item and Teresa Syzmanis, City of Marina, provided a brief overview of the project. City of Marina and FORA staff responded to questions regarding the details of the project and its effect on the Fort Ord Base Reuse Plan and Capital Improvement Plan (CIP).

MOTION: John Dunn moved, seconded by Benny Young, to recommend Board approval of Resolution 13-XX, concurring in the City of Marina's legislative land use decision and development entitlement that the Marina General Plan text amendment, Specific Plan, Zoning Map amendment, and project entitlements related to The Promontory are consistent with the Fort Ord Base Reuse Plan, subject to satisfactory completion of #5 in the draft staff report.

SUBSIDIARY MOTION: Dan Dawson moved, seconded by John Dunn, to continue the item to the next regularly scheduled Administrative Committee meeting to allow time for resolution of outstanding items.

SUBSIDIARY MOTION PASSED: Ayes: Elizabeth Caraker, Daniel Dawson, John Dunn, Benny Young. Noe: Layne Long

- b. August 14, 2013 Special Administrative Committee Meeting – HCP Review**

Mr. Garcia stated that the meeting would likely be rescheduled for the end of August and that more information would be forthcoming.

8. OLD BUSINESS

- a. FY 2013/14 CIP**

Mr. Endsley introduced the item and Mr. Garcia reviewed recent updates to the CIP and a number of outstanding items from the previous meeting. Staff addressed questions and comments from members of the development community.

MOTION: John Dunn moved, seconded by Benny Young, to recommend Board adoption of the FY 2013/14 CIP, with the following direction:

- i. Modification of the August 9, 2013 staff report to reflect Committee discussion and identify areas for further Committee examination in preparation for FY 2014/15 CIP
- ii. Suggest commenting parties submit a clear and detailed explanation of comments and/or requested amendments, not to exceed one page in length.

9. ITEMS FROM MEMBERS

None

10. ADJOURNMENT

Chair Dawson adjourned the meeting at 9:41 a.m.



FORT ORD REUSE AUTHORITY

ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES

1:30 p.m., Wednesday, August 7, 2013 | FORA Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER AND ROLL CALL

Co-Chair Houlemard called the meeting to order at 1:32 p.m. The following were present, as indicated by signatures on the roll sheet:

Elizabeth Caraker, City of Monterey*
Layne Long, City of Marina*
Benny Young, County of Monterey*
Anya Spear, CSUMB
Christi Di'Iorio, City of Marina

Bob Schaffer
David Moon, Sierra Club

FORA Staff:
Michael Houlemard
Steve Endsley
Robert Norris
Jonathan Garcia
Lena Spilman

* Voting Members

2. PLEDGE OF ALLEGIANCE

Benny Young led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

None.

4. PUBLIC COMMENT PERIOD

None.

5. OLD BUSINESS

a. Consistency Determination: The Promontory at California State University, Monterey Bay.

Co-Chair Houlemard explained that the FORA Executive Committee had requested the Administrative Committee conduct further review of the consistency determination for The Promontory at CSUMB in hopes that they might resolve all outstanding issues prior to the August 9, 2013 Board meeting. He noted that FORA staff had met with City of Marina staff to address comments received at the previous week's Administrative Committee meeting.

The Committee received comments from members of the public and development community and the City of Marina answered questions regarding the project. Co-Chair Houlemard noted that the staff report would be amended to reflect the discussion and would include clarification of comments received from the Sierra Club at the previous meeting.

MOTION: Benny Young moved, seconded by Elizabeth Caraker, to recommend Board concur in the City of Marina's consistency determination for The Promontory at California State University, Monterey Bay legislative land use decision and development entitlement project submittal.

MOTION PASSED: unanimous

6. ITEMS FROM MEMBERS

None

7. ADJOURNMENT

Co-Chair Houlemard adjourned the meeting at 2:26 p.m.

- START -

**DRAFT
BOARD PACKET**



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BOARD OF DIRECTORS REGULAR MEETING

Friday, September 13, 2013 at 2:00 p.m.

910 2nd Avenue, Marina, CA 93933 (Carpenter's Union Hall)

AGENDA

1. CALL TO ORDER

2. CLOSED SESSION

- a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – 6 Cases
 - i. Keep Fort Ord Wild v. Fort Ord Reuse Authority, Case Numbers: M114961, M116438, M119217
 - ii. Bogan v. Houlemard, Case Number: M122980
 - iii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M118566
 - iv. City of Seaside v. Valenzuela, Case number: M124499
- b. Public Employee Performance Evaluation – Executive Officer (Gov Code 54957)

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

4. PLEDGE OF ALLEGIANCE

5. ROLL CALL

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

7. CONSENT AGENDA

- a. Approval of the August 9, 2013 Board Meeting Minutes
- b. Contract for Legal Services - Jerry Bowden

ACTION
ACTION

8. BOARD REQUESTED REPORTS

INFORMATION/ACTION

- a. FORA Legal Authority for Consistency Determinations
- b. FORA/Jurisdiction Land Use Authority
- c. Prevailing Wage Requirements and Enforcement on Fort Ord

9. NEW BUSINESS

- a. Adopt Resolution 13-XX Authorizing Application and Acceptance of a Building Removal Business Plan Grant

ACTION

10. OLD BUSINESS

- a. FY 2013/14 Capital Improvement Program (2nd Vote)
- b. ICF International Contract Amendment #6

ACTION
ACTION

11. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Fort Ord Reuse Authority (FORA) Board of Directors on matters that are not on this agenda, but are within FORA's jurisdiction, may comment for up to three minutes during this period. Public comments on specific agenda items are heard under that item.

12. EXECUTIVE OFFICER'S REPORT

- a. Outstanding Receivables
- b. Habitat Conservation Plan Update
- c. Administrative Committee
- d. Water/Wastewater Oversight Committee
- e. Post Reassessment Advisory Committee
- f. Veterans Issues Advisory Committee
- g. Travel Report
- h. Public Correspondence to the Board

INFORMATION/ACTION
INFORMATION
INFORMATION
INFORMATION
INFORMATION/ACTION
INFORMATION
INFORMATION/ACTION
INFORMATION

13. ITEMS FROM MEMBERS

14. ADJOURNMENT

NEXT REGULAR BOARD MEETING: OCTOBER 11, 2013

Placeholder for Item 7b

Contract for Legal Services - Jerry Bowden

This item will be included in the final Board packet.

FORT ORD REUSE AUTHORITY BOARD REPORT

BOARD REQUESTED REPORTS

Subject: FORA Legal Authority for Consistency Determinations

Meeting Date: September 13, 2013

Agenda Number: 8a

INFORMATION/ACTION

RECOMMENDATION(S):

Receive report from Special Counsel regarding FORA's legal authority to make consistency determinations.

BACKGROUND/DISCUSSION:

At its March 22, 2013 meeting, the FORA Board directed staff to retain special land use/ California Environmental Quality Act (CEQA) counsel to complete a retrospective and prospective legal analysis of Category II from the Base Reuse Plan (BRP) Reassessment Report and other items as identified. On April 12, 2013, the Board authorized the Executive Officer to contract with the Law Offices of Alan Waltner for this work. The resulting "CEQA and Land Use Implications of Potential Revisions to the Fort Ord Reuse Authority Base Reuse Plan" memo was completed by Alan Waltner and distributed to the Board and public in the July 12, 2013 Board meeting agenda packet.

Based on Board input at the July 12 meeting, staff provided Mr. Waltner with additional direction on the second memo regarding FORA's legal authority to make Legislative Land Use Decision and Development Entitlement consistency determinations under the BRP. This memo, entitled "Evaluation of FORA Legislative Land Use Decisions and Development Entitlement Consistency Determinations," is attached for your review (**Attachment A**).

FISCAL IMPACT:

Reviewed by FORA Controller _____

Staff time for this item is included in the approved FORA budget. Alan Walter's contract is limited to \$24,950.

COORDINATION:

FORA Board, Authority Counsel, Law Offices of Alan Waltner

Prepared by _____
Jonathan Garcia

Approved by _____
Michael A. Houlemard, Jr.

Placeholder for Attachment A to Item 8a

***FORA Legal Authority for Consistency
Determinations***

This item will be included in the final Board packet.

Placeholder for Item 8b

FORA/Jurisdiction Land Use Authority

This item will be included in the final Board packet.

FORT ORD REUSE AUTHORITY BOARD REPORT

BOARD REQUESTED REPORTS

Subject: Prevailing Wage Requirements and Enforcement on Fort Ord	
Meeting Date: September 13, 2013	INFORMATION/ACTION
Agenda Number: 8c	

RECOMMENDATION(S):

Receive a report from the Executive Officer regarding Prevailing Wage Requirements and Enforcement on Fort Ord.

BACKGROUND:

Over the years, the FORA Board has received several presentations regarding the applicability and enforcement of prevailing wage on Fort Ord. This spring, FORA partnered to coordinate a two-day Fort Ord Prevailing Wage Training Conference, designed to provide understanding of the documentation and regulations needed by public agencies to meet prevailing wage requirements. Although the event was cancelled due to low registration, members of the Board and public have expressed interest in seeing this topic revisited at a Board meeting.

DISCUSSION:

The question regarding the adoption of prevailing wage as a basewide policy originally surfaced during the legislative debates about the creation of FORA. While state law did not include provisions for prevailing wage in the enabling legislation, the initial FORA Board meeting explored the prevailing wage policy question in the exchanges about adoption of a procurement code. In fact, the FORA Board's first action in setting prevailing wage policy occurred on July 14, 1995, with the adoption of Ordinance No. 95-01. This Ordinance established FORA's Procurement Code, which requires prevailing wage to be paid to all workers employed on FORA's construction contracts. The FORA Master Resolution was adopted on March 14, 1997. Per Article 3.03.090 of the Master Resolution (**Attachment A**), FORA must pay prevailing wages on all of its projects. (FORA projects using federal funds cannot require local preferences, but local participation has been strongly encouraged and the intent has typically been met.)

The discussion about application of prevailing wages continued through the FORA process and was included in Base Reuse Plan compliance actions through 2006 when the Board engaged in further policy clarification actions. In August 2006, the FORA Board received a status report on the jurisdiction's efforts to adopt and implement prevailing wage policies consistent with Chapter 3 of the FORA Master Resolution. That report was the result of FORA Executive Committee and Authority Counsel's examination of FORA's role in implementing prevailing wage policies on the former Fort Ord. Since 2006, the FORA Board has heard compliance concerns expressed by the Labor Council, received several additional reports, slightly modified a section of Chapter 3 of the Master Resolution, and directed staff to provide information to the jurisdictions about compliance. FORA staff will provide a power point presentation on Prevailing Wage Policy implementation at the former Fort Ord at the September meeting.

FISCAL IMPACT:

Reviewed by FORA Controller _____

Staff time for this item is included in the approved FORA budget.

COORDINATION:

FORA Board, FORA Counsel

DRAFT

Prepared/Approved by _____
Michael A. Houlemard, Jr.

Excerpts from the FORA Master Resolution - *Prevailing Wage* -

3.03.090 PREVAILING WAGES.

(a) Not less than the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, will be paid to all workers employed on the First Generation Construction performed on parcels subject to the Fort Ord Base Reuse Plan. This subsection applies to work performed under Development Entitlements as defined in §1.01.050 of this Master Resolution and by contract with a FORA member or a FORA member agency including their transferees, agents, successors-in-interest, developers or building contractors.

This policy is limited to "First Generation Construction" work, which is defined in §1.01.050 of this Master Resolution. In addition to the exceptions enumerated in the definition of Development Entitlements found in §1.01.050 of this Master Resolution, this policy does not apply to:

- construction work performed by the Authority or a member jurisdiction with its own workforce;
- construction work performed by paid, full-time employees of the developer, unless the developer is performing the work of a contractor as defined in California Business and Professions Code §7026;
- construction improvements following issuance of an occupancy permit;
- affordable housing when exempted under California state law; and
- construction of facilities to be used for eleemosynary non-commercial purposes when owned in fee by a non-profit organization operating under §501(c)(3) of the Internal Revenue Code.

(b) Member agencies must include language in all of their contracts and deeds for the conveyance, disposition and/or development of former Fort Ord property to give notice of and assure compliance with the policy set forth above in subsection 3.03.090(a).

(c) FORA determines compliance by member agencies with this section at the time of and as part of FORA's consistency determination under Chapter 8 of this Master Resolution.

1.01.050**DEFINITIONS.**

"Development entitlements" includes but is not limited to tentative and final subdivision maps, tentative, preliminary, and final parcel maps or minor subdivision maps, conditional use permits, administrative permits, variances, site plan reviews and building permits. The term "development entitlement" does not include the term "legislative land use permits" as that term is defined in this Master Resolution. In addition the term "development entitlement" does not include:

- (1) Construction of one single-family house, or one multiple family house not exceeding four units, on a vacant lot within an area appropriately designated in the Reuse Plan.
- (2) Improvements to existing single-family residences or to existing multiple family residences not exceeding four units, including remodels or room additions.
- (3) Remodels of the interior of any existing building or structure.
- (4) Repair and maintenance activities that do not result in an addition to, or enlargement of, any building or structure.
- (5) Installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and development approved pursuant to the Authority Act.
- (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.

"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 REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject:	Adopt Resolution 13-XX Authorizing Application and Acceptance of a Building Removal Business Plan Grant	
Meeting Date:	September 13, 2013	ACTION
Agenda Number:	9a	

RECOMMENDATION:

Adopt Resolution 13-XX (**Attachment A**) authorizing application to the United States Department of Defense Office of Economic Adjustment (OEA)/United States Department of Commerce Economic Development Administration (EDA) for a joint Fort Ord Reuse Authority (FORA)/ California State University Monterey Bay (CSUMB) Building Removal Business Plan grant. If the application is approved by the OEA/EDA, Resolution 13-XX also authorizes the Executive Officer to accept any subsequent grant offer (anticipated to be up to \$250,000).

BACKGROUND:

FORA has been actively removing, reusing and recycling former Fort Ord building stock since 1996. Details about the background and status of building removal can be found in the FORA Annual Report – pages 22 to 24. Through FORA's building removal program, lessons have been learned regarding building type, size and use, the presence of lead-based paint, asbestos, hidden asbestos and asbestos-containing materials, and waste management and diversion.

Separately, but in coordination with FORA in many cases, CSUMB has been actively removing, reusing and recycling former Fort Ord building stock on the campus footprint since 2001. FORA and CSUMB have "partnered" on several building removal projects and continue to benefit from shared knowledge and cost savings. The adopted FORA Legislative Agenda has carried an ongoing item to encourage this mutually beneficial partnering for building and blight removal. In addition, blight/building removal was emphasized by community members during the 2012 Base Reuse Plan Reassessment process.

DISCUSSION:

There are sixty-five (65) concrete Korean War-era buildings requiring removal on the former Fort Ord. Twenty-six (26) of these concrete structures lie within the City of Seaside footprint on the former Fort Ord, creating a "ghost town" effect and an attractive setting for vandalism while impairing implementation of the 1997 Base Reuse Plan for reuse of the area and significantly affecting land value. Thirty-nine (39) of these structures lie within the CSUMB campus footprint, creating a significant barrier to implementing the core campus area of the campus Master Plan. All of the abandoned buildings present potentially significant public safety and environmental hazards.

Under the guidance of the FORA Legislative Agenda, FORA leadership discussed the building removal/blight issues with federal officials while in Washington DC last June. Shortly thereafter, FORA and CSUMB agreed to partner to prepare a Building Removal Business Plan OEA/EDA grant application that would outline cost parameters and set forth terms to guide future removal of these large multi-story concrete structures. Under OEA/EDA requirements, FORA as the recognized Local Reuse Authority by OEA must lead the grant application process, and if

successful, the grant management process. The application requests funds to refine our past work to develop a current business plan to complete building removal work – clearing a barrier to both blight removal and effective reuse of the former Fort Ord. The Building Removal Business Plan would continue to leverage our collective expertise and experience, and focus on environmentally sensitive building removal techniques, utilizing market forces.

FISCAL IMPACT:

Reviewed by FORA Controller _____

FORA and CSUMB can each provide \$25,000 of in-kind matching funds in the form of Construction Management and Planning staff time to manage the application for a total of \$50,000, or 20% of the proposed award.

COORDINATION:

CSUMB, OEA, EDA, City of Seaside

Prepared by _____
Crissy Maras

Approved by _____
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY Resolution 13-XX

Resolution of the Fort Ord Reuse Authority Board to Authorize the Application and Acceptance of Grant Funds to Support Preparation of a Deconstruction/Building Removal Business Plan

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

The Fort Ord US Army Military Installation was closed as a result of the 1994 Base Realignment and Closure Act.

The Fort Ord Reuse Authority (FORA) was created by State legislature to oversee the civilian reuse and redevelopment of the former Fort Ord.

The Fort Ord Base Reuse Plan (BRP) was adopted in 1997 and describes the planning, financing and implementation of reuse, focusing on the three "E's" – Economic Recovery, Education and Environment.

A comprehensive re-assessment of the BRP concluded with a 2012 Base Reuse Plan Final Reassessment Report.

The Final Reassessment Report identified blight removal as a significant remaining goal of the reuse effort.

FORA has been actively removing, reusing and recycling former Fort Ord building stock since 1996 and has emphasized building removal in its Legislative Agenda since 2007.

California State University Monterey Bay (CSUMB) has been actively removing, reusing and recycling former Fort Ord building stock within their campus footprint since 2001.

Twenty-six (26) Korean War-era concrete structures lie within the City of Seaside footprint on the former Fort Ord, preventing implementation of the BRP, redevelopment of the area, and significantly affecting land value.

Thirty-nine (39) Korean War-era concrete structures lay within the CSUMB campus footprint, preventing implementation of the campus Master Plan and building the core campus.

FORA and CSUMB possess knowledge and lessons learned through both separate and combined building removal projects.

A Deconstruction/Building Removal Business Plan would continue to leverage that knowledge by establishing cost parameters and setting forth terms to guide future removal of these large multi-story concrete structures.

The United States Department of Defense Office of Economic Adjustment (OEA), through the US Department of Commerce Economic Development Administration, has indicated support of

a joint FORA/CSUMB grant application up to \$250,000 for a Deconstruction/Building Removal Business Plan with FORA as lead agent.

Both the City of Seaside and CSUMB have provided letters supporting a joint FORA/CSUMB grant application for a Deconstruction/Building Removal Business Plan with FORA as lead agent.

NOW, THEREFORE, the Fort Ord Reuse Authority Board of Directors hereby resolves that a joint FORA/CSUMB application for an OEA/EDA grant to prepare a Deconstruction/Building Removal Business Plan would significantly benefit CSUMB, FORA land use jurisdictions, and the Monterey Bay Region, and authorizes the Executive Officer to make such application.

IT IS FURTHER RESOLVED that if the OEA/EDA grant is approved, the FORA Executive Officer is authorized to accept a subsequent grant offer and that FORA will provide \$25,000 in-kind Construction Management and Planning staff time to manage the application as FORA's share of the \$50,000/ 20% OEA/EDA award local match requirement.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this 13th day of September, 2013, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jerry Edelen, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject: FY 2013/14 Capital Improvement Program (2 nd Vote)	
Meeting Date: September 13, 2013	ACTION
Agenda Number: 10a	

RECOMMENDATION:

Adopt the FY 2013/14 Fort Ord Reuse Authority (FORA) Capital Improvement Program (CIP), as presented and voted on at the August FORA Board meeting (**Attachment A**).

BACKGROUND/DISCUSSION:

At the May 2013 Board meeting, Board members received a presentation and overview of the FORA CIP and the specific adjustments made for FY 2013/14. In June, staff presented the first draft CIP, along with answers to several Board member questions/comments. At that June meeting, the Board accepted the Administrative Committee request for continued CIP review at the Administrative level and postpone Board adoption for 30 days. The Board received a status report on Administrative Committee review at their July meeting.

The Administrative Committee recommended FORA Board adoption of an updated draft FY 2013/14 CIP on July 31st. On August 9th, the Board subsequently received that draft with a staff report and memo which outlined further updates. On a motion by Director Potter, seconded by Director Rubio, the CIP failed to receive a unanimous vote for adoption (10 in favor-1 opposed). All of the previously noted draft CIPs, staff reports, memos and presentations can be found on FORA's website as part of FORA Board meeting materials for the months of May, June, July and August 2013.

If adopted, a final FY 2013/14 CIP will be distributed with the October 2013 FORA Board packet.

FISCAL IMPACT:

Reviewed by FORA Controller _____

Staff time for this item is included in the approved FORA budget.

COORDINATION:

FORA Board, Executive Committee and Administrative Committee

Prepared by _____
Crissy Maras

Approved by _____
Michael A. Houlemard, Jr.



DRAFT

FY 2013/14
Capital Improvement
Program

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I. EXECUTIVE SUMMARY

The Fort Ord Reuse Authority ("FORA") Capital Improvement Program ("CIP") was created in 2001 to comply with and monitor mitigation obligations from the 1997 Fort Ord Base Reuse Plan ("BRP"). These mitigation obligations are described in the BRP Appendix B as the Public Facilities Implementation Plan ("PFIP") – which was the initial capital programming baseline. The CIP is a policy approval mechanism for the ongoing BRP mitigation requirements as well as other capital improvements established by FORA Board policy decisions. The CIP is re-visited annually by the FORA Board to assure that projects are implemented on a timely basis.

This FY 2013/14 – "Post-FORA" CIP document has been updated with reuse forecasts by the FORA land use jurisdictions and adjusted to reflect staff analysis and Board policies. Adjusted annual forecasts are enumerated in the CIP Appendix B. Forecasted capital project timing is contrasted with FY 2012/13 adopted timing, outlining adjustments. See Tables 2 & 3, depicting CIP project forecasts.

Current State law sets FORA's sunset on June 30, 2020 or when 80% of the BRP has been implemented, whichever occurs first– either of which is prior to the Post-FORA CIP end date. The revenue and obligation forecasts will be addressed in 2018 under State Law and will likely require significant coordination with the Local Agency Formation Commission.

1) Periodic CIP Review and Reprogramming

Recovery forecasting is impacted by the market. However, annual jurisdictional forecast updates remain the best method for CIP programming since timing of project implementation is the purview of the individual on-base FORA members. Consequently, FORA annually reviews and adjusts its jurisdiction forecast based CIP to reflect project implementation and market changes. The protocol for CIP review and reprogramming was adopted by the FORA Board on June 8, 2001. Appendix A, herein, defines how FORA and its member agencies review reuse timing to accurately forecast revenue. A March 8, 2010 revision incorporated additional protocols by which projects could be prioritized or placed in time. Once approved by the FORA Board, this CIP will set project priorities. The June 21, 2013 Appendix A revision describes the method by which the "Fort Ord Reuse Authority's Basewide Community Facilities District ("CFD"), Notice of Special Tax Lien" is annually indexed.

In FY 2010/11, FORA contracted with Economic & Planning Systems ("EPS") to perform a review of CIP costs and contingencies (CIP Review – Phase I Study), which resulted in a 27% across-the-board CFD/Development Fee reduction in May 2011. On August 29, 2012, the FORA Board adopted a formula to calibrate FORA CIP costs and revenues on a biennial basis, or if a material change to the program occurs. Results of the EPS Phase II Review resulted in a further 23.6% CFD/Development Fee reduction. Those reductions are continued in this CIP. However, an increase of 2.8% as noted in the January Engineering News Record ("ENR") Construction Cost Index ("CCI") is applied across the Board to developer fees to keep pace with inflationary construction cost factors (as described in Appendix A). A Phase III review, to update CIP project and contingency costs, is planned prior to the formulaic application in early 2014.

2) CIP Costs

The costs assigned to individual CIP elements were first estimated in May 1995 and published in the draft 1996 BRP. Those costs have been adjusted to reflect actual changes in construction expenses noted in contracts awarded on the former Fort Ord and to reflect the ENR CCI inflation factors. This routine procedure has been applied annually since the adoption of the CIP – excepting 2011, at Board direction. It is expected, according to the Phase II Review/development fee study just completed, that the recently adopted formulaic fee review will be applied and submitted for FORA Board consideration in spring 2014.

3) CIP Revenues

The primary CIP revenue sources are CFD ~~special taxes~~fees, development~~er~~ fees, and land sale proceeds. These primary sources are augmented by loans, property taxes and grants. The CFD has been adjusted annually to account for inflation, with an annual cap of 5%. Development~~er~~ fees were established under FORA policy to govern fair share contributions to the basewide infrastructure and capital needs. The CFD implements a portion of the development~~er~~ fee policy and is restricted by State Law to paying for mitigations described in the BRP Final Environmental Impact Report ("FEIR"). The FORA CFD pays CIP costs including Transportation/Transit projects, Habitat Management obligations, Water Augmentation, Water and Wastewater Collection Systems improvements, Storm Drainage System improvements and Fire Fighting Enhancement improvements. Land sale proceeds are earmarked to cover costs associated with the Building Removal Program.

Tables 4 and 5 herein contain a tabulation of the proposed developments with their corresponding fee and land sale revenue forecasts. Capital project obligations are balanced against forecasted revenues on Table 3 of this document.

4) Projects Accomplished to Date

FORA has actively implemented capital improvement projects since 1995. As of this writing, FORA has completed approximately:

- a) \$75M in roadway improvements, including underground utility installation and landscaping, predominantly funded by US Department of Commerce – Economic Development Administration ("EDA") grants (with FORA paying any required local match), FORA CFD fees, loan proceeds, payments from participating jurisdictions/agencies, tax increment, and a FORA bond issue.
- b) \$75M in munitions and explosives of concern cleanup on the 3.3K acres of former Fort Ord Economic Development Conveyance property, funded by a U.S. Army grant.
- c) \$29M in building removal at the Dunes on Monterey Bay, East Garrison, Imjin Parkway and Imjin Office Park site.
- d) \$10M in Habitat Management and other capital improvements instrumental to base reuse, such as improvements to the water and wastewater systems, Water Augmentation obligations, and Fire Fighting Enhancement.

Section III provides detail regarding how completed projects offset FORA basewide obligations. As revenue is collected and offsets obligations, they will be enumerated in Tables 1 and 3.

This CIP provides the FORA Board, Administrative Committee, Finance Committee, jurisdictions, and the Monterey Regional Public with a comprehensive overview of the capital programs and expectations involved in former Fort Ord recovery programs. As well, the CIP offers a basis for annually reporting on FORA's compliance with its environmental mitigation obligations and policy decisions by the FORA Board. It is also accessed on the FORA website at: www.fora.org.

II. OBLIGATORY PROGRAM OF PROJECTS – DESCRIPTION OF CIP ELEMENTS

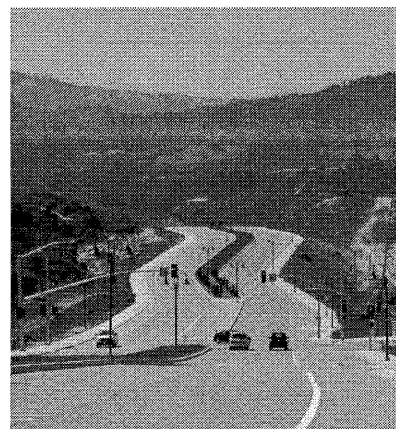
As noted in the Executive Summary, obligatory CIP elements include Transportation/Transit, Water Augmentation, Storm Drainage, Water and Wastewater Collection System, Habitat Management, Fire Fighting Enhancement and Building Removal. The first elements noted are to be funded by CFD/development fees. Land sale proceeds are earmarked to fund the Building Removal Program to the extent of FORA's building removal obligation. Beyond that obligation, land sale proceeds may be allocated to CIP projects by the FORA Board. Summary descriptions of each CIP element follow:

a) Transportation/Transit

During the preparation of the BRP and associated FEIR, the Transportation Agency for Monterey County ("TAMC") undertook a regional study (The Fort Ord Regional Transportation Study, July 1997) to assess Fort Ord development impacts on the study area (North Monterey County) transportation network.

When the BRP and accompanying FEIR were adopted by the Board, the transportation and transit obligations as defined by the TAMC Study were also adopted as mitigations to traffic impacts resulting from development under the BRP.

The FORA Board subsequently included the Transportation/Transit element (obligation) as a requisite cost component of the adopted CFD. As implementation of the BRP continued, it became timely to coordinate with TAMC for a review and reallocation of the FORA financial contributions that appear on the list of transportation projects for which FORA has an obligation.



General Jim Moore Boulevard at
Hilby Avenue; one of three
intersections upgraded/opened in
the City of Seaside

Toward that goal, and following Board direction to coordinate a work program with TAMC, FORA and TAMC entered into a cooperative agreement to move forward with re-evaluation of FORA's transportation obligations and related fee allocations. TAMC, working with the Association of Monterey Bay Area Governments ("AMBAG") and FORA, completed that re-evaluation. TAMC's recommendations are enumerated in the "FORA Fee Reallocation Study" dated April 8, 2005; the date the FORA Board of Directors approved the study for inclusion in the FORA CIP. The complete study can be found online at www.fora.org, under the Documents menu.

TAMC's work with AMBAG and FORA resulted in a refined list of FORA transportation obligations that are synchronous with the TAMC Regional Transportation Plan ("RTP"). Figure 1 illustrates the refined FORA transportation obligations that are further defined in Table 1. Figure 2 reflects completed transportation projects, remaining transportation projects with FORA as lead agency, and remaining transportation projects with others as lead agency (described below).

Transit

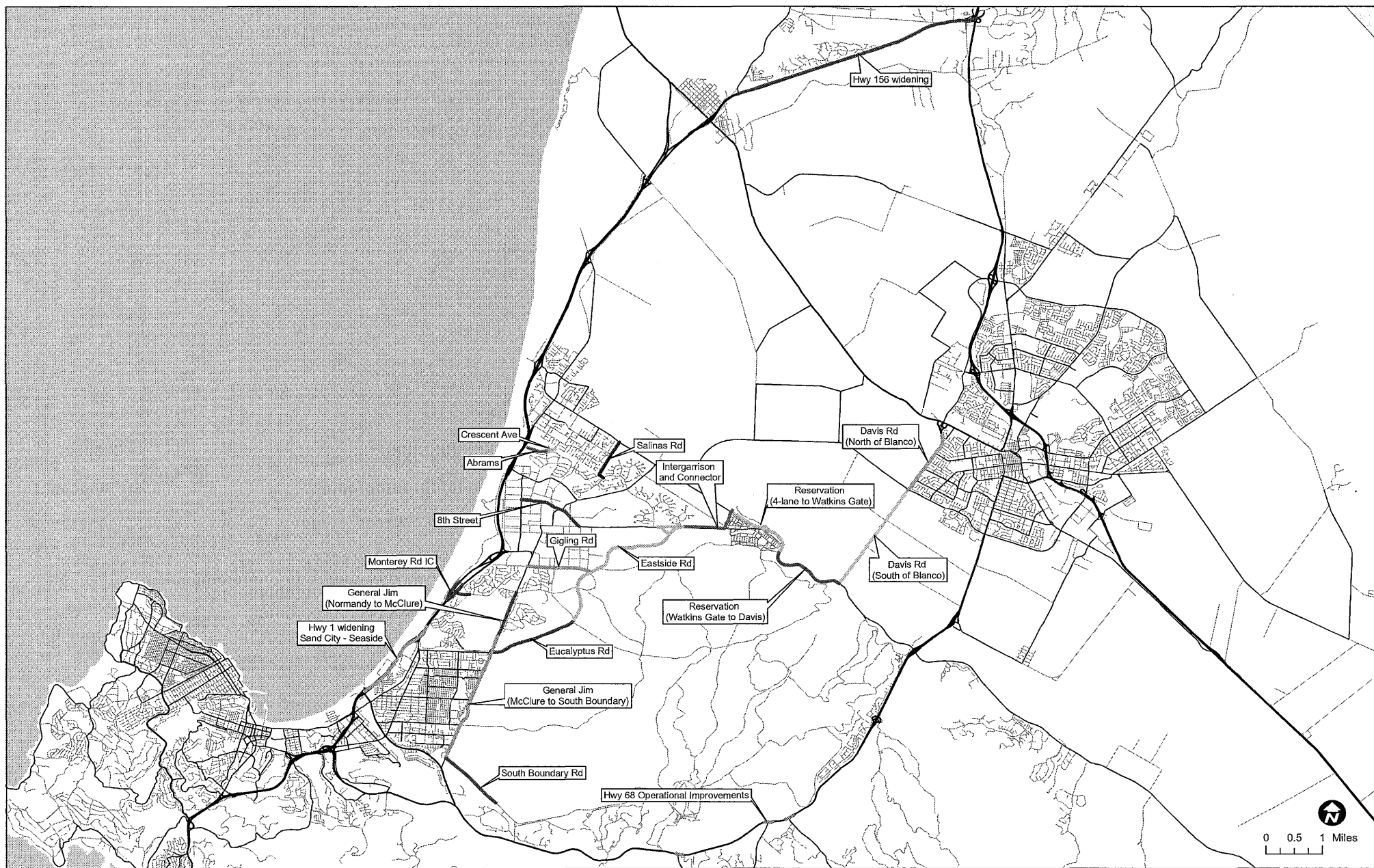
The transit obligations enumerated in Table 1 remain unchanged from the 1997 TAMC Study and adopted BRP. However, current long range planning by TAMC and Monterey-Salinas Transit ("MST") reflect a preferred route for the multi-modal corridor than what was presented in the BRP, FEIR and previous CIPs. The BRP ~~currently provides~~ for a multi-modal corridor along Imjin Parkway/Blanco Road serving to and from the Salinas area to the TAMC/MST intermodal center planned at 8th Street and 1st Avenue in the City of Marina portion of the former Fort Ord. Long range planning for transit service ~~focuses on the~~ resulted in an alternative Intergarrison/Reservation/Davis Roads corridor to increase habitat protection and fulfill transit service needs between the Salinas area and Peninsula cities and campuses.

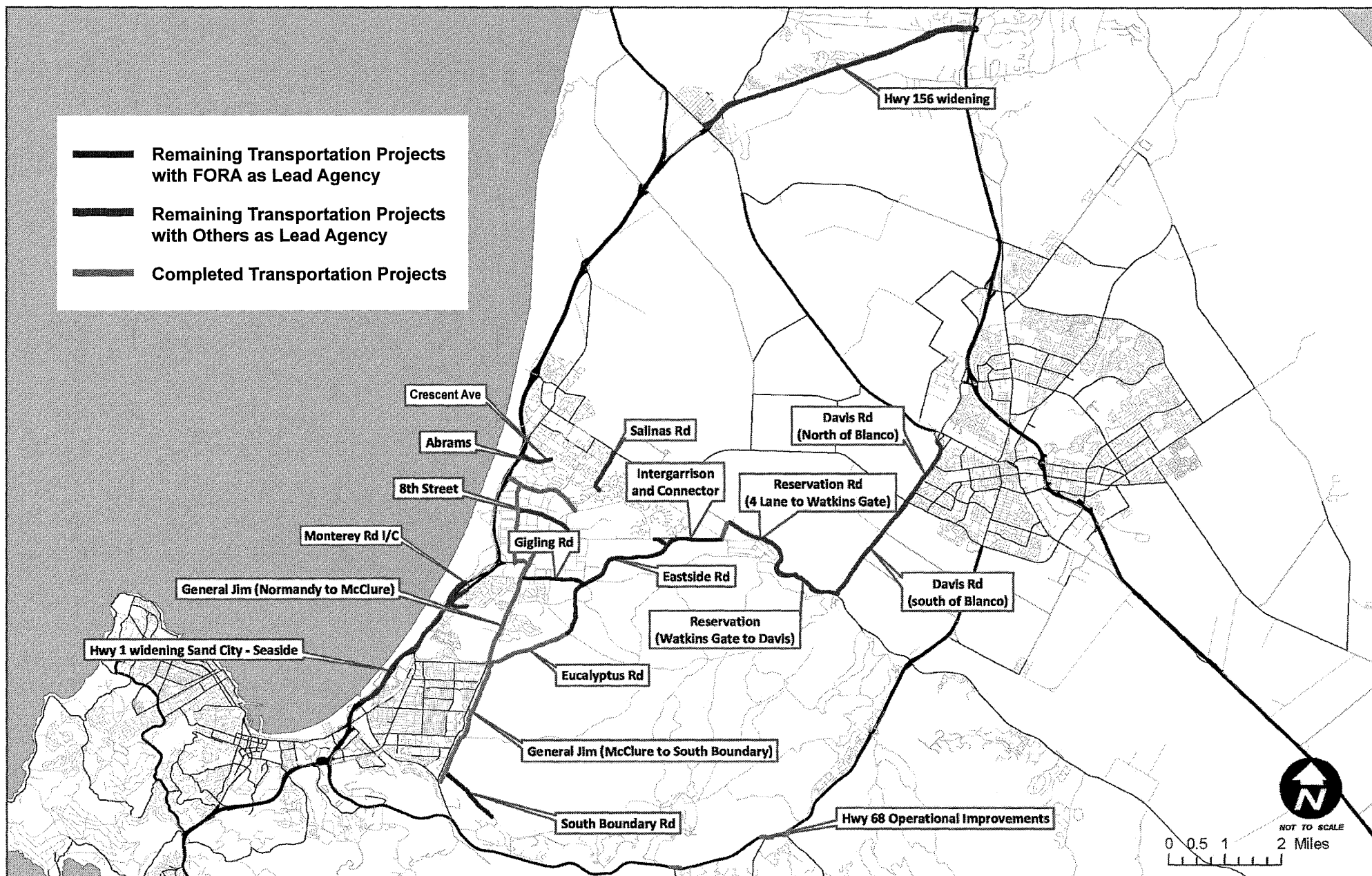
A series of stakeholder meetings ~~have been~~ were conducted to advance adjustments and refinements to the proposed multi-modal corridor plan-line. Stakeholders included, but ~~were~~ not limited to, TAMC, MST, FORA, City of Marina, Monterey County, California State University Monterey Bay ("CSUMB"), and the University of California Monterey Bay Education, Science and Technology Center. The stakeholders completed a Memorandum of Agreement ("MOA") outlining the new alignment of the multi-modal transit corridor plan line in February 2010. Since all stakeholders have signed the MOA, the FORA Board designated the new alignment and rescinded the original alignment on December 10, 2010.

Lead Agency Status

FORA has served as lead agency in accomplishing the design, environmental approval and construction activities for all capital improvements considered basewide obligations under the BRP and this CIP. As land transfers continue and development gains momentum, certain basewide capital improvements will be advanced by the land use jurisdictions and/or their developers.

As of this writing, reimbursement agreements are in place with Monterey County and the City of Marina for several FORA CIP transportation projects. Table 2 identifies those projects. FORA's obligation toward those projects is financial, as outlined in the reimbursement agreements. FORA's obligation toward projects for which it serves as lead agent is the actual project costs. Other like reimbursement agreements may be structured as development projects are implemented and those agreements will be noted for the record.





b) Water Augmentation

The Fort Ord BRP identifies availability of water as a resource constraint. The BRP anticipated build out development density utilizes the 6,600 acre-feet per year ("AFY") of available groundwater supply, as described in BRP Appendix B (PFIP section p 3-63). In addition to groundwater supply, the BRP assumes an estimated 2,400 AFY augmentation to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7).

FORA has contracted with Marina Coast Water District ("MCWD") to implement a water augmentation program. Following a comprehensive two-year process of evaluating viable options for water augmentation, the MCWD Board of Directors certified, in October 2004, a program level Environmental Impact Report ("EIR") analyzing three potential augmentation projects. The projects included a desalination project, a recycled water project and a hybrid project (containing components of both recycled water and desalination water projects).

In June 2005, MCWD staff and consultants, working with FORA staff and Administrative Committee, recommended the hybrid project to the FORA and MCWD Boards of Directors. Additionally, it was recommended that FORA-CIP ~~water augmentation~~ funding toward the former Fort Ord Water and Wastewater Collection Systems be increased by an additional \$17M to avert additional burden on rate payers due to increased capital costs.

Subsequently, several factors required reconsideration of the water augmentation program. Those factors included increased augmentation program project costs (as designs were refined); MCWD and the Monterey Regional Water Pollution Control Agency ("MRWPCA") negotiations regarding the recycled component of the project were not accomplished in a timely manner; and the significant economic downturn (2008-2012). These factors deferred the need for the augmentation program and provided an opportunity to consider the alternative "Regional Plan" as the preferred project for the water augmentation program.

At the April 2008 FORA Board meeting, the Board endorsed the Regional Plan as the preferred plan to deliver the requisite 2,400 AFY of augmenting water to the 6,600 AFY groundwater entitlements. Since that time, the Regional Plan was designated by the State Public Utilities Commission as the preferred environmental alternative and an agreement in principal to proceed entered into by Cal-Am, MCWD and MRWPCA. This agreement is unlikely to proceed under the present circumstances. MCWD is still contractually obligated to provide an augmented source for the former Fort Ord as distinct from the Regional Project. The proposed CIP defaults to the prior Board approved 'hybrid' project that MCWD has performed CEQA for and is contractually required to implement.

c) Storm Drainage System Projects

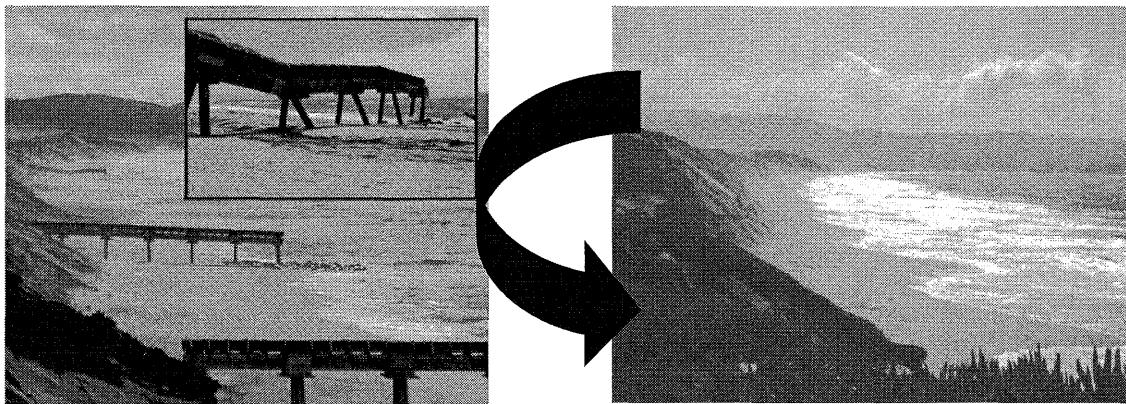
The adopted BRP recognized the need to eliminate the discharge of storm water runoff from the former Fort Ord to the Monterey Bay National Marine Sanctuary ("Sanctuary"). In addition, the BRP FEIR specifically addressed the need to remove four storm water outfalls that discharged storm water runoff to the Sanctuary.

Section 4.5 of the FEIR, Hydrology and Water Quality, contains the following obligatory Conservation Element Program: ***"Hydrology and Water Quality Policy, C-6: In support of Monterey Bay's National Marine Sanctuary designation, the City/County shall support all actions required to ensure that the bay and inter-tidal environment will not be adversely affected, even if such actions should exceed state and federal water quality requirements."***

"Program C-6.1: The City/County shall work closely with other Fort Ord jurisdictions and the California Department of Parks and Recreation ("CDPR") to develop and implement a plan for storm water disposal that will allow for the removal of the ocean outfall structures and end the direct discharge of storm water into the marine environment. The program must be consistent with State Park goals to maintain the open space character of the dunes, restore natural land forms and restore habitat values."

With these programs/policies in mind, FORA and the City of Seaside, as co-applicants, secured EDA grants to assist in funding the design and construction of alternative disposal (retention) systems for storm water runoff that allowed for the removal of the outfalls. FORA completed the construction and demolition project as of January 2004. Table 3 reflects this obligation having been met.

In the future, following build-out of on-site storm water disposal facilities, FORA or its successor will remove, restore and re-grade the current, interim disposal sites on CDPR lands. The cost of this restoration is currently unknown and therefore presented as a CIP contingency.



Storm drainage outfall removal – Before and After

d) Habitat Management Requirements

The BRP Appendix A, Volume 2 contains the Draft Habitat Management Program ("HMP") Implementing/Management Agreement. This Management Agreement defines the respective rights and obligations of FORA, its member agencies, California State University and the University of California with respect to implementation of the HMP. For the HMP to be implemented to allow FORA and its member agencies to meet the requirements of the Endangered Species Act, the California Endangered Species Act, and other statutes, the US Fish & Wildlife Service ("USFWS") and the California Department of Fish & Wildlife ("CDFW") must also approve the Fort Ord Habitat Conservation Plan ("HCP") and its funding program, as paid for and caused to be prepared by FORA.

The funding program is predicated on an earnings rate assumption acceptable to USFWS and CDFW for endowments of this kind, and economies of scale provided by unified management of the Cooperative's (the future HCP Joint Powers Authority) habitat lands by qualified non-profit habitat managers. The Cooperative will consist of the following members: FORA, County of Monterey, City of Marina, City of Seaside, City of Del Rey Oaks, City of Monterey, State Parks, University of California ("UC"), CSUMB, Monterey Peninsula College ("MPC"), Monterey Peninsula Regional Park District, and MCWD. The Cooperative will hold the HCP endowments, except in the case of the UC endowment, and secure the services of appropriately experienced habitat manager(s) via a formal selection process. The Cooperative FORA will not control expenditure of the annual line items, but merely FORA will fund the endowments, and the initial and capital costs, to the agreed upon levels.

FORA has provided upfront funding for management, planning, capital costs and HCP preparation. In addition, FORA has dedicated \$1 out of every \$4 collected in development fees to build to a total endowment of principal funds necessary to produce an annual income sufficient to carry out required habitat management responsibilities in perpetuity. The original estimate was developed by an independent consultant retained by FORA and totaled \$6.3M.

Based upon recent conversations with the regulatory agencies, it has become apparent that the Habitat Management obligations will increase beyond the costs noted above. Therefore, this document contains a \pm \$39.15M line item of forecasted requisite expenditures (see Table 3 column

'2005-13' amount of \$5,654,084 plus column '2013-14 to Post FORA Total' amount of \$33,437,419]. As part of the FY 2010-11 FORA CIP Review process conducted by EPS, TAMC and FORA, at the FORA Board's April 8, 2011 direction, included \$19.2 million as a CIP contingency for additional habitat management costs should the assumed earnings rate for the endowment be less than the current 4.5% assumption. USFWS and CDFW are the final arbiters as to what the final endowment amount will be, with input from FORA and its contractors/consultants. It is expected that the final endowment amount will be agreed upon in the upcoming fiscal year. FORA's annual operating budget has funded the annual costs of HCP preparation, including consultant contracts. HCP preparation is funded through non-CFD/development fee sources such as FORA's share of property taxes.

The current administrative draft HCP prepared in March 2012 includes a cost and funding chapter, which provides a planning-level cost estimate for HCP implementation and identifies necessary funds to pay for implementation. Concerning the annual costs necessary for HCP implementation and funded by FORA of approximately \$1.6 million, estimated in 2011 dollars, approximately 34% is associated with habitat management and restoration, 27% for program administration and reporting, 23% for species monitoring, and 16% for changed circumstances and other contingencies.

e) Fire Fighting Enhancement Requirements

In July 2003, the FORA Board authorized FORA to lease-purchase five pieces of fire-fighting equipment, including four fire engines and one water tender to supplement the equipment of existing, local fire departments. The equipment recipients included the Cities of Marina, Monterey and Seaside, the Ord Military Community Fire Department and the Salinas Rural Fire Department.

This lease purchase of equipment accommodated FORA's capital obligations under the BRP to enhance the firefighting capabilities on the former Fort Ord in response to proposed development. The lease payments began July 2004, and will be paid through FY 2013/14. Once the lease payments, funded by developer fees, have been satisfied, FORA's obligation for fire-fighting enhancement will have been fully met.



Fire engines received by Fire Departments in the Cities of Marina, Monterey and Seaside and the Ord Military Community were utilized during the Parker Flats habitat burn in 2005

f) Building Removal Program

As a basewide obligation, the BRP includes the removal of building stock to make way for redevelopment in certain areas of the former Fort Ord. The FORA Board established policy regarding building removal obligations with adoption of the FY 01/02 CIP. That policy defines FORA obligations and has been sustained since that time. For example, one of FORA's obligations includes some City of Seaside Surplus II buildings. The policy fixes the overall FORA's funding obligation to Surplus II at \$4M, and the City of Seaside decides which buildings to remove. The FORA Board additionally established criteria to address how the building removal program would proceed at Surplus II: 1) buildings must be within Economic Development Conveyance parcels; 2) building removal is required for redevelopment; 3) buildings are not programmed for reuse; and, 4) buildings along Gigling Road potentially fit the criteria. When the City of Seaside, working with any developer, determines which buildings should be removed, FORA would forego a portion of land sale proceeds in an amount commensurate with actual costs, up to \$4M (December 1996 Reimer Associates Fort Ord Demolition Study). All jurisdictions have been treated in a similar manner but have widely varying building removal needs that FORA does its best to accommodate with available funds.

As per Board direction, building removal is funded by land sale revenue and/or credited against land sale valuation. Two MOAs have been finalized for these purposes, as described below:

In August 2005 FORA entered into an MOA with the City of Marina Redevelopment Agency and Marina Community Partners ("MCP"), assigning FORA \$46M in building removal costs within the Dunes on Monterey Bay project area and MCP the responsibility for the actual removal. FORA paid \$22M and MCP received credits of \$24M for building removal costs against FORA's portion of the land sale proceeds. FORA's building removal obligation was completed as agreed by the City of Marina and MCP in 2007.

In February 2006 FORA entered into an MOA with Monterey County, the Monterey County Redevelopment Agency and East Garrison Partners ("EGP"). In this MOA, EGP agreed to undertake FORA's responsibility for removal of certain buildings in the East Garrison Specific Plan for which they received a credit of \$2.1M against FORA's portion of land sale proceeds. Building removal in the East Garrison project area is now complete. Since this agreement was made, the property was acquired by a new entity who is complying with the financial terms of the MOA.

FORA's remaining building removal obligations include the former Fort Ord stockade within the City of Marina (\pm \$2.2M) and as previously discussed, buildings in the City of Seaside's Surplus II area (\pm \$4M). In 2011, FORA, at the direction of the City of Seaside, removed a building in the Surplus II area which is explained in more detail in Appendix C. FORA will continue to work closely with the Cities of Marina and Seaside as new specific plans are prepared for those areas.

Since 1996 FORA has been aggressively reusing, redeveloping, and/or deconstructing former Fort Ord buildings in environmentally sensitive ways to reuse or reclaim significant building materials. FORA has worked closely with the regulatory agencies and local contractors to safely abate hazardous materials, maximize material reuse and recycling, and create an educated work force that can take advantage of the jobs created on Fort Ord. FORA, CSUMB and the jurisdictions continue to leverage the accumulated expertise and experience and focus on environmentally sensitive reuse, removal of structures, and recycling remnant structural and site materials, while applying lessons learned from past FORA efforts to "reduce, reuse and recycle" materials from Fort Ord structures as described in Appendix C.

g) Water and Wastewater Collection Systems

Following a competitive selection process in 1997, the FORA Board approved MCWD as the purveyor to own and operate water and wastewater collection systems on the former Fort Ord. By agreement with FORA, MCWD is tasked to assure that a Water and Wastewater Collection Systems Capital Improvement Program is in place and implemented to accommodate repair, replacement and expansion of the systems. To provide uninterrupted service to existing customers and to track with system expansion to keep pace with proposed development, MCWD and FORA staff coordinate system(s) needs with respect to anticipated development. MCWD is engaged in the FORA CIP process, and adjusts its program coincident with the FORA CIP.

In 2007, MCWD staff and consultants conducted a study of their rates, fees and charges to determine projected adjustments through five budget years. At the time, the study projected a significant increase to capacity charges to fund the improvements to and expansion of the former Fort Ord Water and Wastewater Collections Systems. The FORA Board made the policy decision to voluntarily increase the FORA CIP contribution toward this basewide obligation. Table 3 reflects this funding.

In 1997, the FORA Board established a Water and Wastewater Oversight Committee ("WWOC"), which serves in an advisory capacity to the Board. A primary function of the WWOC is to meet and confer with MCWD staff in the development of operating and capital budgets and the corresponding customer rate structures. Annually at budget time, the WWOC and FORA staff prepare recommended actions for the Board's consideration with respect to budget and rate approvals. This process provides a tracking mechanism to assure that improvements to, and expansion of, the systems are in sequence with development needs. Capital improvements for system(s) operations and improvements are funded by customer rates, fees and charges. Capital improvements for the system(s) are approved on

an annual basis by the MCWD and FORA Boards. Therefore, the water and wastewater capital improvements are not duplicated in this document.

h) Property Management and Caretaker Costs

During the EPS CIP Phase I Review process in FY 10/11, FORA jurisdictions expressed concern over accepting 1,200+ acres of former Fort Ord properties without sufficient resources to manage them. Since the late 1990's, FORA carried a CIP contingency line item for "caretaker costs." The EPS CIP Phase I Study identified \$16M in FORA CIP contingencies to cover such costs. These obligations are not BRP required CEQA mitigations, but are considered basewide obligations (similar to FORA's additional water augmentation program contribution and building removal obligation). In order to reduce contingencies, this \$16M item was excluded from the CIP cost structure used as the original basis for the 2011-12 CFD Special Tax fee reductions.

However, the Board recommended that a "Property Management/Caretaker Costs" line item be added as an obligation to cover basewide property management costs, should they be demonstrated.

As a result of EPS's CIP Review – Phase II Study analysis in FY 11/12 and FY 12/13, FORA has agreed to reimburse its five member jurisdictions up to \$660,000 in annual funding for these expenses based on past experience, provided sufficient land sales revenue is available and jurisdictions are able to demonstrate property management/caretaker costs. Additional detail concerning this analysis is provided under Appendix D. These expenses are shown in Table 5 – Land Sales as a deduction prior to net land sales proceeds. The expenses in this category (FY 13/14 through Post-FORA) are planning numbers and are not based on identified costs.

III. FY 2013/2014 THROUGH POST-FORA CAPITAL IMPROVEMENT PROGRAM

Background Information/Summary Tables

Table 1 graphically depicts fiscal offsets of completed projects that have reduced BRP obligations. Since 1995, FORA has advanced approximately \$75M in capital projects and BRP obligations. These projects have been predominantly funded by EDA grants, loan proceeds and developer fees. Developer fees are the primary funding source for FORA to continue meeting its mitigation obligations under the BRP. Table 1 includes fiscal offsets inclusive of not only completed projects, but also funded projects to-be-completed during the course of the next fiscal year. As previously noted, work concluded in conjunction with TAMC and AMBAG has resulted in modification of transportation obligations for consistency with current transportation planning at the regional level.

Table 2 details current TAMC recommendations that are compatible with the RTP, and "time places" transportation and transit obligations over the CIP time horizon.

A summary of the CIP project elements and their forecasted costs and revenues are presented in Table 3. Annual updates of the CIP will continue to contain like summaries and account for funding received and applied against required projects.

Table 4, Community Facilities District Revenue, reflects forecasted annual revenue from CFD fee collection. On an annual basis, FORA requests updated development forecasts from its member agencies as a component of FORA's CIP preparation process. The five land use jurisdictions and other agencies with land use authority on former Fort Ord provide updated development forecasts for Table A1: Residential Annual Land Use Construction and Table A2: Non-Residential Annual Land Use Construction (Appendix B). FORA staff reviews the submitted development forecasts to ensure that BRP resource limitations are met (i.e. 6,160 New Residential Unit limit, etc.). FORA staff may make adjustments to the forecasts based on past experience. In previous years, jurisdictions' forecasts have been overly optimistic. As a result, FORA staff included development forecasts as submitted for FY

13/14, but reduced forecasted development by 50% in FY 14/15 through FY 19/20 and placed the remaining 50% of the forecasts in the Post-FORA column at the end of the time horizon.

FORA staff applied the anticipated FORA CFD special tax/Development Fee Schedule rates as of July 1, 2013 to the forecasted development to produce Table 4 – Community Facilities District Revenue projections (see Appendix A for more information).

Table 5 - Land Sale Revenue reflects land sales projections resulting from EPS's CIP Review – Phase II Study. EPS projected future FORA land sales through June 30, 2020. EPS's land sales projections are shown in Table D-2 included in Attachment A to Item 7c CIP Review – Phase II Study, May 10, 2013 FORA Board Packet. For this FY 13/14 CIP, FORA staff based its land sale revenue forecasts using the same underlying assumptions as Table D-2. Using past land sales transactions on former Fort Ord where FORA received 50% of the proceeds, EPS determined an underlying land value of \$180,000 per acre of land. This value was applied to future available development acres to forecast land sale revenue, assuming the land sale would precede actual development by two years. Similar to Table 4 – CFD Revenue forecasts, FORA staff reduced the forecasted land sales revenue by 50% in FY 13/14 through FY 19/20 and placed the remaining 50% of the forecasts in the Post-FORA column at the end of the time horizon. As in Table D-2, FORA staff calculated FORA's 50% share of the projected land sales proceeds, then deducted estimated caretaker costs, FORA costs, and other obligations (Initiatives, Petitions, etc.) from the land sales revenue projections. Finally, FORA staff applied a discount rate of 5.3% prior to determining net FORA land sales proceeds.

OBLIGATORY PROJECT OFFSETS AND REMAINING OBLIGATIONS

Project #	Project Title	Project Limits	TAMC Reallocation Study 2005		FORA Offsets	FORA Remaining	FORA Remaining
			TOTAL COST	FORA PORTION	2005-2013	Obligation	Obligation Inflated
Regional Improvements							
R3	Hwy 1-Seaside Sand City	Widen highway 1 from 4 lanes to 6 lanes from Fremont Avenue Interchange south to the Del Monte Interchange	45,000,000	15,282,245	-	20,751,313	21,332,350
R10	Hwy 1-Monterey Rd. Interchange	Construct new interchange at Monterey Road	19,100,000	2,496,648	-	3,390,125	3,485,049
R11	Hwy 156-Freeway Upgrade	Widen existing highway to 4 lanes and upgrade highway to freeway status with appropriate interchanges. Interchange modification as needed at US 156 and 101	197,000,000	7,092,169	-	9,630,249	9,899,896
R12	Hwy 68 Operational Improvements	Operational improvements at San Benancio, Laureles Grade and at Corral De Tierra including left turn lanes and improved signal timing	9,876,000	223,660	-	303,701	312,205
Subtotal Regional			270,976,000	25,094,722	-	34,075,388	35,029,499
Off-Site Improvements							
1	Davis Rd n/o Blanco	Widen to 4 lanes from the SR 183 bridge to Blanco	3,151,000	506,958	-	688,383	707,658
2B	Davis Rd s/o Blanco	Widen to 4 lanes from Blanco to Reservation; Build 4 lane bridge over Salinas River	22,555,000	8,654,502	280,000	11,456,309	11,777,085
4D	Widen Reservation-4 lanes to WG	Widen to 4 lanes from existing 4 lane section East Garrison Gate to Watkins Gate	10,100,000	3,813,916	476,584	4,618,511	4,747,829
4E	Widen Reservation, WG to Davis	Widen to 4 lanes from Watkins Gate to Davis Rd	5,500,000	2,216,321	-	3,009,477	3,093,742
8	Crescent Ave extend to Abrams	Extend existing Crescent Court Southerly to join proposed Abrams Dr (FO2)	906,948	906,948	-	1,231,518	1,266,001
Subtotal Off-Site			42,212,948	16,098,645	756,584	21,004,198	21,592,315
On-Site Improvements							
FO2	Abrams	Construct a new 2-lane arterial from intersection with 2nd Ave easterly to intersection with Crescent Court extension	759,569	759,569	-	1,031,396	1,060,275
FO5	8th Street	Upgrade/construct new 2-lane arterial from 2 nd Ave to Intergarrison Rd	4,340,000	4,340,000	-	5,853,541	6,017,440
FO6	Intergarrison	Upgrade to a 4-lane arterial from Eastside Rd to Reservation	4,260,000	4,260,000	1,559,469	3,968,783	4,079,909
FO7	Gigling	Upgrade/Construct new 4-lane arterial from General Jim Moore Blvd easterly to Eastside Rd	5,722,640	5,722,640	353,510	7,336,934	7,542,368
FO9B (Ph-II)	GJM Blvd-Normandy to McClure	Widen from 2 to 4 lanes from Normandy Rd to McClure	24,065,000	24,065,000	6,252,156	-	-
FO9B (Ph-III) [1]	GJM Blvd-s/o McClure to s/o Coe	Widen from 2 to 4 lanes from McClure to Coe			3,476,974	-	-
FO9C	GJM Blvd-s/o Coe to S Boundary	Widen from 2 to 4 lanes from s/o Coe to South Boundary Rd			13,375,935	959,935	986,813
FO11	Salinas Ave	Construct new 2 lane arterial from Reservation Rd southerly to Abrams Dr	3,038,276	3,038,276	-	4,125,586	4,241,102
FO12	Eucalyptus Rd	Upgrade to 2 lane collector from General Jim Moore Blvd to Eastside Rd to Parker Flats cut-off	5,800,000	5,800,000	5,328,055	471,945	485,159
FO13B	Eastside Pkwy (New alignment)	Construct new 2 lane arterial from Eucalyptus Rd to Parker Flats cut-off to Schoonover Dr	12,536,370	12,536,370	510,000	16,488,852	16,950,540
FO14	S Boundary Road Upgrade	Upgrade to a 2 lane arterial, along existing alignment from General Jim Moore Blvd to York Rd	2,515,064	2,515,064	338,986	2,992,283	3,076,067
Subtotal On-Site			63,036,919	63,036,919	31,195,085	43,229,255	44,439,674
Transportation Totals			376,225,867	104,230,286	31,951,669	98,308,841	101,061,488
[1] Remaining construction may be phased in future CIP documents based on available funds and habitat/environmental clearance.							
Transit Capital Improvements							
T3	Transit Vehicle Purchase/Replace	15 busses	15,000,000	6,298,254	279,950	8,213,548	8,443,527
T22	Intermodal Centers	(PFIP T-31) includes 3 elements: 1. Intermodal Transportation Center @ 1st. Avenue South of 8th. Street 2. Park and Ride Facility @ 12th Street and Imjin, and 3. Park and Ride Facility @ 8th. Street and Gigling	3,800,000	4,786,673		6,499,682	6,681,673
Transit Totals			18,800,000	11,084,926	279,950	14,713,230	15,125,200
Transportation/Transit Totals			395,025,867	115,315,212	32,231,619	113,022,071	116,186,689
Previous Offsets 1995 - 2004							
1. Transportation/Transit - TAMC Study 1995							
FORA offsets against obligations for transportation/transit network per 1995 TAMC Study from 1995-2004. Funded by EDA grant funds, state and local matching funds, revenue bond proceeds, development fees.					32,235,648		
2. Storm Drainage System							
Retain/Percolate stormwater; eliminate discharge of stormwater to Monterey Bay Sanctuary. Project completed/financial obligation met in 2004. Funded by EDA grant proceeds.					1,631,951		
TOTAL CUMULATIVE OFFSETS AGAINST TRANSPORTATION/TRANSIT AND STORM DRAINAGE PROJECTS TO DATE					66,099,218		

TABLE 1

TRANSPORTATION NETWORK AND TRANSIT ELEMENTS

Lead Agency	Regional Improvements											
	Proj#	Description	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	POST FORA	TOTALS	Proj#
TAMC/Caltrans	R3a	Hwy 1-Del Monte-Fremont-MBL							8,500,000	12,832,350	21,332,350	R3
TAMC/Caltrans	R10	Hwy 1-Monterey Rd. Interchange					3,485,049				3,485,049	R10
TAMC/Caltrans	R11	Hwy 156-Freeway Upgrade						7,040,447	2,859,449		9,899,896	R11
TAMC/Caltrans	R12	Hwy 68 Operational Improvements	312,205								312,205	R12
Subtotal Regional			312,205	-	-	-	3,485,049	7,040,447	11,359,449	12,832,350	35,029,500	
Off-Site Improvements												
	Proj#	Description	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	POST FORA	TOTALS	Proj#
Monterey County	1	Davis Rd north of Blanco		707,658							707,658	1
Monterey County	2B	Davis Rd south of Blanco	472,199	48,116		6,500,000		1,000,000		3,756,770	11,777,085	2B
Monterey County	4D	Widen Reservation-4 lanes to WG					3,019,397	1,728,432			4,747,829	4D
Monterey County	4E	Widen Reservation, WG to Davis		616,220	616,220	1,861,302					3,093,742	4E
City of Marina	8	Crescent Ave extend to Abrams		1,266,001							1,266,001	8
Subtotal Off-Site			472,199	2,637,995	616,220	8,361,302	3,019,397	2,728,432	-	3,756,770	21,592,315	
On-Site Improvements												
	Proj#	Description	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	POST FORA	TOTALS	Proj#
City of Marina	FO2	Abrams						1,060,275			1,060,275	FO2
City of Marina	FO5	8th Street		1,000,000	424,585	680,000	1,000,000	2,912,855			6,017,440	FO5
FORA	FO6	Intergarrison		4,063,240	16,669						4,079,909	FO6
FORA	FO7	Gigling		3,755,777	30,815					3,755,776	7,542,368	FO7
FORA	FO9C	GJM Blvd		986,813							986,813	FO9C
City of Marina	FO11	Salinas Ave		29,505						4,211,598	4,241,103	FO11
FORA	FO12	Eucalyptus Road			485,159						485,159	FO12
FORA	FO13B	Eastside Parkway		8,440,644	8,509,896						16,950,540	FO13B
FORA	FO14	South Boundary Road Upgrade	306,350	2,769,717							3,076,067	FO14
Subtotal On-Site			306,350	21,045,696	9,467,124	680,000	1,000,000	3,973,130	-	7,967,374	44,439,674	
Transportation Totals			1,090,754	23,683,691	10,083,344	9,041,302	7,504,446	13,742,009	11,359,449	24,556,494	101,061,489	
Transit Capital Improvements												
	Proj#	Description	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	POST FORA	TOTALS	Proj#
MST	T3	Transit Vehicle Purchase/Replace	99,000	99,000	99,000	4,904,023		1,742,504	1,500,000		8,443,527	T3
MST	T22	Intermodal Centers					5,654,374	1,027,299	-		6,681,673	T22
Subtotal Transit			99,000	99,000	99,000	4,904,023	5,654,374	2,769,803	1,500,000	-	15,125,200	
Transportation and Transit GRAND TOTALS			1,189,754	23,782,691	10,182,344	13,945,325	13,158,820	16,511,812	12,859,449	24,556,494	116,186,689	

TABLE 2

SUMMARY OF CAPITAL IMPROVEMENT PROGRAM 2013/14 - POST FORA

	2005-13 (1)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Post FORA	2013-14 to Post FORA Total
A. CIP PROJECTS FUNDED BY CFD DEVELOPMENT FEES										
Dedicated Revenues										
Development Fees	22,616,336	11,090,443	17,486,000	28,276,000	34,399,000	31,258,000	26,797,000	24,218,000	26,123,000	199,647,443
Other Revenues										
Property Taxes (2)	5,796,078	-	117,413	466,598	1,324,929	2,346,416	3,235,260	3,917,529	4,352,202	15,760,348
Loan Proceeds (3)	7,926,754									-
Federal Grants (4)	6,426,754		1,000,000							1,000,000
CSU Mitigation fees	2,326,795									-
Miscellaneous Revenues (Rev Bonds, CFD credit) (11)	2,762,724	-	-	-	-	-	-	-	-	-
TOTAL REVENUES	47,855,441	11,090,443	18,603,413	28,742,598	35,723,929	33,604,416	30,032,260	28,135,529	30,475,202	216,407,791
Expenditures										
Projects										
Transportation/Transit	32,231,619	1,189,754	23,782,691	10,182,344	13,945,325	13,158,820	16,511,812	12,859,449	24,556,494	116,186,689
Water Augmentation (5) CEQA Mitigation	561,780								23,452,781	23,452,781
Voluntary Contribution	-		3,600,000	3,600,000	3,600,000	3,600,000	3,600,000	3,600,000	55,302	21,655,302
Storm Drainage System [Completed by 2005] (6)	[Table 1]									-
Habitat Management (7)	5,654,084	2,772,611	4,371,500	7,069,000	8,599,750	7,814,500	2,810,058			33,437,419
Fire Rolling Stock	1,044,000	116,000								116,000
Property Management/Caretaker Costs (8)	20,000	-	-	-	-	-	-	-	-	-
Total Projects	39,511,482	4,078,365	31,754,191	20,851,344	26,145,075	24,573,320	22,921,870	16,459,449	48,064,577	194,848,191
Other Costs & Contingency (9)										
Additional CIP Costs	3,310,610	-	-	-	-	-	-	-	16,905,000	16,905,000
Habitat Mgt. Contingency	755,920	86,250	-	-	-	-	-	-	19,075,191	19,161,441
Add. Util. & Storm Drainage			-	-	-	-	-	-	3,500,000	3,500,000
Other Costs (Debt Service) (14)	1,679,296	8,200,004	-	-	-	-	-	-	1,234,176	9,434,180
Total Other Costs & Contingency	5,745,826	8,286,254	-	-	-	-	-	-	40,714,367	49,000,621
TOTAL EXPENDITURES	45,257,309	12,364,619	31,754,191	20,851,344	26,145,075	24,573,320	22,921,870	16,459,449	88,778,944	243,848,812
Net Annual Revenue		(1,274,176)	(13,150,778)	7,891,254	9,578,854	9,031,096	7,110,390	11,676,080	(58,303,742)	
Beginning Balance		2,598,132	1,323,956	(11,826,822)	(3,935,568)	5,643,286	14,674,383	21,784,773	33,460,853	
Ending Balance CFD & Other	2,598,132	1,323,956	(11,826,822)	(3,935,568)	5,643,286	14,674,383	21,784,773	33,460,853	(24,842,889)	(24,842,889)
B. CIP PROJECTS FUNDED BY LAND SALE REVENUES										
Dedicated Revenues										
Land Sales (10)	14,710,690	6,291,800	34,792,582	6,150,989	4,788,211	1,334,859	2,516,448	2,445,207	-	58,320,097
Land Sales - Credits (11)	6,767,300			6,750,000	-	-	12,659,700	-	-	19,409,700
Other Revenues (12)	1,425,000				-	-	-	-	-	-
Loan Proceeds (3)	7,500,000	-	-	-	-	-	-	-	-	-
Total Revenues	30,402,990	6,291,800	34,792,582	12,900,989	4,788,211	1,334,859	15,176,148	2,445,207	-	77,729,797
Expenditures										
Projects (13)										
Building Removal	28,767,300	-	4,000,000	8,950,000			12,659,700	-	-	25,609,700
Other Costs (Debt Service) (14)	-	-	18,200,000	-	-	-	-	-	-	18,200,000
TOTAL PROJECTS	28,767,300	-	22,200,000	8,950,000	-	-	12,659,700	-	-	43,809,700
Net Annual Revenue	1,635,690	6,291,800	12,592,582	3,950,989	4,788,211	1,334,859	2,516,448	2,445,207	-	33,920,097
Beginning Balance	-	1,635,690	7,927,490	20,520,072	24,471,062	29,259,273	30,594,132	33,110,580	35,555,787	1,635,690
Ending Balance Land Sales & Other	1,635,690	7,927,490	20,520,072	24,471,062	29,259,273	30,594,132	33,110,580	35,555,787	35,555,787	35,555,787
TOTAL ENDING BALANCE-ALL PROJECTS		9,251,446	8,693,250	20,535,494	34,902,559	45,268,515	54,895,353	69,016,641	10,712,899	10,712,899

TABLE 3

Table 3 CIP Summary Table Footnotes

- (1) This column summarizes CIP revenues and expenses from July 2005 through June 2013. These totals are not included in the 2013-14 to Post FORA totals.
- (2) "Property Taxes (former Tax Increment)" revenue has been designated for operations and as a back-up to FORA CIP projects; to date, approximately \$5.8M was spent on ET/ESCA change orders and CIP road projects.
- (3) "Loan Proceeds": In FY 05-06 FORA obtained a line of credit ("LOC") to ensure CIP obligations be met despite cash flow fluctuations. The LOC draw-downs were used to pay road design, construction and building removal costs and were partially repaid by available CIP funding sources. In FY 09-10 FORA repaid the remaining \$9M LOC debt (\$1.5M in transportation and \$7.5M in building removal) through a loan secured by FORA's share of Preston Park. The loan also provided \$6.4M matching funds to US Department of Commerce EDA/American Recovery and Reinvestment Act ("ARRA") grant funds.
- (4) "Federal grants": In FY 2010 FORA received ARRA funding to finance construction of General Jim Moore Boulevard ("GJMB") and Eucalyptus Road. FORA obtained a loan against its 50% share in Preston Park revenues to provide required match to the ARRA grant (see #3 "Loan Proceeds").
- (5) "Water Augmentation" is FORA's financial obligation for the approved water augmentation project. The original CEQA obligation (\$23,452,781) is included in the total. The FORA Board approved an additional contribution (\$21,655,302) to keep MCWD capacity charges in check. Please refer to Section II b) Water Augmentation.
- (6) FORA's "Storm Water Drainage System" mitigation has been retired. Through agreement with the California Department of Parks and Recreation, FORA is obligated to remove storm water disposal facilities west of Highway 1 following replacement of the outfall storm drains with on-site storm water disposal. Funding for this work is shown under Other Costs & Contingencies.
- (7) "Habitat Management" amounts are estimates. Habitat management endowment final amount is subject to approval by USFWS and CDFW. Please refer to Section II d) Habitat Management Requirements.
- (8) "Property Management/Caretaker Costs" amounts are deducted from net land sales revenue. As a result of EPS's CIP Review – Phase II Study analysis, FORA has agreed to reimburse its five member jurisdictions up to \$660,000 in annual funding for these expenses, provided sufficient land sales/lease revenue is available and jurisdictions are able to demonstrate property management/caretaker costs. Please refer to Section II h) Property Maintenance and Caretaker Costs.
- (9) "Other Costs & Contingencies" are subject to cash flow and demonstrated need. Primarily, this item is not funded until distant "out-years" of the program.
 "Additional Transportation Costs" are potential and unknown additional basewide expenditures not included in current cost estimates for transportation projects (e.g. contract change orders to the ESCA, street landscaping, unknown site conditions, project changes, habitat/environmental mitigation, etc.)
 "Habitat Management Contingency" provides interim funding for the University of California Fort Ord Natural Reserve until adoption of the HCP and as a result of CIP Review policy decisions, includes sufficient funding for Habitat Conservation Plan endowments should a lower endowment payout rate be required by Regulatory Agencies.
 "Additional Utility and Storm Drainage Costs" provides for restoration of storm drainage sites in State Parks land and relocation of utilities.
- (10) "Land Sales" revenue projections were evaluated by EPS as a component of their CIP Review – Phase II Study. The same approach of determining a residual land value factor based on past FORA or Land Use Jurisdictions' land sales transactions (resulting in \$180,000 per acre) was used. The factor was then applied to non-transacted remaining development acres. The land sales revenue projections shown are net revenue after deducting identified costs, which include \$660,000 annually in property management/caretaker costs (obligation reduced as land is reused) and \$250,000 annually in other obligations (Initiatives, Petitions, Etc.)..

- (11) "CFD/Land Sales – Credit" is credit due specific developers who perform roadway improvements/building removal by agreement with FORA. The value of the work is subtracted from the developer's CFD fee/land sale proceeds due FORA. Regarding CFD fees, FORA entered into agreement with East Garrison Partners for a total credit of \$2,075,621. Regarding land sale proceeds, FORA entered into two such agreements with Marina Community Partners (\$24M) and East Garrison Partners (\$2.1M) for a total land sale credit of \$26,177,000.
- (12) "Other Revenues" applied against building removal include Abrams B loan repayment of \$1,425,000.
- (13) "Projects" total include building removal at 1) Dunes on Monterey Bay (\$46M), 2) Imjin Office (\$400K), 3) East Garrison (\$2.177M), and remaining to be completed 4) Stockade (\$2.2M), and 5) Surplus II (\$4M).
- (14) " Other Costs (Debt Service)" payment of borrowed funds, principal and interest (see #3 "Loan Proceeds"). The \$7.6M repayment of remaining principal by FORA Development Fees/CFD special taxes, anticipated in FY 13-14, will be retained in the FORA Reserve fund. On May 10, 2013, the FORA Board approved a 23.6% reduction in the Basewide FORA Development Fee Schedule and FORA CFD special tax as a result of EPS's CIP Review - Phase II Study. The study showed that FORA operations costs through 2020 will be offset by the \$7.6M loan repayment from FORA Development Fees/CFD special taxes. The actual Preston Park loan will be paid off upon Preston Park disposition.

TABLE 4
Community Facilities District Revenue

			2013-14 to Post FORA Total	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Post-FORA
Jurisdiction											
<u>New Residential</u>											
Marina Heights (3)	1050	MAR	\$ 28,538,000	\$ 544,000	\$ 2,066,000	\$ 3,914,000	\$ 4,892,000	\$ 5,055,000	\$ 4,892,000	\$ 3,832,000	\$ 3,343,000
The Promontory (1)	0	MAR	236,000	-	236,000	-	-	-	-	-	-
Dunes on Monterey Bay (3)	1237	MAR	30,685,000	1,250,000	2,664,000	4,403,000	4,892,000	4,892,000	4,892,000	4,892,000	2,800,000
TAMC TOD (1)	200	MAR	5,436,000	-	-	-	2,718,000	2,718,000	-	-	-
CSUMB North Campus Housing (1)	0	CSU/MAR	669,000	-	-	-	-	204,000	204,000	204,000	57,000
UC 8th Street (1)	240	UC/MCO	6,522,000	-	-	-	1,087,000	1,087,000	1,087,000	1,087,000	2,174,000
East Garrison I (3)	1470	MCO	36,992,000	5,599,000	6,387,000	4,892,000	5,572,000	5,300,000	4,621,000	4,621,000	-
Monterey Horse Park (1)	400	MCO	10,872,000	-	-	-	-	2,718,000	2,718,000	-	5,436,000
Monterey Horse Park (1)	515	SEA	13,999,000	-	-	-	680,000	1,359,000	1,359,000	2,039,000	8,562,000
UC East Campus - SF (1)	0	UC/MCO	0	-	-	-	-	-	-	-	-
UC East Campus - MF (1)	0	UC/MCO	0	-	-	-	-	-	-	-	-
Seaside Highlands (4)	152	SEA	0	-	-	-	-	-	-	-	-
Seaside Resort Housing (3)	125	SEA	3,316,000	27,000	27,000	27,000	82,000	163,000	1,495,000	1,495,000	-
Seaside Housing (Eastside) (1)	0	SEA	0	-	-	-	-	-	-	-	-
Seaside Affordable Housing Obligation (1)	72	SEA	1,957,000	-	-	-	-	-	-	1,957,000	-
Workforce Housing (Army to Build) (1)	0	SEA	0	-	-	-	-	-	-	-	-
Market Rate Housing (Army to Build) (1)	0	SEA	0	-	-	-	-	-	-	-	-
Workforce Housing (Seaside) (1)	0	SEA	0	-	-	-	-	-	-	-	-
Del Rey Oaks (1)	691	DRO	18,781,000	-	3,533,000	7,801,000	7,447,000	-	-	-	-
Other Residential	8	Various	0	-	-	-	-	-	-	-	-
	6160		0								
<u>Existing/Replacement Residential</u>											
Preston Park (4)	352	MAR	3,265,443	\$ 3,265,443	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cypress Knolls (1)	400	MAR	10,872,000	-	-	-	2,718,000	2,718,000	2,718,000	2,718,000	-
Patton Park (3)		MAR	0	-	-	-	-	-	-	-	-
Abrams B (4)		MAR	0	-	-	-	-	-	-	-	-
Shelter Outreach Plus (4) & (1)		MAR	0	-	-	-	-	-	-	-	-
Sunbay (4)		SEA	0	-	-	-	-	-	-	-	-
Stillwell Kidney - WFH (Army to Build) (1)		SEA	0	-	-	-	-	-	-	-	-
<u>Office</u>											
Del Rey Oaks Office (1)		DRO	46,000	\$ -	\$ 23,000	\$ -	\$ 23,000	\$ -	\$ -	\$ -	\$ -
Monterey City Office (1)		MRY	103,000	-	-	17,000	17,000	30,000	13,000	13,000	13,000
Monterey County Office		MCO	0	-	-	-	-	-	-	-	-
Horse Park (1)		MCO	12,000	-	-	6,000	6,000	-	-	-	-
Landfill Commercial Development (1)		MCO	0	-	-	-	-	-	-	-	-
Intergarrison Rd Office Park (1)		MCO	0	-	-	-	-	-	-	-	-
East Garrison I Office Development (3)		MCO	8,000	1,000	3,000	3,000	1,000	-	-	-	-
MST Bus Maint & Opns Facility (1)		MCO	0	-	-	-	-	-	-	-	-
Imjin Office Park (3)		MAR	2,000	2,000	-	-	-	-	-	-	-
Dunes on Monterey Bay (3)		MAR	168,000	35,000	-	12,000	12,000	-	23,000	23,000	63,000
Cypress Knolls Community Center (1)		MAR	4,000	-	-	-	4,000	-	-	-	-
Interim Inc. - Rockrose Gardens (3)		MAR	3,000	3,000	-	-	-	-	-	-	-
TAMC TOD (office/public facilities) (1)		MAR	10,000	-	-	5,000	5,000	-	-	-	-
Main Gate Conference (1)		SEA	6,000	-	-	-	-	-	6,000	-	-
Seaside Office (Monterey Blues) (1)		SEA	0	-	-	-	-	-	-	-	-
Chartwell School (1)		SEA	0	-	-	-	-	-	-	-	-
Monterey Peninsula Trade & Conf Cntr (1)		SEA	58,000	-	-	-	-	-	-	58,000	-
Seaside Resort Golf Buildings (3)		SEA	0	-	-	-	-	-	-	-	-
UC East Campus (1)		UC/MCO	0	-	-	-	-	-	-	-	-
UC Central South Campus (1)		UC/MAR	23,000	-	-	-	-	23,000	-	-	-
UC Central North & West Campuses (1)		UC/MAR	63,000	-	-	9,000	9,000	9,000	9,000	9,000	18,000
<u>Industrial</u>											
Airport Economic Development Area (1)		MAR	48,000	\$ -	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 12,000.00
Industrial - City Corp. Yard (1)		MAR	0	-	-	-	-	-	-	-	-

TABLE 4
Community Facilities District Revenue

Jurisdiction		2013-14 to Post FORA Total	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Post-FORA
TAMC TOD (1)	MAR	8,000	\$ -	\$ -	\$ 4,000.00	\$ 4,000.00	\$ -	\$ -	\$ -	\$ -
Dunes on Monterey Bay (3)	MAR	0	-	-	-	-	-	-	-	-
Industrial - City Corp. Yard (1)	MRY	103,000	-	-	10,000	10,000	26,000	16,000	16,000	25,000
Industrial - Public/Private (1)	MRY	0	-	-	-	-	-	-	-	-
Monterey County Light Ind. (1)	MCO	0	-	-	-	-	-	-	-	-
Horse Park (1)	MCO	27,000	-	-	10,000	10,000	7,000	-	-	-
Landfill Industrial Park (1)	MCO	0	-	-	-	-	-	-	-	-
MST Bus Maint & Opns Facility (1)	MCO	0	-	-	-	-	-	-	-	-
Seaside Corp Yard Shop (1)	SEA	5,000	-	-	5,000	-	-	-	-	-
UC Central N. & W. Campuses (1)	UC/MAR	28,000	-	-	4,000	4,000	4,000	4,000	4,000	8,000
Retail		0								
Del Rey Oaks Retail (1)	DRO	135,000	\$ -	\$ 135,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cypress Knolls Community Center (1)	MAR	202,000	-	202,000	-	-	-	-	-	-
UC Central N. & W. Campuses (1)	UC/MAR	588,000	-	-	84,000	84,000	84,000	84,000	84,000	168,000
UC East Campus (1)	UC/MCO	350,000	-	-	-	175,000	-	-	-	175,000
UC Eight Street (1)	UC/MCO	1,890,000	-	-	270,000	270,000	270,000	270,000	270,000	540,000
Monterey County Retail	MCO	0	-	-	-	-	-	-	-	-
Landfill Commercial development (1)	MCO	0	-	-	-	-	-	-	-	-
East Garrison I Retail (1)	MCO	270,000	-	-	-	135,000	135,000	-	-	-
Ord Market (4)	MCO	0	-	-	-	-	-	-	-	-
Horse Park (1)	MCO	2,835,000	-	-	675,000	675,000	675,000	810,000	-	-
Main Gate Spa (1)	SEA	162,000	-	-	-	-	-	-	162,000	-
Main Gate Large Format Retail (1)	SEA	590,000	-	-	-	-	590,000	-	-	-
Main Gate In-Line Shops (1)	SEA	1,963,000	-	-	-	-	1,963,000	-	-	-
Main Gate Department Store Anchor (1)	SEA	810,000	-	-	-	-	810,000	-	-	-
Main Gate Restaurants (1)	SEA	412,000	-	-	-	-	412,000	-	-	-
Main Gate Hotel Restaurant (1)	SEA	54,000	-	-	-	-	-	54,000	-	-
Seaside Resort Golf Clubhouse (1)	SEA	110,000	-	-	110,000	-	-	-	-	-
Dunes on Monterey Bay (3)	MAR	1,349,000	364,000	675,000	310,000	-	-	-	-	-
TAMC TOD (1)	MAR	506,000	-	-	253,000	253,000	-	-	-	-
Hotel (rooms) (5)										
Del Rey Oaks Hotel (1) (454 rm)	454 DRO	2,754,000	\$ -	\$ 631,000	\$ 1,516,000	\$ 607,000	\$ -	\$ -	\$ -	\$ -
Del Rey Oaks Timeshare (1) (96 rm)	96 DRO	582,000	-	291,000	291,000	-	-	-	-	-
Horse Park (Parker Flat) Hotel (1) (200 rm)	200 MCO	1,213,000	-	-	1,213,000	-	-	-	-	-
Dunes - Limited Service (3) (100 rm)	100 MAR	607,000	-	607,000	-	-	-	-	-	-
Dunes - Full Service (3) (400 rm)	400 MAR	2,426,000	-	-	2,426,000	-	-	-	-	-
Seaside Golf Course Hotel (3) (330 rm)	330 SEA	2,001,000	-	-	-	2,001,000	-	-	-	-
Seaside Golf Course Timeshares (3) (170 rm)	170 SEA	1,031,000	-	-	-	-	-	-	728,000	303,000
Main Gate Hotel (1) (250 rm)	250 SEA	1,516,000	-	-	-	-	-	1,516,000	-	-
UC East Campus (1) (250 rm)	250 UC/MCO	1,516,000	-	-	-	-	-	-	-	1,516,000
UC Central N. & W. Campuses (1) (150 rm)	150 UC/MAR	910,000	-	-	-	-	-	-	-	910,000
2400										
Total		\$ 199,647,443	\$ 11,090,443	\$ 17,486,000	\$ 28,276,000	\$ 34,399,000	\$ 31,258,000	\$ 26,797,000	\$ 24,218,000	\$ 26,123,000

	Adopted 2002	Effective 7/1/12	Effective 5/10/13	Index 13/14	Effective 7/1/13
New Residential (per du)	\$ 34,324	\$ 34,610	\$ 26,440	2.8%	\$ 27,180
Existing Residential (per du)	10,320	10,406	7,950	2.8%	8,173
Office & Industrial (per acre)	4,499	4,536	3,470	2.8%	3,567
Retail (per acre)	92,768	93,545	71,470	2.8%	73,471
Hotel (per room)	7,653	7,718	5,900	2.8%	6,065

TABLE 5
Land Sales Revenue

Jurisdiction		2013-14 to Post-FORA	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Post-FORA
<u>New Residential</u>										
Marina Heights	MAR	-								
Cypress Knolls	MAR	-								
Dunes on Monterey Bay	MAR	-								
UC 8th Street	UC/MCO	-								
East Garrison I	MCO	-								
Monterey Horse Park	MCO	-								
Monterey Horse Park	SEA	13,482,673					2,694,468	10,788,205		
UC East Campus - SF	UC/MCO	-								
UC East Campus - MF	UC/MCO	-								
Seaside Highlands Homes	SEA	-								
Seaside Resort Housing	SEA	-								
Seaside Housing (Eastside)	SEA	-								
Seaside Affordable Housing Obligations	SEA	-								
Workforce Housing (Army to Build)	SEA	-								
Workforce Housing (Seaside)	SEA	-								
Del Rey Oaks	DRO	21,495,083	3,906,000	8,862,120	8,726,963					
Other Residential	Various	-								
<u>Existing/Replacement Residential</u>										
Preston Park	MAR	56,900,558		56,900,558						
Cypress Knolls	MAR	-								
Abrams B	MAR	-								
Shelter Outreach Plus	OTR	-								
Sunbay (former Thorson Park)	SEA	-								
Stillwell Kidney - WFH (Army to Build)	Various	-								
<u>Office</u>										
Del Rey Oaks Office	DRO	2,448,349	1,188,000		1,260,349					
Monterey City Office	MRY	-								
Monterey County Office	MCO	-								
Horse Park	MCO	576,000	576,000							
Landfill Commercial Development	MCO	-								
East Garrison I Office Development	MCO	-								
MST Bus Maint & Bus Opns Facility	MCO	-								
Dunes on Monterey Bay	MAR	-								
Airport Economic Development Area	MAR	-								
Interim Inc. Rockrose Gardens	MAR	237,600	237,600							
LDS Church	MAR	-								
Seaside Office (Monterey Blues)	SEA	-								
Chartwell	SEA	-								
Monterey College of Law	SEA	-								
Monterey Peninsula Trade & Conf Cntr	SEA	3,422,177						3,422,177		
UC East Campus	UC/MCO	-								
UC Central South Campus	UC/MAR	-								
UC Central North & West Campuses	UC/MAR	-								
<u>Industrial</u>										
Airport Economic Development Area	MAR	-								
Industrial – City Corp. Yard	MAR	-								
Industrial – City Corp. Yard	MRY	2,651,220		2,651,220						
Industrial – Public/Private	MRY	9,179,977	3,798,000	2,651,220	2,730,757					
Monterey County Light Ind.	MCO	-								
Horse Park	MCO	1,414,800	1,044,000	370,800						
Landfill Industrial Park	MCO	-								
Seaside Corp Yard Shop	SEA	-								

TABLE 5
Land Sales Revenue

	Jurisdiction	2013-14 to Post-FORA	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Post-FORA
UC Central North & West Campuses	UC/MAR	-								
<u>Retail</u>										
Del Rey Oaks Retail	DRO	324,000	324,000							
UC Central North & West Campuses	UC/MAR	-								
UC South Campus	UC/MAR	-								
UC East Campus	UC/MCO	-								
UC Eight Street	UC/MCO	-								
Monterey County Retail	MCO	-								
Landfill Commercial development	MCO	-								
East Garrison I Retail	MCO	-								
Ord Market	MCO	-								
Horse Park	MCO	7,282,130	1,656,000	1,705,680	1,756,850	2,163,599				
Main Gate	SEA	10,988,897		278,100		10,109,910	141,814	459,073		
South of Lightfighter Dr (swap)	SEA	-								
Dunes on Monterey Bay	MAR	-								
<u>Hotel (rooms)</u>										
Del Rey Oaks Hotel	DRO	2,206,141	486,000	1,223,640	496,501					
Del Rey Oaks Timeshare	DRO	475,020	234,000	241,020						
Horse Park (Parker Flat) Hotel	MCO	954,000	954,000							
Dunes - Limited Service	MAR	-								
Dunes - Full Service	MAR	-								
Seaside Golf Course Hotel	SEA	-								
Seaside Golf Course Timeshares	SEA	-								
Main Gate Hotel	SEA	1,337,104					1,337,104			
UC East Campus	UC/MCO	-								
UC Central North & West Campuses	UC/MAR	-								
Subtotal: Estimated Transactions		\$135,375,729	14,403,600	74,884,358	14,971,421	12,273,510	4,173,387	7,334,727	7,334,727	-
FORA Share - 50%		67,687,865	7,201,800	37,442,179	7,485,710	6,136,755	2,086,693	3,667,364	3,667,364	-
Estimated Caretaker/Property Mgt. Costs		(\$2,200,606)	(660,000)	(548,090)	(400,213)	(272,973)	(164,164)	(119,704)	(35,462)	-
Other obligations (Initiatives, Petitions, etc.)		(\$1,915,616)	(250,000)	(257,500)	(265,225)	(273,182)	(281,377)	(289,819)	(298,513)	-
Net FORA Land Sales Proceeds		63,571,643	6,291,800	36,636,589	6,820,272	5,590,600	1,641,152	3,257,841	3,333,389	-
Net Present Value (5.3% Discount Rate)		58,320,097	6,291,800	34,792,582	6,150,989	4,788,211	1,334,859	2,516,448	2,445,207	-

Note #1: FORA and local jurisdiction split land sales revenue 50/50 with FORA paying sales costs from its share. Actual land sales revenue may vary from that shown here.

Note #2: Assumes per acre value of \$180,000 and that values escalate by 3% annually.

Sources: Economic & Planning Systems "FORA Phase II CIP Review Discussion Tables," May 2, 2013

Appendix A

Protocol for Review/Reprogramming of FORA CIP (Revised June 21, 2013)

- 1.) Conduct quarterly meetings with the CIP Committee and joint committee meetings as needed with members from the FORA Administrative Committee. Staff representatives from the California Department of Transportation ("CALTRANS"), TAMC, AMBAG, and MST may be requested to participate and provide input to the joint committee.

These meetings will be the forum to review developments as they are being planned to assure accurate prioritization and timing of CIP projects to best serve the development as it is projected. FORA CIP projects will be constructed during the program, but market and budgetary realities require that projects must "queue" to current year priority status. The major criteria used to prioritize project placement are:

- Project is necessary to mitigate reuse plan
- Project environmental/design is complete
- Project can be completed prior to FORA's sunset
- Project uses FORA CIP funding as matching funds to leverage grant dollars
- Project can be coordinated with projects of other agencies (utilities, water, TAMC, PG&E, CALTRANS, MST, etc.)
- Project furthers inter-jurisdictional equity
- Project supports jurisdictional "flagship" project
- Project nexus to jurisdictional development programs

The joint committee will balance projected project costs against projected revenues as a primary goal of any recommended reprogramming/reprioritization effort.

- 2.) Provide a mid-year and/or yearly report to the Board (at mid-year budget and/or annual budget meetings) that will include any recommendations for CIP modifications from the joint committee and staff.
- 3.) Anticipate FORA Board annual approval of a CIP program that comprehensively accounts for all obligatory projects under the BRP.

These basewide project obligations include transportation/transit, water augmentation, storm drainage, habitat management, building removal and firefighting enhancement.

This protocol also describes the method by which the basewide development fee ("Fee") and Fort Ord Reuse Authority Community Facilities District Special Tax ("Tax") are annually indexed. The amount of the Fee is identical to the CFD Tax. Landowners pay either the Fee or the Tax, never both, depending on whether the land is within the Community Facilities District. For indexing purposes, FORA has always used the change in costs from January 1 to December 31. The reason for that choice is that the Fee and CFD Tax must be in place on July 1, and this provides the time necessary to prepare projections, vet, and publish the document. The second idea concerns measurement of construction costs. Construction costs may be measured by either the San Francisco Metropolitan index, or the "20-City Average." FORA has always used the 20-City Average index because it is generally more in line with the actual experience in suburban areas like the Monterey Peninsula. It should be noted that San Francisco is one of the cities used for the 20-City Average.

The Fee was established in February 1999 by Resolution 99-1. Section 1 of that Resolution states that "(FORA) shall levy a development fee in the amounts listed for each type of development in the... fee schedule until such time as ... the schedule is amended by (the) board." The CFD Tax was established in February 2002 by Resolution 02-1. Section IV of that CFD Resolution, beginning on page B-4,

describes "Maximum Special Tax Rates" and "Increase in the Maximum Special Tax Rates." That section requires the Tax to be established on the basis of costs during the "...immediately preceding Fiscal Year..." The Tax is adjusted annually on the basis of "...Construction Cost Index applicable to the area in which the District is located..."¹

The CFD resolution requires the adjusted Tax rate to become effective on July 1. It would be difficult to meet that deadline if the benchmark were set for a date later than January. FORA staff uses the adjusted Tax rate to reprogram the CIP. FORA staff requests development forecast projections from the land use jurisdictions in January. The forecasts allow staff to balance CIP revenues and expenditures, typically complete by April, for Administrative Committee review. The FORA Board typically adopts the CIP, and consequently updates the "Notice of Special Tax Lien" ("Notice") in June.

Additionally, the Notice calls for "... (2) percentage change since the immediately preceding fiscal year in the (ENRs CCI) applicable to the area in which the District is located..." To assure adequate time for staff analysis, public debate and FORA Board review of modifications to the Special Tax Levy, it is prudent to begin in January. In addition, the FORA Board adopted a formulaic approach to monitoring the developer fee program which is typically conducted in the spring – as will be the case in 2014. If the anticipated Fee adjustment is unknown at the time of the formulaic calculation then the level of certainty about the appropriateness of the Fee is impaired. This factor supports that the Fee should be established in January.

To determine the percentage change, the CCI (Construction Cost Index) of the immediately prior January is subtracted from the CCI in January of the current year to define the arithmetic value of the change (increase or decrease). This dollar amount is divided by the CCI of the immediately prior January. The result is then multiplied by 100 to derive a percentage of change (increase or decrease) during the intervening year. The product of that calculation is the rate presented to the FORA Board.

Since the start of the CIP program in FY 2001/02, FORA has employed the CCI for the "20-City Average" as presented in the ENR rather than the San Francisco average. The current 20-City Average places the CCI in the range of \$9K to \$10K while the San Francisco CCI is in the \$10K to \$11K range. The difference in the two relates to factors which tend to drive costs up in an urban environment as opposed to the suburban environment of Fort Ord. These factors would include items such as time required for transportation of materials and equipment plus the Minimum Wage Rates in San Francisco as compared to those in Monterey County. Over a short term (1 year) one index may yield a lower percentage increase than the other index for the same time period.

¹ The pertinent paragraph reads as follows:

"On each July 1, commencing July 1, 2002, the Maximum Special Tax Rates shown in Table 1 shall be increased by an amount equal to the lesser of (1) five percent (5%) or (2) the percentage change since the immediately preceding Fiscal Year in the Engineering News Record's (ENRs) Construction Cost Index (CCI) applicable to the area in which the District is located (or, if such index is no longer published, a substantially equivalent index selected by the CFD Administrator)."

Appendix B

Table A1: Residential Annual Land Use Construction (*dwelling units*)

DRAFT		Existing 7/1/13	Existing to 2021-22 Total	DRAFT							DRAFT	
Land Use Type	Juris- diction			2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Del Rey Oaks												
Golf Villas	DRO		50		37	13						
Patio Homes	DRO		36		32	4						
Condos/Workforce	DRO		514		40	230	244					
Townhomes/Senior Casitas	DRO		91	-	21	40	30	-	-	-	-	-
Subtotal			691	-	130	287	274	-	-	-	-	-
Other Residential	Various	-	8	-	-	-	-	-	-	-	-	8
Subtotal		372	6,160	273	714	774	1,007	857	775	733	442	387
TOTAL NEW RESIDENTIAL			6,160									
<u>Existing/Replacement Residential</u>												
Preston Park	MAR	352	352									
Cypress Knolls	MAR		400				100	100	100	100		
Patton Park	MAR		-									
Abrams B	MAR	192	192									
MOCO Housing Authority	MAR	56	56									
Shelter Outreach Plus	MAR	39	39									
Veterans Transition Center	MAR	13	13									
Interim Inc	MAR	11	11									
Sunbay (former Thorson Park)	SEA	297	297									
Brostrom	SEA	225	225									
Seaside Highlands	Various	228	228	-	-	-	-	-	-	-	-	-
Subtotal		1,413	1,813	-	-	-	100	100	100	100	-	-
TOTAL EXISTING RESIDENTIAL			1,813									
Total		1,785	7,973	273	714	774	1,107	957	875	833	442	387

Sources: Interviews with local jurisdiction and UC planning staff; Ft. Ord Reuse Plan; MuniFinancial.

Appendix B

Table A2: Non-Residential Annual Land Use Construction (building square feet or hotel rooms)

DRAFT		Existing 7/1/13	Existing to 2021-22 Total	DRAFT						DRAFT		
Land Use Type	Jurisdiction			2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
<u>Office</u>												
Del Rey Oaks Office	DRO		200,000		100,000		100,000					
Professional/Medical Office	MRY		433,030			72,172	72,172	126,302	54,128	54,128	54,128	
Monterey County Office	MCO		-									
Horse Park	MCO/SEA		50,000			25,000	25,000					
Landfill Commercial Development	MCO		-									
East Garrison I Office Development	MCO		35,000	6,000	12,000	12,000	5,000					
MST Bus Maint & Opns Facility	MCO		-									
Imjin Office Park	MAR	37,000	46,000	9,000		-						
Dunes on Monterey Bay	MAR	40,000	760,000	150,000		50,000	50,000		100,000	100,000		270,000
Cypress Knolls Community Center	MAR		16,000				16,000					
Interim Inc. - Rockrose Gardens	MAR	-	14,000	14,000	-							
TAMC TOD (office/public facilities)	MAR		40,000			20,000	20,000					
Main Gate Conference	SEA		27,000						27,000			
Seaside Office (Monterey Blues)	SEA		-									
Chartwell School	SEA	1,800	1,800									
Monterey College of Law	SEA	13,100	13,100									
Fitch Middle School	SEA		-									
Marshall Elementary School	SEA		-									
International School (former Hayes Elem)	SEA		-									
Veterans' Cemetery	SEA/MCO		-									
Monterey Peninsula Trade & Conf Cntr	SEA		250,000							250,000		
Seaside Resort Golf Buildings	SEA		-									
UC Eight Street	UC/MCO		-	-	-	-	-	-	-	-	-	-
UC East Campus	UC/MCO		100,000					100,000				
UC Central North & West Campuses	UC/MAR	-	280,000	-	-	40,000	40,000	40,000	40,000	40,000	40,000	40,000
Subtotal		91,900	2,265,930	179,000	112,000	219,172	328,172	266,302	221,128	444,128	94,128	310,000
<u>Industrial</u>												
Airport Economic Development Area	MAR	250,000	486,000		29,500	29,500	29,500	29,500	29,500	29,500	29,500	29,500
Industrial – City Corp. Yard	MAR	12,300	12,300									
TAMC TOD	MAR		35,000			17,500	17,500					
Dunes on Monterey Bay	MAR		-	-	-	-	-					
Cypress Knolls Support Services	MAR		6,000				6,000					
Industrial	MRY		504,770			48,381	48,381	127,474	79,093	79,093	79,093	43255
Monterey County Light Ind.	MCO		-									
Horse Park	MCO/SEA		135,000			50,000	50,000	35,000	-			
Landfill Industrial Park	MCO		-						-			
MST Bus Maint & Opns Facility	MCO		-		-	-	-	-	-			
Seaside Corp Yard Shop	SEA		25,320			25,320						
UC Central North & West Campuses	UC/MAR	38,000	178,000	-	-	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Subtotal		300,300	1,382,390	-	29,500	190,701	171,381	211,974	128,593	128,593	128,593	92,755

Appendix B

Table A2: Non-Residential Annual Land Use Construction (building square feet or hotel rooms)

DRAFT		Existing 7/1/13	Existing to 2021-22 Total	DRAFT						DRAFT		
Land Use Type	Juris- diction			2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
<u>Retail</u>												
Del Rey Oaks Retail	DRO		20,000		20,000							
Cypress Knolls Community Center	MAR		30,000		30,000							
UC Central North & West Campuses	UC/MAR		87,500			12,500	12,500	12,500	12,500	12,500	12,500	12,500
UC South Campus	UC/MAR		-									
UC East Campus	UC/MCO		52,000				26,000				26,000	
UC Eight Street	UC/MCO		280,000			40,000	40,000	40,000	40,000	40,000	40,000	40,000
Monterey County Retail	MCO		-									
Landfill Commercial development	MCO		-				-					
East Garrison I Retail	MCO		40,000		-	-	20,000	20,000				
Ord Market	MCO		-									
Horse Park	MCO/SEA		420,000	-		100,000	100,000	100,000	120,000			
Main Gate Spa	SEA		24,000		-					24,000		
Main Gate Large Format Retail	SEA		87,500	-				87,500				
Main Gate In-Line Shops	SEA		291,000	-				291,000				
Main Gate Department Store Anchor	SEA		120,000	-				120,000				
Main Gate Restaurants	SEA		61,000	-				61,000				
Main Gate Hotel Restaurant	SEA		8,000		-				8,000			
Luxury Auto Mall	SEA		-									
Seaside Resort Golf Clubhouse	SEA		16,300			16,300						
Dunes on Monterey Bay	MAR	368,000	568,000	54,000	100,000	46,000						
TAMC TOD	MAR		75,000	-	-	37,500	37,500	-	-	-	-	-
Subtotal		368,000	2,180,300	54,000	150,000	252,300	236,000	732,000	180,500	76,500	78,500	52,500
<u>Hotel (rooms)</u>												
Del Rey Oaks Hotel	DRO		454		104	250	100					
Del Rey Oaks Timeshare	DRO		96		48	48						
Horse Park (Parker Flat) Hotel	MCO/SEA		200			200						
Marina Airport Hotel/Golf	MAR		-									
Dunes - Limited Service	MAR		100		100							
Dunes - Full Service	MAR		400			400						
Seaside Golf Course Hotel	SEA		330				330					
Seaside Golf Course Timeshares	SEA		170							120	50	
Main Gate Hotel	SEA		250		-				250			
UC East Campus	UC/MCO		250									250
UC Central North & West Campuses	UC/MAR	-	150	-	-	-	-	-	-	-	-	150
Subtotal		-	2,400	-	252	898	430	-	250	120	50	400

Sources: Information from local jurisdiction and UC planning staff; Ft. Ord Reuse Plan; Annette Yee and Company, MuniFinancial.

Appendix C

Building Removal Program to Date

FORA Pilot Deconstruction Project ("PDP") 1996

In 1996, FORA deconstructed five wooden buildings of different types, relocated three wooden buildings, and remodeled three buildings. The potential for job creation and economic recovery through opportunities in deconstruction, building reuse, and recycling was researched through this effort.

Lessons learned from the FORA PDP project:

- *A structure's type, size, previous use, end-use, owner, and location are important when determining the relevance of lead and asbestos regulations.*
- *Profiling the building stock by type aids in developing salvage and building removal projections.*
- *Specific market needs for reusable and recycled products drive the effectiveness of deconstruction.*
- *Knowing the history of buildings is important because:*
 - *Reusing materials is complicated by the presence of Lead Based Paint ("LBP"), which was originally thinned with leaded gasoline and resulted in the hazardous materials penetrating further into the substrate material.*
 - *Over time, each building develops a unique use, maintenance and repair history, which can complicate hazardous material abatement survey efforts.*
- *Additional field surveys were needed to augment existing U.S. Army environmental information. The PDP surveys found approximately 30 percent more Asbestos Containing Material ("ACM") than identified by the Army.*
- *Hazardous material abatement accounts for almost 50 percent of building deconstruction costs on the former Fort Ord.*
- *A robust systematic program is needed for evaluating unknown hazardous materials early in building reuse, recycling and cleanup planning.*

FORA Survey for Hidden Asbestos 1997

In 1997, FORA commissioned surveys of invasive asbestos on a random sample of buildings on Fort Ord to identify hidden ACM. Before closure, the U.S. Army performed asbestos surveys on all exposed surfaces in every building on Fort Ord for their operation and maintenance needs. The Army surveys were not invasive and therefore did not identify asbestos sources, which could be spread to the atmosphere during building deconstruction or renovation. In addition to commissioning the survey for hidden asbestos, FORA catalogued the ACM found during the removal of seventy Fort Ord buildings.

The survey for hidden asbestos showed:

- *The Army asbestos surveys were conducted on accessible surfaces only which is not acceptable to the Monterey Bay Unified Air Pollution Control District ("MBUAPCD").*
- *Approximately 30 percent more ACM lies hidden than was identified in the Army surveys.*
- *The number one cause for slow-downs and change orders during building deconstruction is hidden asbestos (see FORA website).*

- *A comprehensive asbestos-containing materials survey must identify all ACM.*
- *All ACM must be remediated before building deconstruction begins. It is important to note that this includes non-friable ACM that has a high probability of becoming or has become friable - crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of deconstruction.*
- *All ACM must be disposed of legally.*

FORA Hierarchy of Building Reuse 1998

In response to the PDP project, FORA developed a Hierarchy of Building Reuse ("HBR") protocol to determine the highest and best method to capture and save both the embodied energy and materials that exist in the buildings on Fort Ord. The HBR is a project-planning tool. It provides direction, helps contractors achieve higher levels of sustainability, and facilitates dialogue with developers in order to promote salvage and reuse of materials in new construction projects. The HBR protocol has only been used on WWII era wooden buildings. The HBR protocol prioritizes activities in the following order:

1. *Reuse of buildings in place*
2. *Relocation of buildings*
3. *Deconstruction and salvage of building materials*
4. *Deconstruction with aggressive recycling of building materials*

FORA Request for Qualifications ("RFQ") for Building Deconstruction Contractors 1998

FORA went through an RFQ process in an attempt to pre-qualify contractors throughout the U.S. to meet the Fort Ord communities' needs for wooden building deconstruction (removal), hazardous material abatement, salvage and recycling, and identifying cost savings. The RFQ also included a commitment for hiring trainees in deconstruction practices.

FORA Lead-Based Paint Remediation Demonstration Project 1999

FORA initiated the LBP Remediation Demonstration Program in 1999 to determine the extent of LBP contamination in Fort Ord buildings and soil, field test possible solutions, and document the findings. The first step in controlling LBP contamination is to accurately identify the amount and characteristics of the LBP. This ensures that LBP is properly addressed during removal and reuse activities, in ways that protect the public, environment, and workers.

The FORA Compound and Water City Roller Hockey Rink were used as living laboratories to test the application of LBP encapsulating products. Local painting contractors were trained to apply various encapsulating products and the ease, effectiveness and expected product life was evaluated. This information was shared with the jurisdictions, other base closure communities and the regulatory agencies so that they could use the lessons learned if reusing portions of their WWII building stock.

FORA Waste Characterization Protocol 2001

A Basewide Waste Characterization Protocol was developed for building debris generated during the deconstruction of approximately 1,200 WWII era wooden structures. By profiling standing buildings utilizing the protocol, contractors are able to make more informed waste management and diversion decisions resulting in savings, greater implementation of sustainable practices, and more environmentally sensitive solutions.

The following assumptions further assist decision-making for a large-scale source-based recovery program:

- *Individual buildings have been uniquely modified over time within each building type.*
- *The basewide characterization protocol was verified by comparing it with the actual waste generated during the 12th street building removal.*

FORA Building Removal for 12th Street/Imjin Parkway 2002

FORA, in 2002, remediated and removed 25 WWII era buildings as the preparatory work for the realignment of 12th Street, later to be called Imjin Parkway.

FORA Building Removal for 2nd Avenue Widening 2003

FORA, in 2003, remediated and removed 16 WWII era buildings and also the remains of a theater that had burned and been buried in place by the Army years before the base was scheduled for closure.

FORA/CSUMB oversight Private Material Recovery Facility Project 2004

In 2004, FORA worked with CSUMB to oversee a private-sector pilot Material Recovery Facility ("MRF"), with the goal of salvaging and reusing LBP covered wood from 14 WWII era buildings. FORA collaborated in the development of this project by sharing its research on building deconstruction and LBP abatement. CSUMB and their private-sector partner hoped to create value added products such as wood flooring that could be sold to offset deconstruction costs. Unfortunately the MRF operator and equipment proved to be unreliable and the LBP could not be fully removed from the wood or was cost prohibitive.

Dune WWII Building Removal 2005

FORA, in partnership with Marina and Marina Community Partners, removed 406 WWII era buildings. Ninety percent of the non-hazardous materials from these building were recycled. FORA volunteered to be the Hazardous Waste Generator instead of the City of Marina and worked with the California Department of Toxic Substance Control, the State Board of Equalization and the hazardous waste disposal facility so that as stipulated by state law, State Hazardous Waste Generator taxes could be avoided.

East Garrison Building Removal 2006 thru 2007

FORA, in 2006, provided the East Garrison developer with credits/funds to remove 31select WWII and after buildings from East Garrison.

Imjin Office Park Building Removal 2007

FORA, in partnership with Marina and Marina Community Partners, removed 13 WWII era buildings to prepare the Imjin Office Park site.

FORA Removal of Building 4470 in Seaside 2011

In 2011, FORA had a concrete building in Seaside removed. Building 4470 was one of the first Korean War era concrete buildings removed on the former Fort Ord. Removal revealed the presence of hidden asbestos materials. The knowledge gained during this project will be helpful in determining removal costs of remaining Korean War era concrete buildings in Seaside and on CSUMB.

FORA/CSUMB Korean War Concrete Building Removal Business Plan Grant Application 2011

In 2011, FORA approached the U.S. Office of Economic Adjustment ("OEA") about the possibility of applying for grant funds to assist in the removal of Korean War era concrete buildings located on CSUMB and Seaside property. The OEA was receptive to the idea and encouraged an application, noting that the amount available would likely be less than \$500,000. Since a large portion of the Korean War era concrete buildings are located on CSUMB property, FORA asked CSUMB to co-apply for the grant funds, which would be used to accurately identify hazardous materials in the buildings both on CSUMB and Seaside property, and to develop a Business Plan that would harness market forces to reduce building removal costs and drive economically sound building removal decisions. FORA and CSUMB have completed the grant application and submitted it to the OEA, who will consider it once federal funding becomes available.

Continuing FORA support for CSUMB Building Removal Projects

Over the years, FORA has shared knowledge gained through various deconstruction projects with CSUMB and others, and CSUMB has reciprocated by sharing their lessons learned. Over the years FORA has supported CSUMB with shared contacts, information, review and guidance as requested for the following CSUMB building removal efforts:

- 2003 removal of 22 campus buildings
- 2006 removal of 87 campus buildings
- 2007 removal of 9 campus buildings
- 2009 removal of 8 campus buildings
- 2010 removal of 33 campus buildings
- 2011 removal of 78 campus buildings
- 2013 removal of 24 campus buildings



Fort Ord Reuse Authority

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APPENDIX D

Materials for Item 7(d)(ii)
Admin. Comm. Meeting, 7/18/12

MEMORANDUM

Date: July 18, 2012

To: Fort Ord Reuse Authority ("FORA") Administrative Committee

CC: Michael A. Houlemard, Jr., Executive Officer
Steve Endsley, Assistant Executive Officer

From: Jonathan Garcia, Senior Planner

Re: **Caretaker Costs, item 7(d)(ii)**

The purpose of this memo is to provide background information on Caretaker/Property Management Costs on former Fort Ord. Over the last few months, Caretaker Costs have been discussed in conjunction with the FORA Capital Improvement Program ("CIP") Review - Phase II study/formulaic approach. It was suggested that FORA staff provide additional background on Caretaker costs for future discussion. In preparation of this memo, FORA staff reviewed background material on caretaker costs from the late 1990's to present.

Caretaker status has been defined by U.S. Army regulation as "the minimum required staffing to maintain an installation in a state of repair that maintains safety, security, and health standards." This Army term may have generated the context of FORA's analysis of Caretaker costs in the late 1990's. Caretaker costs were first described in the FORA CIP in FY 2001/2002 as a \$14 million dollar cost with footnote reading: "Costs associated with potential delays in redevelopment and represent interim capital costs associated with property maintenance prior to transfer for development (as per Keyser-Marston truthing of caretaker and other costs)."

FORA has maintained Caretaker costs in its annual CIPs since the initial FY 2001/2002 CIP. Within the last five years, FORA and County of Monterey Office of Housing and Redevelopment staff discussed property management costs associated with the County's habitat property described in the draft Fort Ord Habitat Conservation Plan ("HCP"). FORA and its HCP consultant note that trails planning/maintenance costs for public access on these properties are costs that the U.S. Fish and Wildlife Service/California Department of Fish and Game do not allow to be funded by the HCP, but should be funded by other jurisdictional resources.

During FORA's CIP review - Phase I Study, concluded in May 2011, FORA's Financial Consultant recommended that Caretaker/Property Management costs be removed from FORA's CIP Contingencies since no costs had been defined. FORA jurisdictions requested that Caretaker costs be added back in order to cover basewide property management costs, should they be demonstrated.

FORA expended \$20,000 in the previous fiscal year toward Monterey County's Fort Ord Recreational Habitat Area ("FORHA") Master Plan preparation process, in which the County has undertaken planning for a proposed trail system. This line item is wholly dependent on whether sufficient revenue is received during the fiscal year. In its current CIP, FORA maintains a \$12.2 million dollar line item for



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caretaker costs. FORA Assessment District Counsel opined that FORA Community Facilities District Special Tax payments cannot fund caretaker costs. For this reason, funding for Caretaker costs would have to come from FORA's 50% share of lease and land sales proceeds on former Fort Ord, any reimbursements to those fund balances, or other designated resources should they materialize.

From approximately 2000 to 2004, the U.S. Army entered into Cooperative/Caretaker Agreements with the City of Marina, the City of Seaside, and the County of Monterey. Below are two tables summarizing the agreement periods, amounts of funding involved, and an example of tasks included in these agreements. It is noted that these tables are not a comprehensive summary of the Army's caretaker agreements with the jurisdictions, but provide additional information on the subject.

Cooperative/Caretaker Agreements between the U.S. Army and former Fort Ord Jurisdictions

Summary of Caretaker Agreement Periods	Marina Funding	Seaside Funding	County Funding
July 2000 – June 2001		\$647,512	
July 2002 – December 2002	\$50,694		
July 2002 – June 2003		\$52,736	\$49,500
July 2002 – June 2003	\$49,902	\$57,808	\$156,672
October 2003- June 2004	\$7,875	\$37,773	\$74,754
Totals	\$324,308	\$364,154	\$496,763

Description of tasks in Marina Caretaker Agreement for Period July – December 2002

Task #	Description	Budget
1	Tree Trimming	\$6,240
2	Mowing	\$10,000
3	Pavement Patching	\$3,425
4	Centerline/Stenciling	\$5,560
5	Barricades	\$3,100
6	Traffic Signs	\$2,080
7	Catch Basin/Storm Drain Maint.	\$1,600
8	Vacant Buildings	\$7,025
9	Vegetation Control/Spraying	\$2,055
13	Paving/Slurry Seal	\$5,000
14	Administration (10% of total)	\$4,608.50
	Totals	\$50,693.50

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	ICF International Contract Amendment #6	
Meeting Date:	September 13, 2013	ACTION
Agenda Number:	10b	

RECOMMENDATION(S):

Authorize the Executive Officer to Execute ICF International (ICF) Contract Amendment #6, not to exceed \$98,500 in additional budget authority (**Attachment A**).

BACKGROUND/DISCUSSION:

On March 15, 2013, the Fort Ord Reuse Authority (FORA) Board approved contract amendment #5, which combined \$39,998 (available in the approved FY 12-13 HCP budget) with \$25,900 in reallocated previous contract budget authority to conduct a series of technical meetings. At this time, six technical issues have been addressed and eight issues require resolution. See **Attachment A** for additional details. Additional scope and budget is requested for ICF to achieve resolution on these technical issues over the next three months and move the draft HCP to a Screen-Check and then Public Review Draft. Based on the current HCP completion schedule, the Draft HCP would be circulated for public review by June 2014.

FISCAL IMPACT:

Reviewed by FORA Controller _____

ICF contract amendment #6 will increase the contract's budget authority by \$98,500, which is included in FORA's approved FY 13-14 budget. Staff time for this item is included in the approved FORA budget.

COORDINATION:

ICF, Denise Duffy & Associates, Wildlife Agencies, Administrative Committee, Executive Committee, and Authority Counsel.

Prepared by _____ Reviewed by _____
Jonathan Garcia Steve Endsley

Approved by _____
Michael A. Houlemard, Jr.



August 29, 2013

Mr. Michael Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
100 12th Street, Building 2880
Marina, California 93933

SUBJECT: Addendum #6 Request for Additional Funds for Public Draft Completion of the
Former Fort Ord Habitat Conservation Plan

Dear Mr. Houlemard:

Thank you for the opportunity to continue our work on the Former Fort Ord Habitat Conservation Plan (Plan). Over the past six months we made significant progress towards resolving the key issues identified in our Addendum #5. These key issues required close coordination to resolve with the Fort Ord Reuse Authority (FORA), Denise Duffy and Associates (DD&A), members of the Fort Ord HCP Working Group, U.S. Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). ICF developed an aggressive meeting schedule to discuss and resolve the identified key issues. Each of these meetings required advanced preparation of meeting materials, circulation of meeting notes, and clear communication of how each item is resolved in the HCP document. The following is a summary of resolved key issues.

- **California tiger salamander impact analysis.** ICF worked with DD&A to effectively summarize new impact approach and results. Impact analysis results were summarized differently for the CDFW and USFWS to ensure consistency with their permitting requirements. (DD&A is the lead on this key issue.)
- **Adaptive Management.** ICF updated and finalized the Adaptive Management approach.
- **State Parks' covered activities.** ICF worked with State Parks to finalize covered activities and reduce impacts to western snowy plover.
- **Western snowy plover.** ICF prepared updated materials on species status, impacts, conservation strategy, monitoring, adaptive management, and costs. The approach was reviewed and finalized by the working group, with the exception of baseline monitoring.
- **Smith's blue butterfly.** ICF prepared updated materials on species' impacts, conservation strategy, and monitoring. The approach was reviewed and finalized by the working group.

- **Cost and Funding Analysis.** ICF facilitated meeting at which USFWS and CDFW confirmed returning cost model approach to the original cost model. (FORA is the lead on this key issue.)

Working group member' schedules, as well as personnel changes resulted in the rescheduling of some of the meeting dates and a higher level of effort to achieve group consensus. As such, additional time and effort will be required to resolve some of the key issues. The following is a summary of the on-going key issues and their status.

- **Bank swallow.** ICF initiated a dialogue with the working group on the pros and cons of including bank swallow as a covered species. This included drafting a proposed approach for mitigation, monitoring, and adaptive management; identifying staff and costs required for implementation; and contributing to a memo drafted by FORA to frame a recommendation for non-coverage. *Status:* additional meeting required to finalize approach.
- **Endowment holder and trust agreement.** ICF facilitated the endowment holder and trust agreement meeting at which CDFW presented guidance for complying with new SB 1094 legislation. *Status:* additional meetings required to review and finalize agreement. (FORA is the lead on this key issue.)
- **California tiger salamander hybrids.** ICF engaged working group on an adaptive management approach for California tiger salamander hybrid management in the Plan Area. A draft memo was circulated and comments received. *Status:* additional meeting required to finalize approach.
- **Western snowy plover.** USFWS and State Parks requested continued dialogue on the baseline used for biological goals and objectives and monitoring. *Status:* additional meeting required to finalize approach.
- **Species surveys.** ICF updated species surveys and avoidance and minimization requirements for California tiger salamander, California red-legged frog, sand gilia, Seaside bird's beak. *Status:* Approach revisions required for California tiger salamander and California red-legged frog to reduce survey burden on Permittees and third party participants. Additional meeting required to finalize approach for sand gilia and Seaside bird's beak.
- **Species monitoring protocol updates.** ICF completed draft internal revisions for species monitoring protocols. Meeting for this topic was postponed to allow for additional coordination with the USFWS on Monterey ornate shrew revisions and additional working group members to attend the meeting. *Status:* additional meeting to review updates; second meeting may be required to finalize approach.
- **Cost and Funding Analysis.** ICF facilitated meeting at which CDFW provided additional guidance on structure of endowment funds. Their preference is for a single Cooperative-held endowment with sub-accounts rather than discrete endowments. It would be easier to move

money between the sub-accounts rather than endowments. *Status:* description of endowment structure needs to be updated and reviewed by working group. (FORA is the lead on this key issue.)

- **Implementing Agreement.** CDFW agreed to sign the implementing agreement and provided specific direction on updates required. These updates will be presented at the September 4 meeting. (FORA is the lead on this key issue.)

This amendment revises the following tasks from the original Jones & Stokes contract (May 30, 2007), and subsequent addendums. The proposed schedule to complete these tasks and our cost estimate to revise these tasks are provided at the end of this amendment (Table 2 and Table 3). This scope and budget includes tasks through the public draft, assumed to be published in May 2014, and includes a public outreach task to be completed in June 2014 during the public review period.

Task 5 Strategic Advice, Project Management, and Meetings (Amended)

Continued coordination and engagement with FORA, DD&A, Permittees, Bureau of Land Management (BLM), and the Wildlife Agencies is integral to maintain the project schedule and ensure Plan completion. As such, regular meetings, close coordination with FORA, and project management are required. Meetings will be used to address comments and resolve key issues identified for the Draft HCP. Conference calls will be held to ensure collaborative issue resolution. ICF will also coordinate with the DD&A to regarding EIR/EIS document preparation and impact analysis revisions. For all in-person meetings and conference calls, meeting materials, agendas, action items, and revised materials will be drafted and circulated to all meeting attendees. ICF also will be responsible for meeting packet distribution and meeting minutes for FORA-led meetings. Up to 2 in-person meetings will be held. At this time, only one in-person meeting is indicated on the schedule; however, the budget allows for a second in-person meeting, if authorized by FORA. Meeting schedule is assumed as follows:

Table 1. Key Issue Meeting Summary

Key Issue	Meeting Date	# of ICF attendees
1. Governance: Implementing Agreement, JPA agreement, and proposed governance structure (FORA lead)	9/4	2
2. Hybrid California tiger salamander approach	9/18	2
3. Western snowy plover baseline for biological goals and objectives and monitoring	10/2	2
4. Bank swallows		
<i>In-person meeting:</i>	10/9	3
5. California tiger salamander avoidance and minimization measures		
6. State-listed plant species avoidance and minimization measures		
7. Species monitoring protocol updates		
8. California red-legged frog avoidance and minimization measures	10/23	2
9. Finalize costs and funding mechanisms (FORA lead)	11/6	2
<ul style="list-style-type: none"> • Endowment and sub-accounts • Borderlands • Define process and ability to generate addition money for funds 		
10. Endowment holder and trust agreement (FORA lead)	11/20	2
11. CDFW issues (FORA lead)		
<ul style="list-style-type: none"> • State to Federal Assurances • State to State Assurances • Conservation Easement vs. Deed with Restrictions • Funding Assurances 		

Deliverables: Meeting agendas, meeting hand-outs, meeting notes, action items, and monthly budget summaries.

Task 10 Prepare Screen-Check Public Draft HCP (Amended)

ICF will prepare the Screen-Check Public Draft HCP. ICF will respond to comments submitted on the Draft HCP and incorporate of key issue resolutions. Additional funding is required for this task to incorporate the more complex key issue resolutions that span multiple chapters in the Plan, as well as, fund production of the Screen-Check Public Draft. Comment responses will be provided in a single file for each chapter and the Screen-Check Public Draft will be updated as appropriate. For the key issues, ICF will create a key issue table naming each key issue and summarizing how the key issue was resolved. ICF will work directly with the reviewers and FORA to resolve each key issue as specified in Task 5. Interim key issue resolutions will be provided as part of the meeting materials included in Task 5.

Deliverables: Digital version of the Screen-check public draft in clean and tracked changes and key issue resolution summary. Twelve (12) CDs will be sent to FORA for distribution as needed.

Task 11 Prepare Public Draft HCP (Amended)

This task was previously funded in Addendum #4. All funds from this task were transferred to Task 10 to fund key issue resolution as indicated in Table 3. The cost estimate includes funding for this task as previously scoped. ICF will incorporate the Wildlife Agencies' final revisions on the Screen-Check Draft to prepare the Public Review Draft HCP. It is important to note that preparation of the Public Review Draft will depend on the timing and results of the CEQA/NEPA process. The Wildlife Agencies will not begin formal processing of an HCP until a complete application is submitted. The application package includes the HCP and EIR/EIS.

Deliverables: Public Review Draft HCP. Five printed copies (clean copies only) and 5 CDs will be provided to FORA.

Task 13 Public Outreach

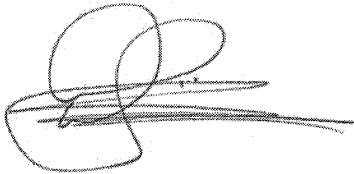
The public review period will be critical time to engage the public and gain their support of the Plan. Decision-makers, stakeholders, interest groups, and the public-at-large must be informed of their role regarding Plan review and approval, as well as how they can inform and shape the final Plan. An effective public outreach strategy will build support, and ensure a common vision is realized. ICF will provide public outreach support during the public review period for the Plan. This will include meeting attendance and an to 15-minute power point presentations at 2 FORA board meetings. Handouts for the FORA board meetings will include a printout of the power point presentation and a fact sheet. ICF will also attend 1 public meeting to staff an expert station. ICF will prepare a board to display Plan maps, plan summary, and fact sheet. These same materials will be provided as handouts at the event.

Deliverables: Two draft and final power point presentations (electronic version and 20 hard copies). One draft and final 2-page summaries of the Plan, map, and fact sheets (electronic version and 100 hard copies). One display board.

Cost Estimate

We estimate that these tasks will require a budget augment of \$98,500 to complete these tasks (Table 3). This cost estimate is valid for ninety (90) days from the date of this proposal. Thank you again for the opportunity to work on this important project. If you have any questions about this proposal, please call me at (415) 677-7179 or Terah Donovan at (415) 677-7176.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

David Zippin, Ph.D.
Vice President and Project Director

Table 2. Schedule for Installation-Wide Multispecies Habitat Conservation Plan for Former Fort Ord, CA

Key:

Document Preparation
Meetings
Review Periods
Notice prep/publish
Final Approval Steps

		Status	2013												2014												2015													
			J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D		
HCP																																								
1	Draft Pre-Public HCP	Done																																						
2	Key Issue Resolution status updates	Done																																						
3	Wildlife Agency and Working Group Review Period (8 wk)	Done																																						
4	Meetings to Identify Key Issues	Done																																						
5	Bi-weekly meetings (as necessary) with Wildlife Agencies, FORA, and Working Group Members to check-in or resolve outstanding issues																																							
6	Prepare 3rd Admin Draft HCP	Done																																						
7	Review 3rd Admin Draft HCP (Permit Applicants and BLM only)	Done																																						
8	Revise 3rd Admin Draft HCP	Done																																						
9	Review 3rd Admin Draft HCP (Permit Applicants, BLM, Wildlife Agencies)	Done																																						
10	Prepare Screen-check Draft HCP																																							
11	Review Screen-check Draft HCP (Wildlife Agencies, Solicitor Review)																																							
12	Prepare Public Draft HCP																																							
13	Prepare and publish Notice in Federal Register for HCP, EIS, IA																																							
14	Public Review Period (90 days)																																							
15	Conduct Public Outreach																																							
16	Prepare Final HCP																																							
17	See Approval process steps																																							

Table 2. (Continued)

Key: Document Preparation

Meetings

Review Periods

Notice prep/publish

Final Approval Steps

Final Approval Steps		Status	2013												2014												2015											
			J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
EIR/EIS																																						
1	Prepare 1st Admin Draft EIS/EIR	Done																																				
2	Review Period																																					
3	Prepare 2nd Admin Draft EIS/EIR																																					
4	Solicitor review																																					
5	Prepare Public Review EIS/EIR																																					
6	Prepare and publish Notice of Availability in Federal Register (see HCP-7 above)																																					
7	Prepare and publish CEQA Notice of Availability (1 - 2 months)																																					
8	Public/Agencies Review Period (90 days)																																					
9	Respond to public comments/Prepare 1st Admin Draft Final EIS/EIR																																					
10	Review Period																																					
11	Prepare Final Public Draft EIS/EIR - clear for publication																																					
12	Publish Notice of Final EIS, HCP and IA Availability in Federal Register - 30 day comment period																																					
13	Publish CEQA Notice of Determination - Permit Applicants - 30 day challenge period																																					
14	CEQA Notice of Determination--CDFG - 30 day challenge period																																					
15	See Approval Process steps																																					
16	Federal Prep and Pub of Record of Decision (ROD) - 30 day wait period																																					
17	See Approval Process steps																																					

Table 2. (Continued)

Key: Document Preparation

Meetings

Review Periods

Notice prep/publish

Final Approval Steps

Final Approval Steps		Status	2013												2014												2015											
			J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Implementing Agreement																																						
1	Prepare 2nd Admin Draft IA	Done																																				
2	Wildlife Agency and Working Group Review Period	Done																																				
7	Prepare 3rd Admin Draft IA	Done																																				
8	Review 3rd Admin Draft IA (Permit Applicants and BLM only)	Done																																				
9	Respond to comments	Done																																				
10	Review 3rd Admin Draft IA (Permit Applicants, BLM, Wildlife Agencies)	Done																																				
11	Prepare Screen-check Draft IA																																					
12	Review Screen-check Draft IA (Wildlife Agencies, Solicitor Review)																																					
13	Prepare Public Draft IA																																					
14	Prepare and publish Notice of Availability in Federal Register (see HCP-12 above)																																					
15	Public/Agencies Review period (90 days)																																					
16	Prepare Final IA																																					
17	See Approval Process steps																																					
Approval Process																																						
1	Permit Applicants and BLM Approval of Final Plan, Final EIR/EIS and Final IA																																					
2	Establish Implementing Entity																																					
3	Implementing Entity approves Final Plan. EIR/EIS and Implementing Agreement																																					
4	See EIR/EIS steps 11, 12 and 13																																					
5	Local Agencies Adopt Imp Ordinances																																					
6	Wildlife Agencies Approval of Plan, EIR and EIS and IA																																					
7	FG Findings Preparation																																					
8	FWS Findings/Biological Opinion																																					
9	Permits Issued by FWS																																					
10	Permits issued by CDFG																																					

Table 3. Cost Estimate for Addendum #6 Former Fort Ord Habitat Conservation Plan

Employee Name	Consulting Staff									Production Staff					Labor Total	Direct Expenses	Total Price
	Zippin D	Donovan T	Jones T	Mozumder K	Edell T	Rogers J	Osborn M	Barnard A		Mihm T	Giffen T	Ortega C	Fitch S				
	Proj Dir	Proj Man	Cons Planner	Wildlife Biologist	Botanist	Public Outreach	Public Outreach	Graphics									
Task	Labor Classification	Proj Dir	Sr Consult I	Asst Consult	Sr Consult I	Assoc Consult	Assoc Consult III	Assoc Consult II	Sr Consult I	Subtotal	Editor	Support Editor	Pub Spec	Invoicing	Subtotal		
Task 5. Strategic Advice, Project Management, Meetings		12	92.0		20	16				\$22,660				6	\$420	\$23,080	
Task 10. Prepare Screen-Check Draft HCP		8	32		20	20			16	\$15,380	40	40	40		\$11,400	\$26,780	
Task 11. Prepare Public Draft HCP (2014 Task)		4	40	20	30	30			16	\$20,550	20	16	16		\$4,940	\$25,490	
Task 13 Public Outreach (2014 task)		2	54				15	56	4	\$18,880		16			\$1,520	\$20,400	
Total hours		26	218.0	20	70	66	15	56	36		60	72	56	6			
ICF E&P 2013 Billing Rates		\$255	\$155	\$100	\$155	\$140	\$140	\$130	\$155		\$95	\$95	\$95	\$70			
Subtotals		\$6,630	\$33,790	\$2,000	\$10,850	\$9,240	\$2,100	\$7,280	\$5,580	\$77,470	\$5,700	\$6,840	\$5,320	\$420	\$18,280	\$95,750	
Direct Expenses																	
521.00 Meals, and Lodging																	\$500
523.02 Reproductions																	\$1,000
523.05 Travel, Auto, incld. Mileage at current IRS rate (.555/mile)																	\$1,000
Mark up on all non-labor costs and subcontractors: 10%																	\$250
Direct expense subtotal																	\$2,750
Total price																	\$98,500

Placeholder for Item 12a

Outstanding Receivables

This item will be included in the final Board packet.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Post Reassessment Advisory Committee (PRAC)

Meeting Date: September 13, 2013

Agenda Number: 12e

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Receive an update on the CSUMB hosted Fort Ord Reuse Implementation Colloquia.
- ii. Approve attached budget associated with the Colloquia event (**Attachment A**).

BACKGROUND/DISCUSSION:

Since the Board provided direction to proceed with a Colloquia hosted by CSUMB at its July meeting, the PRAC met on August 12 and 19 to coordinate event program planning with CSUMB (see attached meeting minutes under **Attachment B**). A third PRAC-CSUMB coordination meeting is scheduled on September 10, 2013 (10:30 am) at the FORA office.

During its discussions, the PRAC decided it would be a good idea to poll members of the FORA Board and others to determine the preferred days for the Colloquia. The results of polling as of this writing were: 17 votes for Wednesday, Thursday, and Friday; 5 votes for Thursday, Friday, and Saturday; and 1 vote for Friday, Saturday, and Sunday.

CSUMB has currently reserved its facilities for October 9, 10, and 11 to host the Colloquia event. FORA staff requests budget authorization to: 1) advertise the event; 2) obtain experts for the event's discussion topics; 3) obtain a workshop facilitator; and 4) reimburse CSUMB for additional expenses such as food, special equipment, and special services during the event.

FISCAL IMPACT:

Reviewed by FORA Controller _____

Staff time for this item is included in the approved FORA budget. The \$56,725 in estimated Colloquia budget is included in the approved FORA budget for the Base Reuse Plan Post Reassessment.

COORDINATION:

PRAC, CSUMB, Administrative Committee, Executive Committee, and Authority Counsel.

Prepared by _____ Reviewed by _____
Jonathan Garcia Steve Endsley

Approved by _____
Michael A. Houlemard, Jr.

Fort Ord Reuse Implementation Colloquia Budget

Expense Item Description	Estimated Cost
Event Advertisement	\$ 10,000
Experts	
Travel	\$ 7,500
Lodging and meals	\$ 9,225
Stipends	\$ 15,000
Workshop Facilitator	\$ 10,000
Additional CSUMB expenses	\$ 5,000
Total Budget	\$ 56,725



Fort Ord Reuse Auth

920 2nd Avenue, Suite A, Marina, CA 93933
Phone: (831) 883-3672 • Fax: (831) 883-3675 •

Attachment B to Item 12e
FORA Board Meeting, 9/13/2013

BASE REUSE PLAN POST-REASSESSMENT ADVISORY COMMITTEE MEETING 3:00 P.M. MONDAY, August 12, 2013

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

ACTION MINUTES

1. CALL TO ORDER AT 3:00 P.M.

Confirming a quorum, Fort Ord Reuse Authority (FORA) Board of Directors Chair Jerry Edelen called the meeting to order at 3:10 PM. The following people, indicated by signatures on the roll sheet, attended:

Committee Members

Dr. Tom Moore, MCWD
Gail Morton, City of Marina
Jerry Edelen, City of DRO
Victoria Beach, City of Carmel
-by-the-Sea
President/Dr. Eduardo Ochoa,
CSUMB

Other Attendees

Michael Houlemard, FORA (via conference phone)
Kristi Markey, Supervisor Jane Parker's office
Jane Haines, member of the public
Scott Waltz, Sierra Club representative
Steve Endsley, FORA
Jonathan Garcia, FORA
Andre Lewis, CSUMB

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE: None.

3. PUBLIC COMMENT PERIOD: None.

4. APPROVAL OF June 27, 2013 MEETING MINUTES:

Motion: Committee member Dr. Tom Moore moved approval of the minutes as presented, seconded by Committee member Victoria Beach.

Motion Passed: unanimous.

5. NEW BUSINESS

Base Reuse Plan Post-Reassessment Colloquium Planning

ACTION

- i. Discuss colloquium coordination with CSUMB.

Committee members greeted CSUMB President Eduardo Ochoa and began discussion of coordination efforts.

- ii. Review four discussion topics

Committee members reviewed the four discussion topics and discussed how they had evolved since the original colloquium concept developed by Committee member President Eduardo Ochoa.

- iii. Provide direction on proposed colloquium format/scheduling

The Committee discussed anticipated outcomes from the colloquium, such as: benefiting the local community through outside expertise and sharing of ideas, developing a common knowledge base, and learning best practices from successful and unsuccessful case studies. Committee members noted that creating a high-quality colloquium event was preferable to an aggressive delivery schedule. The Committee agreed in general terms to a 3-day colloquium concept:

Day 1: President Eduardo Ochoa to convene the event and introduce four topics
Discussion Topic #1: Economic Development

Day 2: Discussion Topic #2: BRP Design Guidelines

Day 3: Discussion Topic #3: Blight Removal (one-third of day)
Discussion Topic #4: National Monument (one-third of day)
Closing: Summarize and synthesize key ideas (one-third of day)

iv. Consider next steps

For the next PRAC meeting, the following tasks were identified:

1. FORA staff will complete an updated Colloquium Format/Schedule for review.
2. FORA staff, working with CSUMB, will present a list of potential colloquium speakers with speaker bios attached.
3. FORA staff will poll its Board members to ascertain a preferred 3-day combination for the colloquium. Option 1: Wed., Thurs., Fri.
Option 2: Thurs., Fri., Sat.
Option 3: Fri., Sat., Sun.
4. Next PRAC meeting was scheduled for Monday, August 19, 2013 at 3:00 pm.

6. ITEMS FROM MEMBERS: None.

7. ADJOURNMENT: The meeting was adjourned at approximately 4:30 pm.

Minutes prepared by Jonathan Garcia.



Fort Ord Reuse Authority

920 2nd Avenue, Suite A, Marina, CA 93933

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BASE REUSE PLAN POST-REASSESSMENT ADVISORY COMMITTEE MEETING

3:00 P.M. MONDAY, August 19, 2013

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

ACTION MINUTES

1. CALL TO ORDER AT 3:00 P.M.

Confirming a quorum, Fort Ord Reuse Authority (FORA) Board of Directors Chair Jerry Edelen called the meeting to order at 3:04 PM. The following people, indicated by signatures on the roll sheet, attended:

Committee Members

Dr. Tom Moore, MCWD
Gail Morton, City of Marina
Jerry Edelen, City of DRO
Victoria Beach, City of Carmel
-by-the-Sea
Andre Lewis, CSUMB

Other Attendees

Michael Houlemard, FORA
Steve Endsley, FORA
Jane Haines, member of the public
Scott Waltz, Sierra Club representative
Jonathan Garcia, FORA

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE: Executive Officer Michael Houlemard announced that the California Department of Veterans Affairs submitted its grant application to the federal Department of Veterans Affairs' state veterans cemetery grant program by the August 15, 2013 deadline.

3. PUBLIC COMMENT PERIOD: Jane Haines commented on the second page of the staff report where there is reference to "Case Studies Presentation, including FORA Highway 1 Design Corridor Design Guidelines adopted in 2005" under the proposed Day 2 schedule. Ms. Haines commented that she did not think that FORA Highway 1 Design Corridor Design Guidelines should be discussed at all during the colloquium. She cited several excerpts from page 71 of the Base Reuse Plan and noting that they supported her statements (hard copy attached to minutes).

4. APPROVAL OF August 12, 2013 MEETING MINUTES

Motion: Committee member Dr. Tom Moore moved approval of the minutes as presented, seconded by Committee member Gail Morton.

Motion Passed: unanimous.

5. NEW BUSINESS

Base Reuse Plan Post-Reassessment Colloquium Planning

ACTION

i. Provide direction on proposed colloquium format/scheduling

Committee members discussed potential subtopic areas after reviewing the potential colloquium speakers. Committee members identified the following subtopic areas:

Economic Development

- a) Political Process
- b) Attracting Employers
- c) Optimizing Job Mix
- d) Optimizing Retail
- e) Anticipating the Market

Design Guidelines

- a) Design Character as an Economic Amplifier
- b) Political Process – balancing common design character over multiple jurisdictions
- c) Cutting Edge Planning Tools
 - i. Community Charrette
 - ii. Form Based Planning

National Monument

- f) Catalyst for Economic Recovery
- g) How to Incorporate in City and County Planning
- h) Recreation/Open Space Connections

Blight Removal

- a) Broken Windows Case Study
- b) Financing Solutions

- ii. Provide direction on list of potential colloquium speakers

Committee member Gail Morton voiced strong concerns that a number of potential speakers listed under the National Monument topic missed the mark. She identified the potential speaker with Headwaters Economics as the expert she thought worked. She also suggested the Stanford Research Institute as another source for potential speakers on the National Monument topic. The Committee then re-directed most of its time on the format/scheduling discussion.

- iii. Provide direction after reviewing results of FORA Board poll
on days for 3-day colloquium

Committee members reviewed the results of the FORA Board poll and requested that staff conduct polling of Fort Ord jurisdictions and other jurisdictions in Monterey County.

- iv. Consider next steps

For the next PRAC meeting, the following tasks were identified:

1. FORA staff, working with CSUMB, will present a list of potential colloquium speakers with speaker bios attached.
2. FORA staff will poll its Administrative Committee members and other Cities in Monterey County to ascertain their preferred 3-day combination for the colloquium.
 - Option 1: Wed., Thurs., Fri.
 - Option 2: Thurs., Fri., Sat.
 - Option 3: Fri., Sat., Sun.
3. FORA staff will circulate draft meeting minutes to PRAC members to summarize today's discussion.
4. Next PRAC meeting was scheduled for Tuesday, September 10, 2013 at 10:30 am.

6. ITEMS FROM MEMBERS: None.

7. ADJOURNMENT: The meeting was adjourned at approximately 5:15 pm.

Minutes prepared by Jonathan Garcia.

Placeholder for Item 12g

Travel Report

This item will be included in the final Board packet.

- END -

**DRAFT
BOARD PACKET**

**JOINT ADMIN. COMMITTEE
AND WATER/WASTEWATER
OVERSIGHT COMMITTEE**

MEETING MATERIALS



FORT ORD REUSE AUTHORITY

JOINT ADMINISTRATIVE AND WATER/WASTEWATER OVERSIGHT COMMITTEE

Wednesday, July 17, 2013

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

MINUTES

1. CALL TO ORDER IMMEDIATELY FOLLOWING ADMINISTRATIVE COMMITTEE MEETING

Administrative Committee Co-Chair Daniel Dawson called the meeting to order at 10:00 AM. The following were present, as indicated by signatures on the roll sheet:

Committee Members:

Daniel Dawson, City of DRO*
Carl Holm, County of Monterey*
Debby Platt, City of Marina*
Elizabeth Caraker, City of Monterey*
Tim O'Halloran, City of Seaside*
Dirk Medema, County of Monterey DPW
Graham Bice, UCMBEST*
Mike Lerch, CSUMB*

Staff:

Steve Endsley, FORA
Jim Arnold, FORA
Crissy Maras, FORA
Brian Lee, MCWD
Patrick Breen, MCWD

Others:

Bob Schaffer
Beth Palmer
Scott Hilk

* Voting Members

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

None

3. PUBLIC COMMENT PERIOD

None

4. APPROVAL OF MEETING MINUTES

a. May 15, 2013 WWOC Minutes

MOTION: Tim O'Halloran moved, seconded by Graham Bice, to approve the May 15, 2013 minutes as presented.

MOTION PASSED: Unanimous.

5. NEW BUSINESS

a. Initiate FY 2013-14 WWOC Work Program

The annual WWOC work program is outlined in the Water and Wastewater Facilities Agreement between FORA and MCWD. At the beginning of each fiscal year, the WWOC initiates their work program and schedules WWOC meetings.

MOTION: Graham Bice moved, seconded by Tim O'Halloran, to initiate the FY 2013/14 WWOC work program.

MOTION PASSED: Unanimous

6. OLD BUSINESS

a. FY 2013/14 Ord Community Budget

i. MCWD Draft Rate Study – Preliminary Findings

The draft financial plan and rate study, presented to the MCWD Board on July 15th, was provided. MCWD staff is proposing revisions to their reserves policy by reducing the amount from \$1M per cost center to \$250K per cost center (four total cost centers), and reducing the required operating reserves from 6 months to 3. It was noted that the FORA contribution toward the capacity charge buy-down was not included in the rate study.

Committee members requested that MCWD consider an alternative rate for interim uses of water, like agricultural, irrigation, and construction uses.

MCWD will present the draft rate study to the FORA Board at their August meeting as an informational item and draft FY 2013/14 budget for approval in September.

b. Water Augmentation Program

Based on the current absorption schedule, the need for augmented water is not projected for several years. However, some jurisdictions are reaching their total individual allocation for water use. The Committee discussed the possibility of borrowing water between jurisdictions, within the total amount of potable water available (6,600 af/y). This would be a FORA Board policy decision.

7. SCHEDULE NEXT MEETING

A July 31st meeting was scheduled to review the formal rate study and August 14th was scheduled to review the draft budget. Additional meetings may be scheduled in order to make a recommendation on the budget to the FORA Board.

8. ADJOURNMENT

Co-Chair Dawson adjourned the meeting at 11:40 a.m.

**FORT ORD HCP
GOVERNANCE/IMPLEMENTATION
MEETING**

MEETING MATERIALS

NOTE TO USERS OF THE STANDARD CLAUSES IA FOR NON-FOREST HCPs:

These clauses were developed to improve the HCP program and provide a predictable format for implementing agreements. While HCPs by nature must be site specific and customized for each applicant, IAs generally do not. The Wildlife Agencies are striving for consistency amongst IAs so as not to revisit standard policy decisions for each new applicant. **Deviations from the standard clauses must be well-justified, based on site-specific conditions**, after consulting with the Solicitor's Office or NOAA General Counsel, as appropriate.

AUGUST 19, 2013 DRAFT

IMPLEMENTING AGREEMENT

for the

FORT ORD REGIONAL HABITAT COOPERATIVE (A JOINT POWERS
AUTHORITY), FORT ORD REUSE AUTHORITY,
CALIFORNIA DEPARTMENT OF PARKS AND RECREATION,
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (ON BEHALF OF THE UC
SANTA CRUZ CAMPUS),
COUNTY OF MONTEREY,
CITY OF MARINA,
CITY OF SEASIDE,
CITY OF DEL REY OAKS,
CITY OF MONTEREY,
THE BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY (ON BEHALF
OF THE MONTEREY BAY CAMPUS),
MONTEREY PENINSULA COLLEGE,
MONTEREY PENINSULA REGIONAL PARK DISTRICT,
MARINA COAST WATER DISTRICT,
BUREAU OF LAND MANAGEMENT,
UNITED STATES FISH AND WILDLIFE SERVICE,
and
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

for

**FORMER FORT ORD INSTALLATION-WIDE
MULTISPECIES HABITAT CONSERVATION PLAN**

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1.0 PARTIES

The Parties to this Implementing Agreement (“IA”) are:

- a) Fort Ord Regional Habitat Cooperative, a Joint Powers Authority (“JPA”) (“Cooperative”),
- b) Fort Ord Reuse Authority (“FORA”),¹
- c) County of Monterey (“County”),
- d) City of Marina (“Marina”),
- e) City of Seaside (“Seaside”),
- f) City of Del Rey Oaks (“Del Rey Oaks”),
- g) City of Monterey (“Monterey”),
- h) United States Fish and Wildlife Service (“USFWS”),
- i) California Department of Fish and Wildlife (“CDFW”),
- j) California Department of Parks and Recreation (“State Parks”),
- k) The Regents of the University of California (on behalf of the University of California Santa Cruz Campus) (“UC”),
- l) The Board of Trustees of the California State University (on behalf of the Monterey Bay Campus) (“CSUMB”),
- m) Monterey Peninsula College (“MPC”),
- n) Monterey Peninsula Regional Park District (“MPRPD”),
- o) Marina Coast Water District (“MCWD”), and
- p) Bureau of Land Management (“BLM”).

In this Agreement, these entities are referred to individually as “Party” and collectively as “Parties.” USFWS and CDFW are collectively referred to as the “Wildlife Agencies.” Seaside, Marina, Del Rey Oaks, and Monterey may be referred to collectively as the “Cities.” The Cooperative, FORA, County, Cities, State Parks, UC, CSUMB, MPC, MPRPD, and MCWD, are referred to collectively as the “Permittees.” The BLM is cooperating with the other Parties to implement this Agreement. The Permittees are each represented on the Cooperative Governing Board. The Cooperative Governing Board shall be the decision-making body among the Permittees. The Cooperative Governing Board’s decision-making process is described in the Joint Exercise of Powers Agreement Establishing the Fort Ord Regional Habitat Cooperative (**Exhibit A**).

2.0 RECITALS AND PURPOSES

2.1 Recitals. The Parties have entered into this Agreement in consideration of the following facts:

¹ When FORA sunsets (expected in 2015), it will cease to be a party to the HCP and a member of the JPA/Cooperative.

- (a) The former Fort Ord military installation has been determined to provide, or potentially provide, habitat for the following federal and state-listed species: sand gilia (*Gilia tenuiflora* ssp. *arenaria*), Contra Costa goldfields (*Lasthenia conjugens*), Yadon's piperia (*Piperia yadonii*), robust spineflower (*Chorizanthe robusta* var. *robusta*), Monterey spineflower (*Chorizanthe pungens* var. *pungens*), Smith's blue butterfly (*Euphilotes enoptes smithi*), western snowy plover (*Charadrius nivosus*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*), and Seaside bird's beak (*Cordylanthus rigidus* var. *littoralis*);
- (b) The former Fort Ord military installation has also been determined to provide, or potentially provide, habitat for the following unlisted species: coast wallflower (*Erysimum ammodophilum*), Toro manzanita (*Arctostaphylos montereyensis*), sandmat manzanita (*Arctostaphylos pumila*), Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*), Eastwood's ericameria (*Ericameria fasciculata*), Hooker's manzanita (*Arctostaphylos hookeri*), black legless lizard (*Anniella pulchra nigra*), Monterey ornate shrew (*Sorex ornatus salaries*), and California linderiella (*Linderiella occidentalis*);
- (c) The Permittees have developed a series of measures, described in the habitat conservation plan ("HCP"), to minimize and mitigate to the maximum extent practicable the effects of take of HCP species incidental to Permittee covered activities;
- (d) The Permittees, in consultation with USFWS, developed the HCP to provide the basis for compliance with Section 10(a)(1)(B) of the federal Endangered Species Act ("ESA") and submitted it to USFWS with a request that the USFWS issue an incidental take permit. The HCP provides a comprehensive framework to ensure former Fort Ord natural resource conservation, recovery, and enhancement. The HCP improves and streamlines the environmental permitting process for development project areas described in the HCP that may impact endangered and threatened species or their habitats. The HCP goals are to: a) conserve species, wetlands, and ecosystems; b) contribute to the recovery of endangered and threatened species within the former Fort Ord; and c) balance open space, habitat, and urban development. To that end, the HCP describes how to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on HCP species and their habitats. The HCP also describes the necessary protections from future or existing former Fort Ord real property development and other activities, as the basis for permitting take or impacts;
- (e) The Cooperative is a JPA comprising and formed by the Permittees under Government Code Sections 6500 et seq. to implement the HCP;
- (f) The Plan Area encompasses approximately 27,838 former Fort Ord acres within

northern Monterey County, approximately 100 miles south of San Francisco, in which land use impacts are evaluated, and in which habitat conservation will occur;

- (g) Permittees seek authorization from the Wildlife Agencies for “Incidental Take” of special-status species and certain other species, as “Take” is defined by federal and state law (see below at Section 3.50 of this Agreement), while carrying out certain potential future real property development and other activities;
- (h) The Permittees, in consultation with CDFW, developed the HCP to provide the basis for compliance with Section 2081 of the California Endangered Species Act (“CESA”) and submitted it to CDFW with a request that CDFW issue an incidental take permit;
- (i) In April 1997, the U.S. Army Corps of Engineers issued the revised *Installation-Wide Multi-Species Habitat Management Plan for Former Fort Ord* (“HMP”) on behalf of the U.S. Department of the Army (“Army”). The HMP was developed with input from federal, state, and local agencies concerned with the natural resources and the Army’s real property disposal as it pertained to future Fort Ord reuse. It provides a comprehensive species and habitat conservation program as part of the closure, disposal, and potential former Fort Ord reuse. Specifically, the HMP establishes a habitat conservation area and corridor system and parcel-specific land use categories and management requirements. The HMP was also intended to serve as the basis for a habitat conservation plan and to support the issuance of incidental take permits under ESA Section 10(a)(1)(B) and CESA Section 2081;
- (j) The HCP was based on the HMP. It minimizes and mitigates the impact of contemplated land uses on special-status species;
- (k) The Permittees intend for certain development and other activities by developers, infrastructure project proponents, and certain landowners to receive federal Permit and state Permit incidental take authorization coverage, subject to the conditions in this Agreement, the HCP, and the Permits; and
- (l) The HMP and HCP planning processes included intensive study of the special-status species, their habitats, and proposed development and other activities within the HCP Plan Area; discussions with the Wildlife Agencies; input from independent science advisors and the public; and environmental review under the National Environmental Policy Act (42 USC §4321 et seq.) (“NEPA”) and the California Environmental Quality Act (Public Resources Code §21000 et seq.) (“CEQA”).

2.2 Purposes. The purposes of this Agreement are:

- (a) To ensure implementation of each of the terms of the HCP;

- |
- (b) To describe remedies and recourse should any Party fail to perform its obligations as set forth in this Agreement; and
 - (c) To provide assurances to the Permittees that as long as the terms of the HCP, the federal Permit, and this Agreement are performed, no additional mitigation will be required of the Permittees, with respect to incidental take under the ESA of HCP species, except as provided for in this Agreement or required by law. (note that CDFW has no legal authority to grant similar assurances in issuing an ITP under section 2081(b) of the Fish and Game Code)

DRAFT

3.0 DEFINITIONS

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

3.1 Terms defined in the federal Endangered Species Act. Terms used in this Agreement and specifically defined in the ESA or in regulations adopted by USFWS under the ESA have the same meaning as in the ESA and those implementing regulations, unless this Agreement expressly provides otherwise.

3.2 Terms defined in the California Endangered Species Act. Terms used in this Agreement and specifically defined in the CESA or in regulations adopted by CDFW under the CESA have the same meaning as in the CESA and those implementing regulations, unless this Agreement expressly provides otherwise.

3.3 “Agreement” means this Implementing Agreement, which incorporates the HCP and the Permits by reference.

3.4 “authorized take” means the extent of incidental take of HCP species authorized by the USFWS in the federal Permit issued to the Permittees under Section 10(a)(1)(B) of ESA, and the incidental take of state-listed HCP species authorized by CDFW in the state Permit issued to the Permittees under California Fish and Game Code (FGC) Section 2081(b).

3.5 “BLM” means the Bureau of Land Management, an agency of the U.S. Department of Interior.

3.6 “Borderlands” means designated development parcels or HMA parcels at the urban/wildland interface where specific design considerations and management activities are required to minimize effects of development on HCP species and natural communities. Under the HCP, four borderlands categories exist. Borderland requirements require the land owner to perform management actions related to development design elements, access control (through design), and fire-wise planning and the Cooperative to perform management actions related to invasive species control, erosion control, fuel break maintenance, and access control to address the urban/wild land interface and protect the species and habitats within the Habitat Management Areas. The HCP identifies four Borderland categories based on anticipated conditions at the urban/wildland interface. Category 1, 2, and 3 Borderlands apply to designated development parcels in the Plan Area that share a border with a Habitat Management Area (“HMA”). Category 4 Borderlands applies to HMAs that abut areas of existing development in the Plan Area or areas of development outside of the Plan Area. In all cases, the landowner and Cooperative are required to implement Borderland requirements specific to the Borderland type.

3.7 “CDFW” means the California Department of Fish and Wildlife, a department of the California Resources Agency.

3.8 “CEQA” means the California Environmental Quality Act (Public Resources Code §21000 et seq.) and rules, regulations and guidelines promulgated under that Act.

3.9 “CESA” means the California Endangered Species Act (FGC §2050 et seq.) and rules, regulations, and guidelines promulgated under that Act.

3.10 “changed circumstances” means changes in circumstances affecting an HCP species or the geographic area covered by the HCP that can reasonably be anticipated by the Parties to the HCP and that can reasonably be planned for in the HCP (e.g., the listing of a new species, or a fire or other natural catastrophic event in areas prone to such events). Changed circumstances and the planned responses to those circumstances are described in Section 8.1.1.2 of the HCP. Changed circumstances are not unforeseen circumstances.

3.11 “conserve,” “conserving,” or “conservation” means to use, and the use of, methods and procedures within the HCP Plan Area that are necessary to bring the federally-listed species and state-listed species to the point at which the measures provided under ESA and CESA are not necessary, and to maintain or enhance the condition of the unlisted species so that listing under ESA is unnecessary.

3.12 “conservation measure” means HCP required actions detailed in HCP Chapter 5 that is a component of the conservation strategy.

3.13 “conservation strategy” means all HCP required actions, including avoidance and minimization measures (“AMMs”) and mitigation measures, as described in Chapter 5 of the HCP; monitoring and adaptive management measures, as described in Chapter 6 of the HCP; program administration and reporting requirements, as described in Chapter 7 of the HCP; and responses to changed circumstances, as described in Chapter 8 of the HCP. Implementation of HCP required actions are required by the Permits to avoid, minimize, mitigate, and monitor the impacts of take of the HCP species, plus fulfill administrative and reporting requirements and identify the Permittees’ responses to changed circumstances.

3.14 “Cooperative” means the JPA responsible for implementing HCP terms and conditions. The Cooperative is composed of appointed and elected officials of the Permittees, as further described in HCP Chapter 7 (Section 7.3.1.2).

3.15 “covered activities” means certain activities carried out by the Permittees on covered lands that may result in incidental take of HCP species. Covered activities means the following activities, provided that these activities are otherwise lawful: development in designated development parcels, development with restrictions in HMAs, road corridors and infrastructure in HMAs (including future road corridors, existing roads, and utilities, easements, rights of way, and MCWD facilities in HMAs), and management activities within HMAs encompassing conservation actions for permit compliance (these include habitat restoration and enhancement, prescribed burning, alternative vegetation management, invasive species control, erosion control, and monitoring) and resource management actions (these include maintenance of roads and trails, maintenance of fuel breaks, access control, and monitoring [research, education,

and training])).

3.16 “covered lands” means the lands upon which the Permits authorize incidental take of HCP species and the lands to which the HCP's conservation measures apply. These lands are described in **Exhibit B**.

3.17 “Endowment” means: a) the HCP Endowment Fund, b) the Fort Ord Natural Reserve (“FONR”) Endowment Fund, c) the Implementation Assurances Fund (“IAF”), and d) the Borderlands Endowment Fund described in HCP Section 9.3. Funds generated by the Fort Ord Reuse Authority’s Community Facilities District Special Tax and other sources will be used to establish these two separate funds to offset both capital and operational HCP costs.

3.18 “effective date” means the date when both Permits described in Section 3.21, *federal Permit*, and Section 3.49, *state Permit*, are issued.

3.19 “federal covered species” means species considered covered for the purposes of the federal Permit.

3.20 “federally listed species” means the HCP species which are listed as threatened or endangered species under ESA as of the Effective Date, which includes: sand gilia (*Gilia tenuiflora* ssp. *arenaria*), Contra Costa goldfields (*Lasthenia conjugens*), Yadon’s piperia (*Piperia yadonii*), robust spineflower (*Chorizanthe robusta* var. *robusta*), Monterey spineflower (*Chorizanthe pungens* var. *pungens*), Smith’s blue butterfly (*Euphilotes enoptes smithi*), western snowy plover (*Charadrius nivosus*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*) and the HCP species which are listed as threatened or endangered under ESA during the HCP term as of the date of such listing.

3.21 “federal Permit” means the federal incidental take permit issued by the USFWS to the Permittees under Section 10(a)(1)(B) of ESA, as it may be amended from time to time.

3.22 “ESA” means the Federal Endangered Species Act of 1973, as amended (16 United States Code [USC] §1531 et seq.) and rules, regulations, and guidelines promulgated under that Act.

3.23 “FLPMA” means the Federal Land Policy Management Act of 1976 (P.L. 94-579).

3.24 “fully protected species” means any species identified in California FGC Sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.

3.25 “habitat land owners” means BLM, State Parks, UC, County, Marina, MPC, and the MPRPD. Habitat land owners possess one or more HMAs.

3.26 “Habitat Management Area” means the area located within the habitat reserve

areas, the habitat corridors, and the restricted development parcels included in the Reserve System. Descriptions of HMAs are provided in HCP Sections 2.3.1 through 2.3.14.

3.27 “Habitat Reserve System” means the land transferred from the U.S. Army to designated Habitat Land Owners to meet HCP preservation, conservation, enhancement, and restoration objectives of the conservation strategy. The Reserve System consists of land within the HMAs.

3.28 “HMA Managers” means the Cooperative, BLM, State Parks, and UC.

3.29 “HCP” means the habitat conservation plan prepared by the Permittees for the former Fort Ord military installation.

3.30 “HCP Implementing Ordinance” means in the case of the Cooperative, FORA, the County, the Cities, the MPRPD, and the MCWD, an ordinance; and, in the case of State Parks, UC, CSUMB, and MPC, a resolution, delegation of authority, or equivalent legislative action by its governing board. These instruments will ensure HCP implementation through the following elements: 1) requirement for the collection of the FORA Community Facilities District Special Tax on former Fort Ord development projects in order to fund the HCP Endowments; 2) requirement for a project that seeks take authorization and falls within a Permittee’s jurisdiction to submit a certificate of inclusion application during their entitlement process; and 3) a procedure for activities by third-party applicants to be covered by the Permits.

3.31 “HCP Section” means a section of the HCP.

3.32 “HCP species” means the following species, each of which the HCP addresses in a manner sufficient to meet all of the criteria for issuing incidental take permits under ESA §10(a)(1)(B) or CESA §2081. Federal and state-listed species include: sand gilia (*Gilia tenuiflora* ssp. *arenaria*), Contra Costa goldfields (*Lasthenia conjugens*), Yadon’s piperia (*Piperia yadonii*), robust spineflower (*Chorizanthe robusta* var. *robusta*), Monterey spineflower (*Chorizanthe pungens* var. *pungens*), Smith’s blue butterfly (*Euphilotes enoptes smithi*), western snowy plover (*Charadrius nivosus*), California tiger salamander (*Ambystoma californiense*), California red-legged frog (*Rana draytonii*), and seaside bird’s beak (*Cordylanthus rigidus* var. *littoralis*). Unlisted species include coast wallflower (*Erysimum ammodophilum*), Toro manzanita (*Arctostaphylos montereyensis*), sandmat manzanita (*Arctostaphylos pumila*), Monterey ceanothus (*Ceanothus cuneatus* var. *rigidus*), Eastwood’s ericameria (*Ericameria fasciculata*), Hooker’s manzanita (*Arctostaphylos hookeri*), black legless lizard (*Anniella pulchra nigra*), Monterey ornate shrew (*Sorex ornatus salaries*), and California linderiella (*Linderiella occidentalis*).

3.33 “Installation-Wide MultiSpecies HCP EIS/EIR” means the Joint Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) dated (XXXX XX, 20XX) prepared to analyze the environmental impacts of the HCP and Permits under NEPA and CEQA.

3.34 “Jurisdictional Wetlands and Waters” means state and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act or, from the State Water Resources Control Board under either Section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFW under FGC Section 1602.

3.35 “local jurisdictions” means the County, the Cities, and the MPRPD.

3.36 “mitigation measures” means management actions required by the HCP that are necessary to achieve HCP biological goals and objectives.

3.37 “MBTA” means the federal Migratory Bird Treaty Act (16 USC §703 et seq.) and rules, regulations, and guidelines promulgated under that Act.

3.38 “NEPA” means the National Environmental Policy Act (42 USC §4321 et seq.) and rules, regulations, and guidelines promulgated under that Act.

3.39 “Party” or “Parties” means any of the signatories to this Agreement.

3.40 “Permit Area” means the area within the Plan Area where the Permittees are seeking authorization from the Wildlife Agencies for the authorized take of HCP species while carrying out covered activities, within the area depicted in HCP Figure 1-2, attached to this Agreement as **Exhibit A**.

3.41 “Permits” means the federal Permit issued by USFWS to the Permittees pursuant to Section 10(a)(1)(B) of the ESA and the state Permit issued by CDFW to the Permittees under FGC Section 2081 for take incidental to covered activities on the former Fort Ord military installation, as they may be amended from time to time.

3.42 “Permittees” means the Cooperative, FORA, County, Marina, Monterey, Seaside, Del Rey Oaks, State Parks, UC, CSUMB, MPC, MPRPD, and MCWD.

3.43 “Plan Area” means the geographic area analyzed in the HCP, located in the northern portion of Monterey County, as depicted in HCP Figure 1-2, attached to this Agreement as **Exhibit A**. The Plan Area is further described in detail in HCP Section 1.4.

3.44 “Resource Management Plan” means HMA-specific resource management plans and base-wide management strategies as defined in Chapter 5, Section 5.5.3 of the HCP..

3.45 “state covered species” means species considered covered for the purposes of the state Permit and include only those HCP Species which are state-listed or candidate species.

3.46 “state-listed species” means the HCP species listed as threatened or endangered species, or a candidate for such status, under CESA, as of the Effective Date, which includes: sand gilia (*Gilia tenuiflora* ssp. *arenaria*), seaside bird’s beak (*Cordylanthus rigidus* var. *littoralis*), and California tiger salamander (*Ambystoma californiense*).

3.47 “state Permit” means the state take permit issued to the Permittees under FGC Section 2081, as it may be amended from time to time.

3.48 “take”

3.48.1 means, under the federal Permit, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any listed or unlisted HCP species. Harm means an act that actually kills or injures a member of an HCP species, including an act that causes significant habitat modification or degradation where it actually kills or injures a member of an HCP species by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

3.48.2 means, under the state Permit, to hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture or kill a listed species (FGC Section 86). Section 2080 of the FGC prohibits commerce and taking of species listed as endangered or threatened under the CESA.

3.49 “third-party participants” means developers, infrastructure project proponents, and other persons or entities that would conduct activities that qualify for and receive take authorization under the Permits. Such activities shall be carried out in accordance with applicable AMMs and mitigation measures and other terms and conditions of this Agreement, the HCP, and the Permits.

3.50 “unforeseen circumstances”

3.50.1 means, under the federal Permit, changes in circumstances affecting a species or geographic area covered by a conservation plan that could not reasonably have been anticipated by plan developers and the USFWS at the time of the conservation plan’s negotiation and development, and that result in a substantial and adverse change in the status of the HCP species.

3.51 “unlisted species” means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under the ESA. The Section 2081(b) Incidental Take Permit pertaining to the HCP shall cover state listed species only.

3.52 “USFWS” means the U.S. Fish and Wildlife Service, an agency of the U.S. Department of Interior.

3.53 “Wildlife Agencies” means USFWS and CDFW.

4.0 OBLIGATIONS OF THE PARTIES AND BLM

4.1 Obligations of the PermitteePermittees. The PermitteePermittees will fully and faithfully perform all obligations assigned to them under this Agreement, the Permits, and the HCP.

4.2 Obligations of the BLM. In the spirit of cooperation, the BLM commits, to the extent allowed under governing law and regulation, including FLPMA and NEPA, to implement the conservation strategy on the BLM administered Fort Ord lands. On April 20, 2012, President Obama signed a Proclamation to designate BLM administered Fort Ord lands as the Fort Ord National Monument, providing additional commitments to preservation of these lands. However, nothing in the HCP will or shall be in the future interpreted as superseding BLM’s obligations under the BLM’s Resource Management Plan (RMP), Area of Critical Environmental Concern (ACEC) designation, or any requirements of BLM’s governing law and regulation, including FLPMA and NEPA.

4.3 Obligations of the Wildlife Agencies. Upon execution of this Agreement by all Parties: 1) USFWS will issue the Permittees a federal Permit under Section 10(a)(1)(B) of the ESA authorizing incidental take of each federally-listed HCP species resulting from covered activities on covered lands, and 2) CDFW will issue the Permittees a state Permit under section 2081(b) of CESA authorizing incidental take of each state-listed HCP species resulting from covered activities on covered lands.

4.3.1 Coverage of Permits. The federal and state Permits will collectively identify all HCP species. The Permits will take effect at the time the Permits are issued. Subject to compliance with all other terms of this Agreement, only the Section 10(a)(1)(B) Permit (federal) will take effect for an unlisted HCP species upon the listing of such species. The state Permit shall cover state listed species only.

4.3.2 “No Surprises” assurances. Provided that the Permittees have complied with their obligations under the HCP, this Agreement, and the federal Permit, USFWS may not require the Permittees to provide mitigation beyond that provided for in the HCP unless it finds,

on conclusive evidence that unforeseen circumstances, as defined in section 3.50.1 imperil the listed species described in this Agreement, and only in accordance with the “No Surprises” regulations at 50 Code of Federal Regulations (“CFR”) §§17.22(b)(5), 17.32(b)(5), 222.22(g). Additionally, notwithstanding anything to the contrary in this Agreement and the HCP, USFWS retains statutory authority, under Section 10 of the ESA, to revoke a federal Permit that USFWS finds is likely to jeopardize the continued existence of a listed species. CDFW has no legal authority to provide “no surprises” assurances related to the state Permit.

4.4 Interim obligations upon a finding of unforeseen circumstances. If USFWS makes a finding of unforeseen circumstances, during the period necessary to determine the nature and location of additional or modified mitigation, the Permittees will avoid contributing to or appreciably reducing the likelihood of the survival and recovery of the affected species.

5.0 INCORPORATION OF THE HCP

The HCP is incorporated herein by this reference. If this Agreement conflicts with the HCP, this Agreement will control. In all other cases, this Agreement and the HCP will be interpreted to be supplementary to each other.

6.0 LEGAL FINDINGS AND REVIEW BY THE WILDLIFE AGENCIES

USFWS has statutory authority to issue the Section 10(a)(1)(B) Permit for both listed and unlisted species required under this Agreement. This Agreement uses the term “Federal Covered Species” to refer to those species covered by the federal Permit. CDFW may only issue a state Permit for state-listed endangered and threatened species under CESA. CDFW does not have legal authority to issue take permits under Section 2081 for unlisted species. Thus, Federal Covered Species are not State Covered Species for purposes of the state Permit. This Agreement, like the HCP, uses the term “HCP species” for consistency. The term HCP species includes both federal covered species and state covered species.

7.0 TERM

7.1 Initial term. This Agreement and the HCP will become effective on the date that the Wildlife Agencies issue the Permits. This Agreement, the HCP, and the Permits will remain in effect for a period of 50 years from issuance of the original Permits, except as provided below.

7.2 Suspension or revocation of the Permits.

7.2.1 USFWS may suspend or revoke the federal Permit for cause in accordance with the laws in force at the time of such suspension or revocation (See 5 USC §558; 50 CFR §§13.27–13.29, 222.27; 15 CFR Part 904) except that USFWS may revoke the federal Permit based on a determination that the continuation of the permitted activity would be likely to jeopardize the continued existence of the federal-listed HCP species only if USFWS has not been successful in remedying the situation in a timely fashion through other means as provided in the No Surprises regulation (50 CFR §§17.22(b)(5), 17.32(b)(5), 222.22(g).

7.2.2 CDFW may suspend or revoke the state Permit for cause in accordance with the laws in force at the time of such suspension or revocation (See Fish & G. Code, § 2081; Cal. Code Regs, tit. 14, § 783.7).

7.2.3 Any suspension or revocation may apply to one or both the Permits, in part or in whole, or only to specified HCP species, covered lands, or covered activities. If the federal Permit is suspended or revoked, the Permittees' obligations under this Agreement and the HCP will continue until USFWS determines that all take of federally-listed HCP species that occurred under the federal Permit has been fully mitigated in accordance with the HCP. If the state Permit is suspended or revoked, the Permittees' obligations related to the state permit will continue until CDFW determines that all the impacts of taking the state-listed HCP species that occurred under the state Permit has been fully mitigated in accordance with the state Permit.

7.3 Treatment of unlisted species. For the federal Permit, species that meet the "unlisted species" and "HCP species" definitions will be treated as though they were listed species in determining the amount of take and the mitigation required. For the state Permit, only the impacts of the authorized take of state-listed HCP species will be used to determine the mitigation required.

7.4 Extension of the Permits. Upon agreement of the Parties, the Permits may be extended beyond their initial term under regulations of the respective Wildlife Agencies in force on the date of such extension. If the Permittees desire to extend the Permits, they will so notify the Wildlife Agencies at least 180 days before the then-current term is scheduled to expire. Extension of the Permits constitutes extension of the HCP and this Agreement for the same amount of time, subject to any modifications that the Wildlife Agencies may require at the time of extension.

7.5 Withdrawal. Any Party may withdraw from this Agreement upon 90 days written notice to the other Parties. Any withdrawing Permittee remains obligated, to the same extent, if any, that the remaining Permittees are obligated, to contribute money to pay any Cooperative debts, liabilities, and obligations arising from or related to Cooperative actions taken while the withdrawing Permittee was a party to the Agreement. The withdrawing Permittee shall also continue to be obligated to mitigate any impacts of any authorized take that occurred while the Permittee was a party to this Agreement, or any impacts of any authorized take that are expected to occur because of a prior regulatory approval by the Permittee. If the withdrawing Permittee approved a project or an activity that resulted in authorized take, the withdrawing Permittee is still responsible for mitigating any of those impacts related to the approved project or activity.

7.6 Effect of Withdrawal. Upon withdrawal, the withdrawing party shall no longer be a Party, and the term "Parties" as used in this Agreement shall thereafter mean the remaining Parties. Withdrawing Permittees cease to enjoy the regulatory benefits conferred upon Parties by USFWS and CDFW.

8.0 FUNDING

The Permittees warrant that they have, and will expend, such funds as may be necessary to fulfill their obligations under the HCP, and in the case of the UC, MPC, and CSUMB, that it will meet the commitments set forth in paragraph 8.5. The Permittees will promptly notify the Wildlife Agencies of any material change in their financial ability to fulfill their obligations. In addition to providing any such notice, the Cooperative will provide the Wildlife Agencies with a copy of its annual report each year of the Permits, or with such other reasonably available financial information that the Parties agree will provide adequate evidence of the Permittees' ability to fulfill their obligations.

The cost of HCP required actions will be funded by a number of sources. The Permittees and BLM, through the Implementing Agreement and subject to the limitations of the Anti-Deficiency Act (Title 31 USC Sections 1341 and 1517), will commit to adequately funding all HCP required actions. Funding for HCP required actions will be provided from three primary sources: the FORA CFD Special Tax, annual state budget appropriations, and federal budget appropriations. Other funding sources (e.g., grants) would also be available. With the exception of State Parks and MPRPD, no Permittee may be compelled to obligate its General Fund to satisfy its financial obligations under the HCP.

The CFD Special Tax will be used to establish two separate endowments to ensure HCP implementation: (1) the Cooperative Endowment Fund, consisting of three accounts: the HCP Fund, the Implementation Assurances Fund, and the Borderlands Fund and (2) the FONR Endowment Fund. CFD Special Tax payments will build these endowments until their target sizes are reached (HCP Table 9-7). The Cooperative will seek approval from USFWS and CDFW to hold the Cooperative Endowment Fund. The Regents of UC will seek approval from USFWS and CDFW to hold the FONR Endowment Fund in UC's General Endowment Pool.

To implement the HCP at the local, agency, or institutional level, each Permittee will adopt an implementing ordinance or policy that incorporates the relevant components of the HCP for private applicants and clearly identifies the requirements for development on former Fort Ord. The ordinance or policy will include the following actions.

- Describe the information requirements for the take authorization application (see HCP Section 7.5, Providing Take Authorization under the HCP). This includes the responsibilities of private applicants subject to the HCP, including AMMs (see HCP Section 5.4, Measures to Avoid and Minimize Impacts).
- Include the approval requirements for which take authorization may be granted (see HCP Section 7.5, Providing Take Authorization under the HCP).
- Establish that the CFD Special Tax imposed on applicable sites by FORA (and that may be reassigned to the Cooperative once FORA sunsets) will serve as the mitigation fee for the HCP, as described in HCP Section 9.3, Funding Sources and Assurances.

Ordinances or policies will be finalized and adopted by each Permittee no later than 120 days after permit issuance by the Wildlife Agencies. A draft implementing ordinance/policy template is provided in Appendix L of the HCP.

8.1 HCP costs. HCP Chapter 9, *Cost and Funding* describes HCP implementation costs, funding sources, and assurances. The Permittees developed the cost model to estimate HCP implementation expenses of the Cooperative, UC, State Parks, and BLM over the Permit term and post-Permit term. The Permittees commit to adequately fund the costs associated with the HCP during the Permit term and post-Permit term. FORA Community Facilities District (CFD) Special Tax payments and annual appropriations from state and federal budgets will be the primary HCP funding sources. Notwithstanding the foregoing, with regards to the federal Permit, UC's, MPC's, and CSUMB's obligation to fund such measures and activities shall be limited to that provided in Section 8.5 of this Agreement. However, with respect to the state Permit, the Permittees are collectively and individually responsible for fully mitigating the impacts of the authorized take. As a result, the limitations in Section 8.5, or any other section of this Agreement, do not constrain UC's, MPC's, CSUMB's, or any other Permittee's obligation to fund all measures and activities necessary to fully mitigate the impacts of the authorized State take.

8.2 BLM's funding commitment. The BLM agrees to include a request for sufficient funding to meet implementation costs attributed to it under HCP Chapter 9. The BLM does not, and cannot, commit funds in excess of its authority under the Anti-Deficiency Act.

8.3 State Parks' funding commitment. State Parks will include in its annual budget requests for sufficient funds to fulfill its obligations under this HCP for the 979-acre Fort Ord Dunes State Park. State Parks will fund the management, monitoring, and other obligations assigned to it under the HCP with available appropriated funds supplemented by grants and other non-appropriated monies as available.

8.4 FORA's, the Cities', and the County's funding commitments. FORA will continue to collect FORA CFD Special Tax payments through June 30, 2020 and the Cities and County will continue to collect FORA CFD Special Tax payments after June 30, 2020 to fund the Endowment, which includes: a) the Cooperative Endowment Fund, consisting of three accounts: the HCP Fund, the Implementation Assurances Fund, and the Borderlands Fund, and b) the FONR Endowment Fund. The Cooperative will seek approval from USFWS and CDFW to hold the Cooperative Endowment Fund. The Regents of UC will seek approval from USFWS and CDFW to hold the FONR Endowment Fund in UC's General Endowment Pool. FORA, the Cities and the County will contribute 25% of FORA CFD Special Tax payments collected to the Endowment Funds until the Endowments are funded. FORA or, if after June 30, 2020, the Cooperative will ensure that the Cooperative Endowment Fund and the FONR Endowment Fund are funded at equal rates such that they are scheduled to be fully funded at the same time. Upon issuance of the federal and state Permits, FORA will transfer the FONR Endowment to UC. Until the FONR Endowment is fully funded, UC will manage the Endowment, but will not make withdrawals. Once the FONR Endowment is fully funded, UC will oversee the Endowment for

management of the FONR consistent with the HCP. Upon issuance of the federal and state Permits, FORA will transfer the Cooperative Endowment to the Cooperative. Until the Cooperative Endowment is fully funded, the Cooperative will manage the Endowment, but will not make withdrawals. Once the Cooperative Endowment is fully funded, the Cooperative will oversee the Endowment for management of Cooperative managed lands, basewide monitoring, reporting, implementation assurances, and borderlands management consistent with the HCP (See HCP Sections 9.3.1.1.1 through 9.3.1.1.4). In committing to collect FORA CFD Special Tax payments, FORA, the Cities, and the County will have met their respective obligations under the federal Permit for the funding of the FONR and Cooperative Endowments under the terms of this Agreement. However, with respect to the state Permit, the Permittees are collectively and individually responsible for fully mitigating the impacts of the authorized take. As a result, these entities as well as the other Permittees remain obligated to fund all measures and activities necessary to fully mitigate the impacts of the authorized State take. No City or County may be compelled to obligate its General Fund to satisfy its financial obligations under the HCP.

8.5 UC's, MPC's, and CSU's funding commitments. UC will continue to support FORA, Marina, and the County to ensure collection of FORA CFD Special Tax payments on development located on UC's lands. As provided in that certain Agreement Regarding Public Safety Officer Training Facilities among MPC, the County, and FORA, dated November 8, 2002, MPC's share of the costs of Infrastructure Improvements was set at \$500,000, subject to adjustment for any deferred payment in accordance with adopted FORA practice. FORA shall apply MPC's Infrastructure Improvements payment according to its current Capital Improvement Program ("CIP") document obligations as described in Table 5, Section I. Allocation of Fees Against Obligations. After making its Infrastructure Improvement payment to FORA, MPC will have met its habitat management obligations with respect to the federal Permit, under Sections 9.0 *Monitoring and Reporting*, 10.0 *Changed Circumstances*, 11.0 *Adaptive Management*, and 12.0 *Land Transactions*, of this Agreement, its obligation for the funding of the Endowment under the terms of this Agreement, and its Borderlands management obligations according to this Agreement and the HCP. However, with respect to the state Permit, the Permittees are collectively and individually responsible for fully mitigating the impacts of the authorized take. As a result, MPC and the other Permittees remain obligated to fund all measures and activities necessary to fully mitigate the impacts of the authorized State take. As provided in the Stipulation to Discharge Peremptory Writ of Mandate Order among FORA, Marina, and the CSU Board of Trustees, dated September 14, 2009, CSU has agreed to request legislative funding to pay FORA a one-time payment of \$47,800 for HCP preparation costs plus \$4,784.91 annual payment to manage the CSU Borderland property. If the Legislature denies CSU's initial funding request, CSU shall: (i) resubmit the request during the following CSU budget cycle, and (ii) continue to resubmit the request annually until the funding is appropriated or until the HCP is executed by all parties thereto, whichever comes first. If the Legislature has not appropriated the funding at the time the HCP is executed, CSU shall seek authority from the Trustees to engage in discussions with representatives of FORA and Marina regarding the availability of alternative funding sources, if any, for CSU's one-time payment of \$47,800 and its annual payments of \$4,784.91. To the extent funding is appropriated from the Legislature or provided

through an agreed alternative funding source, FORA, and thereafter its successor agency, shall allocate CSU's payments to reimburse HCP preparation costs and for management of CSU Borderlands property to the HCP endowment fund. With respect to the federal Permit, CSU's payments to FORA, as described in this Section 8.5, shall fulfill all of CSU's HCP funding obligations and Borderlands management obligations, pursuant to this Agreement and the HCP. CSU will not be subject to any additional fees including special assessments, taxes, or CFD Special Taxes. If CSU does not pay the amount set forth in this Section 8.5, CSU will be considered to have withdrawn from this IA and sections 7.5 (except the 90-day notice) and 7.6 of this Agreement shall apply to CSU. With respect to the state Permit, the Permittees are collectively and individually responsible for fully mitigating the impacts of the authorized take. As a result, CSU and the other Permittees remain obligated to fund all measures and activities necessary to fully mitigate the impacts of the authorized State take.

8.6 MPRPD's funding commitment. The MPRPD will fund habitat management, compliance, and monitoring actions (consistent with the HCP) on its 19-acre property either through a one-time monetary contribution of \$ ____ to the Cooperative or assuming the responsibility to perform such actions (consistent with the HCP) on its property. With respect to the state Permit, the Permittees are collectively and individually responsible for fully mitigating the impacts of the authorized take. As a result, MPRPD and the other Permittees remain obligated to fund all measures and activities necessary to fully mitigate the impacts of the authorized State take.

8.7 HCP funding consistent with the stay-ahead provision. Initial conservation resource demands to support HCP services or other HCP needs will be provided through FORA, BLM, State Parks, and the Army to meet HMP or deed requirements, and by separate agreement between FORA and CSUMB, MPC, and UC as set forth in paragraph 8.5. FORA will continue to collect funding as noted herein and will seek grant or contract award support where applicable. BLM, State Parks, and the Army are committed to meeting the HMP or HCP conservation demands on their property through federal or state management and resource processes. HCP Section 7.6, *Stay-Ahead Provision* states that the proportion of dedicated reserve acreage for each HCP species' habitat transferred from the Army shall be at least 5% higher than the proportion of allowable development-related impacts on each species' habitat. In order to meet the stay-ahead provision, reserve lands in HMA's must also have funding to ensure management according to the conservation strategy (see HCP Section 9.3.4, *Funding Adequacy*). The Permittees will ensure that habitat and habitat management funding are provided prior to impact on an HCP species' habitat, consistent with the HCP Sections 7.6 and 9.3.4. Notwithstanding the foregoing, UC's, CSUMB's, and MPC's obligation to fund such measures and activities shall be limited to that set forth in paragraph 8.5 above.

8.8 Cooperative Endowment Fund use. The Cooperative shall use funds from the Cooperative Endowment Fund's HCP Fund account to implement HCP habitat management obligations on HMAs owned by the County, the MPRPD, MPC, and the City of Marina. The Cooperative shall use funds from the HCP Fund to pay for monitoring on HMAs within the HCP Plan Area, regardless of ownership (i.e., including BLM, State Parks, and UC lands). The

Cooperative shall use funds from the Borderlands Fund to pay for ongoing Borderlands management actions on UC, MPC, and CSUMB properties, if FORA collects FORA CFD Special Tax payments or negotiated mitigation payments according to paragraph 8.5 of this Agreement, and on all other Borderlands property identified in Figure 3-2, *Borderlands Categories*, in the HCP. The Permittees commit to funding HCP required action implementation in perpetuity. The CFD Special Tax will be used to annually fund HCP required actions and the two separate Endowment funds as described in Section 9.3 of the HCP.

8.9 Use of the Fort Ord Natural Reserve Endowment. FORA provides approximately \$82,000 annually to the UC/Natural Reserve System ("UC/NRS") for their interim management of the 605-acre FONR. The funding amount changes annually to keep pace with the annual change in the Bay Area Consumer Price Index ("CPI"). The Cooperative will provide annual funding to the UC/NRS sufficient to meet the annual costs of complying with the HCP on FONR lands until FORA, or, if after June 30, 2014, the Cities and County, have fully funded the FONR Endowment. The annual funding amount will continue to change in line with the Bay Area CPI.

Upon initial establishment of the FONR Endowment, the Endowment Manager will transfer this Endowment to UC. Until the FONR Endowment is fully funded by FORA CFD Special Tax payments, UC will manage the Endowment, but will not make withdrawals. Once the FONR Endowment is fully funded, UC will oversee the Endowment for management of the FONR consistent with the HCP.

8.10 Use of the Implementation Assurances Fund. The Cooperative will use funds from the IAF account of the Cooperative Endowment Fund to ensure adequate funding of necessary remedial measures to address any of the changed circumstances described in HCP Section 8.1.1.2. The Cooperative will also use funds from the IAF to augment annual revenues for the HCP if FORA CFD Special Tax payments do not keep pace with HCP funding needs or federal or state appropriations decline unexpectedly (see Section 8.12 below). FORA (and the County and Cities after June 30, 2014) will use FORA CFD Special Tax payments to fund the IAF until an Endowment of \$3.4 million is reached (see HCP Table 9-8). The Endowment Manager will reinvest interest from this fund to ensure that it keeps pace with inflation and the rising costs of HCP implementation.

8.11 Long-term management funding. The Cooperative will ensure that the two Endowment funds, established by FORA, the County, and Cities through FORA CFD Special Tax payments during the Permit term, will continue to fund post-Permit management and monitoring (see HCP Section 9.3.4). This will ensure that HCP required actions are effective and HMAs retain their biological values. The two Endowment Funds are designed to grow by the end of the Permit term to generate sufficient interest to pay for management on lands owned by local agencies, CSUMB and the UC/NRS (HCP Table 9-5). These funds will also generate enough interest to pay for monitoring costs on all HMAs (including State Parks and BLM land). After the Permit term, the Cooperative will no longer be required to implement remedial measures in the event of changed circumstances; however, funding must be maintained to ensure HCP

implementation on all HMAs. While UC will maintain the Endowment for the UC/NRS FONR, the Cooperative will maintain the Cooperative Endowment. In the post-Permit term, BLM and State Parks will continue to fund costs on their property to implement the HCP (HCP Table 9-5). The other Permittees shall be responsible for funding any core HCP implementation costs that BLM or State Parks cannot.

8.12 Effect of inadequate funding. If there is a funding shortfall in a given year, the Cooperative will use funds from the IAF to ensure adequate funding of necessary remedial measures to address any of the changed circumstances described in HCP Section 8.1.1.2. In addition, the Cooperative will include in its annual report to USFWS and CDFW an accounting of: 1) all revenues received (by type), 2) an assessment of progress towards total revenue goals, 3) an evaluation of the economic assumptions on which the HCP was based, and 4) an assessment of progress toward a complete funding strategy for implementation after the Permit term. USFWS and CDFW will use the annual report to assess the adequacy of program funding. If those Agencies determine that the IAF, the HCP Endowment Fund, the FONR Endowment, and/or the Borderlands Endowment Fund funding is inadequate, they will evaluate the effect of the funding shortfall on the scope and validity of the Permits. Unless the Permittees exercise the authority to withdraw under Section 7.5 of this Agreement or the Wildlife Agencies revoke the Permits under Section 7.2 of this Agreement, the Parties agree that they will meet and confer to cooperatively develop a strategy to address the funding shortfall, and to maintain the level of conservation and take authorization afforded by the Permits until adequate funding is restored. Notwithstanding the foregoing, UC's, CSUMB's, and MPC's funding commitments, including any obligation to fund such funding shortfalls shall be limited to those set forth in Section 8.5 above.

9.0 MONITORING AND REPORTING

9.1 Planned periodic reports. As described in the HCP, the Cooperative will submit periodic reports on behalf of the Permittees describing its activities and results of the monitoring program provided for in the HCP. All Permittees and BLM will submit annual HCP compliance monitoring results to the Cooperative (see Section 6.2, HCP Compliance Monitoring). HCP compliance monitoring results will include documentation of HCP compliance and remedial action completion, if required. Permittees and BLM will report HCP compliance monitoring results of lands for which they are the recipient (see Section 6.2, HCP Compliance Monitoring). This will include a summary of property transfers, covered activity implementation impacts (exclusive of mitigation measures), and AMM implementation (HCP Table 5-3). HMA managers (State Parks, UC/NRS, BLM, and the Cooperative) will report HCP compliance monitoring results for lands which they have management responsibility. Documentation will include AMMs, mitigation measures, and adaptive management measures implemented (see HCP Table 5-3, HCP Table 5-6, and HCP Table 6-2). HCP compliance monitoring results will be compiled by the Cooperative for inclusion in the annual report submitted to the Wildlife Agencies. This will allow one annual report to be prepared and filed with the Wildlife Agencies rather than many separate reports. Permittees and BLM will provide data and information in compatible electronic formats.

9.2 Other reports. The Cooperative will provide, within 30 days of being requested by the Wildlife Agencies, any additional information in its possession or control related to implementation of the HCP that is requested by the Wildlife Agencies for the purpose of assessing whether the terms and conditions of the Permits and the HCP, including the HCP's adaptive management plan, are being fully implemented.

9.3 Certification of reports. All reports will include the following certification from a responsible Cooperative official who supervised or directed preparation of the report:

I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

9.4 Monitoring by the Wildlife Agencies. The Wildlife Agencies may conduct inspections and monitoring in connection with the Permits in accordance with their respective authorities i.e. for the federal permit see 50 CFR §§13.47, 220.47; for the state Permit see FGC § 2081(b)..

10.0 CHANGED CIRCUMSTANCES

10.1 Permittee-initiated response to changed circumstances. The Cooperative will give notice to the Wildlife Agencies within 7 days after learning that any of the changed circumstances listed in Section 8.1.1.2 of the HCP has occurred. As soon as practicable thereafter, but no later than 30 days after learning of the changed circumstances, the Permittees will modify their activities in the manner described in Section 8.1.1.2 of the HCP, to the extent necessary to mitigate the effects of the changed circumstances on HCP species, and will report to the Wildlife Agencies on their actions. The Permittees will make such modifications following the minor amendment process described in Section 13.1 of this agreement. CDFW retains the authority to amend, suspend, or revoke the state Permit as required by state law.

10.2 Wildlife Agencies-initiated response to changed circumstances. If the Wildlife Agencies determine that changed circumstances have occurred and that the Permittees have not responded in accordance with Section 8.1.1.2 of the HCP, the Wildlife Agencies will so notify the Permittees and will direct the Permittees to make the required changes. Within 30 days after receiving such notice, the Permittees will make the required changes and report to the Wildlife Agencies on their actions. Such changes are provided for in the HCP, and hence do not constitute unforeseen circumstances or require amendment of the Permits or HCP. Nevertheless, CDFW retains the authority to amend, suspend, or revoke the state Permit as required by state law.

10.3 Listing of species that are not HCP species. If a non-HCP species that may be affected by covered activities becomes listed under the ESA, the Permittees will implement the "no-take/no-jeopardy" measures identified by the Wildlife Agencies until the Permits are amended to include such species, or until the Wildlife Agencies notify the Permittees that such

measures are no longer needed to avoid jeopardy to, take of, or adverse modification of the critical habitat of the non-HCP species.

11.0 ADAPTIVE MANAGEMENT

11.1 Permittee-initiated adaptive management. The Cooperative will implement the adaptive management provisions in HCP Chapter 6, when changes in management practices are necessary to achieve the HCP's biological objectives, or to respond to monitoring results or new scientific information. The Cooperative will make such changes only after providing 30-day notice to the Wildlife Agencies, unless the Wildlife Agencies agree to a shorter time-frame, and will report to the Wildlife Agencies on any actions taken pursuant to this section.

11.2 Wildlife Agencies-initiated adaptive management. If the Wildlife Agencies determine that one or more of the adaptive management provisions in the HCP have been triggered and that the Cooperative has not changed its management practices in accordance with Chapter 6 of the HCP, the Wildlife Agencies will so notify the Cooperative and will direct the Cooperative to make the required changes. Within 30 days after receiving such notice, the Cooperative will make the required changes and report to the Wildlife Agencies on its actions. Such changes are provided for in the HCP, and hence do not constitute unforeseen circumstances or require amendment of the Permits, or HCP, except as provided in this section.

11.3 Reductions in mitigation. The Cooperative will not implement adaptive management changes that may result in less mitigation than provided for HCP species under the original terms of the HCP, unless the Wildlife Agencies first provide written approval. The Cooperative may propose any such adaptive management changes by notice to the Wildlife Agencies, specifying the adaptive management modifications proposed, the basis for them, including supporting data, and the anticipated effects on HCP species, and other environmental impacts. Within 120 days of receiving such a notice, the Wildlife Agencies will approve the proposed adaptive management changes, approve them as modified by the Wildlife Agencies, or notify the Cooperative that the proposed changes constitute amendments to the Permits that must be reviewed under Section 13.2 of this Agreement.

11.4 No increase in take. This section does not authorize any modifications that would result in an increase in the amount and nature of take, or increase the impacts of take, of HCP species beyond that analyzed under the original HCP and any amendments thereto. Any such modification must be reviewed as a Permit amendment under Section 13.2 of this Agreement.

12.0 LAND TRANSACTIONS

12.1 Acquisition of land by the Permittees. Nothing in this Agreement, the HCP, or the Permits limits the Permittees' rights to acquire additional lands. Any lands that may be acquired will not be covered by the Permits except upon amendment of the Permits as provided in Section 13.2 of this Agreement.

12.2 Disposal of land by the Permittees. The Permittees' transfer of ownership or control of covered land will not require prior approval by the Wildlife Agencies and an amendment of the Permits if: (1) a Permittee transfers ownership or control of covered land to another Permittee or (2) a Permittee transfers ownership or control of non-HMA covered land to a third-party developer that will be subject to the Permittee's adopted HCP ordinance/policy or that of another Permittee. If the Permittees' transfer of ownership or control of covered land does not meet requirements 1 or 2, such transfer of ownership or control will require prior approval by the Wildlife Agencies and an amendment of the Permits in accordance with Section 13.2 of this Agreement, except that transfers of covered lands may be processed as minor modifications in accordance with Section 13.1 of this Agreement if:

- (a) The land will be transferred to an agency of the federal government and, prior to transfer, the Wildlife Agencies have determined that transfer will not compromise the effectiveness of the HCP based on adequate commitments by that agency regarding management of such land;
- (b) The land will be transferred to a non-federal entity that has entered into an agreement acceptable to the Wildlife Agencies (e.g., an easement held by CDFW with USFWS as third-party beneficiaries or a deed restriction requiring implementation of the HCP) to ensure that the lands will be managed in such a manner and for such duration so as not to compromise the effectiveness of the HCP; or
- (c) The Wildlife Agencies determine that the amount of land to be transferred will not have a material impact on the ability of the Permittee to comply with the requirements of the HCP and the terms and conditions of the Permits.

13.0 AMENDMENTS

13.1 Minor amendments.

- (a) Any Party may propose minor amendments to the HCP or this Agreement by providing notice to all other Parties. Such notice shall include a statement of the reason for the proposed modification and an analysis of its environmental effects, including its effects on operations under the HCP and on HCP species. The Parties will use best efforts to respond to proposed minor amendments within 60 days of receipt of such notice. Proposed minor amendments will become effective upon all other Parties' written approval. If a receiving Party objects to a proposed modification, it must be processed as an amendment of the Permits in accordance with Section 13.2. The Wildlife Agencies will not propose or approve minor amendments to the HCP or this Agreement if the Wildlife Agencies determine that such minor amendments would result in operations under the HCP that are significantly different from those analyzed in connection with the original HCP, adverse effects on the environment that are new or significantly different from those

analyzed in connection with the original HCP, additional take not analyzed in connection with the original HCP, or requires an amendment to either Permit.

(b) The Wildlife Agencies retain discretion to determine if a proposed amendment is minor or requires a Permit amendment, but for purposes of illustration, a minor amendment to the HCP and this Agreement could potentially include the following:

- (1) corrections of typographic, grammatical, and similar editing errors that do not change the intended meaning;
- (2) correction of any maps or exhibits to correct errors in mapping or to reflect previously approved changes in the Permits or HCP;
- (3) minor changes to survey, monitoring or reporting protocols; and
- (4) changes to any measure(s) in the conservation strategy to respond to changed circumstances identified in Section 10.0 of this Agreement
- (5) changes listed in Section 12.2 of this Agreement; and
- (6) other changes that do not result in adverse effects on HCP species beyond that analyzed in the HCP and the associated biological opinion, and do not limit the ability of the Cooperative to achieve the HCP biological goals and objectives.

(c) Any other amendments to the HCP or IA will be processed as amendments of the Permits in accordance with Section 13.2.

13.2 Amendment of the Permits. The Permits may be amended in accordance with all applicable legal requirements, including but not limited to the ESA, the NEPA, and the Wildlife Agencies' permit regulations. The Party proposing the amendment shall provide a statement of the reasons for the amendment and an analysis of its environmental effects, including its effects on operations under the HCP and on HCP species. The process for amendment of the Permits is detailed in HCP Section 8.4.

14.0 REMEDIES, ENFORCEMENT, AND DISPUTE RESOLUTION

14.1 In general. Except as set forth below, each Party shall have all remedies otherwise available to enforce the terms of this Agreement, the Permits, and the HCP.

14.2 No monetary damages. With the exception of BLM, no Party shall be liable in damages to any other Party or other person for any breach of this Agreement, any performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement or any other cause of action arising from this Agreement. This section 14.2 does not relieve any

Permittee from its obligation to fully mitigate the impacts of the authorized take in order to comply with the state Permit and CESA; nor does this section 14.2 prevent any Permittee from seeking contribution from another Permittee to meet the full mitigation standard.

14.3 Injunctive and temporary relief. With the exception of BLM, the Parties acknowledge that the HCP species are unique and that their loss as species would result in irreparable damage to the environment, and that therefore injunctive and temporary relief may be appropriate to ensure compliance with this Agreement.

14.4 Enforcement authority of the United States and the State of California. This Agreement does not limit the authority of the United States government to seek civil or criminal penalties or otherwise fulfill its enforcement responsibilities under the ESA or other applicable law. Similarly, this Agreement does not limit the authority of the State of California to seek civil or criminal penalties or otherwise fulfill its enforcement responsibilities under CESA or other applicable law.

14.5 Dispute resolution. The Parties agree to work together in good faith to resolve disputes, using the informal dispute resolution procedures set forth in this section. However, if at any time any Party determines that circumstances so warrant, it may seek any available remedy without waiting to complete informal dispute resolution.

14.5.1 Informal dispute resolution process. Unless the Parties agree upon another dispute resolution process, or unless an aggrieved Party has initiated administrative proceedings or suit in federal court as provided in this section, the Parties may use the following process to attempt to resolve disputes:

- (a) The aggrieved Party will notify the other Parties of the provision that may have been violated, the basis for contending that a violation has occurred, and the remedies it proposes to correct the alleged violation.
- (b) The Party alleged to be in violation will have 30 days, or such other time as may be agreed, to respond. During this time it may seek clarification of the information provided in the initial notice. The aggrieved Party will use its best efforts to provide any information then available to it that may be responsive to such inquiries.
- (c) Within 30 days after such response was provided or was due, representatives of the Parties having authority to resolve the dispute will meet and negotiate in good faith toward a solution satisfactory to all Parties, or will establish a specific process and timetable to seek such a solution.
- (d) If any issues cannot be resolved through such negotiations, the Parties will consider non-binding mediation and other alternative dispute resolution processes and, if a dispute resolution process is agreed upon, will make good

faith efforts to resolve all remaining issues through that process.

15.0 MISCELLANEOUS PROVISIONS

15.1 No partnership. Neither this Agreement nor the HCP shall make or be deemed to make any Party to this Agreement the agent for or the partner of any other Party.

15.2 Notices. Any notice permitted or required by this Agreement shall be in writing, delivered personally to the persons listed below, or shall be deemed given five (5) days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows, or at such other address as any Party may from time to time specify to the other Parties in writing. Notices may be delivered by facsimile or other electronic means, provided that they are also delivered personally or by certified mail. Notices shall be transmitted so that they are received within the specified deadlines.

ATTN: Program Administrator
Fort Ord Regional Habitat
Cooperative
920 2nd Ave., Ste. A
Marina, CA 93933
Telephone ("T"): 831-883-3672
FAX ("F"): 831-883-3672

ATTN: Executive Officer
Fort Ord Reuse Authority
920 2nd Ave., Ste. A
Marina, CA 93933
T: 831-883-3672
F: 831-883-3672

ATTN: Administrator
County of Monterey
168 W. Alisal St., 3rd Fl
Salinas, CA 93901
T:
F:

ATTN: City Manager
City of Marina
211 Hillcrest Ave.
Marina, CA 93933
ATTN: City Manager
City of Monterey
580 Pacific Street
Marina, CA 93940
T:
F:

ATTN: City Manager
City of Seaside
440 Harcourt Ave.
Seaside, CA 93955
ATTN: City Manager
City of Marina
211 Hillcrest Ave.
Marina, CA 93933
T:
F:

ATTN: City Manager
City of Del Rey Oaks
650 Canyon Del Rey
Del Rey Oaks, CA 93940
ATTN: Field Supervisor
U.S. Fish and Wildlife
Service
Ventura Fish and Wildlife
Office
2493 Portola Rd., Ste. B
Ventura, CA 93003
T:
F:

ATTN: Regional Manager
California Department of Fish
and Game
Central Region Headquarters
Office
1234 E. Shaw Avenue
Fresno, CA 93710
T:
F:

ATTN: District
Superintendent
California Department of
Parks and Recreation
Monterey District
2211 Garden Road
Monterey, CA 93940
T:
F:

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

ATTN: Managing Director
UC MBEST Center
c/o REO/MBEST
1156 High Street
Santa Cruz, CA 95064
T:
F:

ATTN: President
California State University
Monterey Bay
100 Campus Center
Bldg. 1
Seaside, CA 93955
T:
F:

ATTN:
Superintendent/President
Monterey Peninsula
College
980 Fremont Street
Monterey, CA 93940
T:
F:

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

ATTN: General Manager
Monterey Peninsula Regional
Park District
60 Garden Court,
Suite 325
Monterey, CA 93940
T:
F:

ATTN: Field Manager
Bureau of Land Management
20 Hamilton Court
Hollister, CA 95023
(831)630-5000
(831)630-5055

15.3 Entire agreement. This Agreement, together with the HCP, the Permits, the anticipated HCP implementing ordinances/delegation of authority (among the Permittees), and

JPA Agreement (among the Permittees), 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.

15.4 Elected officials not to benefit. No member of or delegate to Congress shall be entitled to any share or part of this Agreement, or to any benefit that may arise from it.

15.5 Availability of funds. Implementation of this Agreement and the HCP by the USFWS and BLM is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The Parties acknowledge that the USFWS and BLM will not be required under this Agreement to expend any federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

15.6 Duplicate originals. This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

15.7 No third-party beneficiaries. Without limiting the applicability of rights granted to the public pursuant to the ESA or other federal law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third-party beneficiary hereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or damages pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed under existing law.

15.8 Relationship to the ESA, FLPMA, and other authorities. The terms of this Agreement shall be governed by and construed in accordance with the ESA, FLPMA, and applicable federal law. In particular, nothing in this Agreement is intended to limit the authority of the USFWS to seek penalties or otherwise fulfill their responsibilities under the ESA, and nothing in this Agreement is intended to limit the authority of the BLM to fulfill their responsibilities under FLPMA. Moreover, nothing in this Agreement is intended to limit or diminish the legal obligations and responsibilities of the USFWS and BLM as agencies of the federal government. Nothing in this Agreement will limit the right or obligation of any federal agency to engage in consultation required under Section 7 of the ESA or other federal law; however, it is intended that the rights and obligations of the Permittees under the HCP and this Agreement will be considered in any consultation affecting the Permittees' use of the covered lands.

15.9 References to regulations. Any reference in this Agreement, the HCP, or the

Permits to any regulation or rule of the USFWS shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

15.10 Applicable laws. All activities undertaken pursuant to this Agreement, the HCP, or the Permits must be in compliance with all applicable state and federal laws and regulations.

15.11 Successors and assigns. This Agreement and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. Assignment or other transfer of the Permits shall be governed by the Wildlife Agencies' regulations in force at the time.

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

15.13 Response times. Except as stated herein or required by law, the Wildlife Agencies and the Permittees shall use reasonable efforts to respond to written requests from a Party within forty-five (45) days. The Parties acknowledge, however, that the Cities, the County, and MCWD are subject to the Permit Streamlining Act and that nothing in this Agreement shall be construed to require them to violate that Act. In addition, the Wildlife Agencies will provide timely review of proposals for covered activities to be implemented directly by the Permittees, where such review is required by this Agreement, the HCP, or the Permits.

15.14 Review of third-party participant applications. Various conservation measures in the HCP require third-party participants to submit applications, plans or reports for approval by a Permittee prior to carrying out a covered activity. In such circumstances, no later than sixty (60) days after receiving the application, the point of contact for the relevant Permittee will provide one of the following in writing: (1) an approval of the application, plan, or report; (2) a conditional approval of the application, plan, or report subject to specifically identified additional information; or (3) a denial of the application, plan, or report with a written explanation of what changes can be made to receive approval if the application, plan, or report is resubmitted.

15.15 Changes in the boundaries of the County, Cities, or other land use jurisdictions. The Parties acknowledge that the adoption and amendment of general plans, specific plans, community plans, zoning ordinances, and similar land use ordinances or adopted plans, and the granting of land use entitlements by the County, Cities, or other land use jurisdictions are matters within the sole discretion of the County, Cities, or other land use jurisdictions and shall not require amendments to this Agreement or the approval of other Parties to this Agreement. However, no such action by the County, Cities, or other land use jurisdictions (with the exception of BLM) shall alter or diminish their obligations under this Agreement, the HCP, or the Permits. BLM retains the ability to change its land use plan which could impact the Agreement, the HCP, and the Permits.

15.16 Defense. Upon request, CDFW agrees, to the extent authorized by California law and to the extent CDFW has the available resources, to cooperate with the Permittees in

defending, consistent with HCP terms, lawsuits arising out of the Permittees' adoption of this Agreement and the HCP.

15.17 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.

15.18 Relationship to the ESA, CESA, and other authorities. The terms of this Agreement are consistent with and shall be governed by and construed in accordance with ESA, CESA, and other applicable state and federal laws. In particular, nothing in this Agreement limits the authority of the USFWS and CDFW to seek penalties or otherwise fulfill its responsibilities under ESA and CESA. Moreover, nothing in this Agreement limits the responsibilities of the USFWS as an agency of the federal government or CDFW as an agency of the State of California.

15.19 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. The Permits are severable such that revocation of one does not automatically cause revocation of the other.

15.20 Due Authorization. The Parties represent and warrant that (1) the execution and delivery of this Agreement has been duly authorized and approved by requisite action, (2) 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 (3) the persons executing this Agreement on behalf of the Parties have the authority to bind the Parties.

15.21 Headings. Headings are using in this Agreement for convenience only and do not affect or define the Agreement's terms and conditions.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date that the Wildlife Agencies issue the Permits.

BY

Deputy Regional Director
United States Fish and Wildlife Service
Pacific Southwest Region
Sacramento, California

Date _____

BY _____

Date _____

[Name], President [Director, etc.]
[Company, Organization, Agency]

[Include "approval as to form" signature lines]

Exhibit A

Joint Exercise of Powers Agreement Establishing the Fort Ord Regional Habitat Cooperative

Exhibit B

Reproduction of Figure 1-2 from the Former Fort Ord Installation-Wide Multispecies HCP

Exhibit C

Reproduction of Table 1-1 from the Former Fort Ord Installation-Wide Multispecies HCP

Exhibit D

HCP Model Implementing Ordinance

DRAFT

07-19-13

**JOINT EXERCISE OF POWERS AGREEMENT
ESTABLISHING THE
FORT ORD REGIONAL
HABITAT COOPERATIVE**

December__, 2013
(To be adopted date)

JOINT EXERCISE OF POWERS AGREEMENT

CREATING THE FORT ORD REGIONAL HABITAT COOPERATIVE

This Joint Exercise of Powers Agreement ("Agreement") is dated for reference on December ____, 2013 ("Effective Date"), and is entered into by and among:

- a. Fort Ord Reuse Authority ("FORA")
- b. County of Monterey ("County"),
- c. City of Marina ("Marina"),
- d. City of Seaside ("Seaside"),
- e. City of Del Rey Oaks ("Del Rey Oaks"),
- f. City of Monterey ("Monterey"),
- g. California Department of Parks and Recreation ("State Parks"),
- h. The Regents of the University of California ("UC"),
- i. The Regents of the California State University (on behalf of the Monterey Bay) ("CSUMB"),
- j. Monterey Peninsula College ("MPC"),
- k. Monterey Peninsula Regional Park District ("MPRPD"), and
- l. Marina Coast Water District ("MCWD").

Each Party is a public agency as defined in Government Code Section 6500. The parties may be referred to collectively as the "Parties" and individually as a "Party."

RECITALS

A. Article I (commencing with Section 6500) of Chapter 5 of Division 7 of Title I of the Government Code of the State of California authorizes the Parties to create a joint exercise of powers entity that has the power to exercise jointly the powers common to the Parties.

B. The Parties are empowered by law to undertake certain projects and programs.

C. This Agreement creates an entity to implement the **Installation-Wide Multispecies Habitat Conservation Plan** ("HCP") for the former Fort Ord, California. The HCP provides a multi-agency mechanism to protect natural resources on the former Fort Ord. The Parties expect the HCP to enable them to achieve certain land use planning and development goals and provide comprehensive species and ecosystem conservation for all covered species listed in the HCP or which may be added to the HCP by amendment.

D. The Parties have a common interest in creating an entity capable of implementing the HCP in accordance with the **Implementing Agreement for the Former Fort Ord Installation-Wide Multispecies Habitat Conservation Plan** ("Implementing Agreement"). The HCP and Implementing Agreement identify certain duties and obligations that must be fulfilled to support the issuance of permits to the Parties under the federal Endangered Species Act and California Endangered Species Act. Those permits are intended to enable urban development and other development projects on property owned or controlled by the Parties at the former Fort Ord.

E. Under the terms and conditions of the Implementing Agreement, the Parties acknowledge that they have certain responsibilities for ensuring successful implementation of

the HCP. These include, without limitation, collection of the Community Facilities District ("CFD") Special Tax established by FORA and making HCP concurrence determinations prior to Take within their jurisdiction.

AGREEMENT

NOW, THEREFORE, the Parties, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

1.0 DEFINITIONS

Unless the context otherwise requires, the terms defined in this Section 1 shall for purposes of this Agreement have the meanings specified herein.

"Act" means the Joint Exercise of Powers Act, Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title I of the Government Code of the State of California (Sections 6500–6599).

"Board" means the Fort Ord Regional Habitat Cooperative Governing Board.

"CDFG" means the California Department of Fish and Game.

"Community Facilities District ("CFD") Funds" means special taxes paid by developers of the former Fort Ord property, as adopted as a base-wide tax to pay for environmental impacts of the former Fort Ord development.

"Cooperative" means the Fort Ord Regional Habitat Cooperative established by this Agreement.

"Endowment" means a) the HCP Endowment Fund, b) the Fort Ord Natural Reserve Endowment Fund ("FONR Endowment"), c) the Implementation Assurances Fund ("IAF"), and d) Borderlands Endowment Fund described in HCP Chapter 9.

"Cooperative Endowment Manager" means the entity, which will be approved by CDFG as the endowment manager to hold the collected CFD Funds or other capital resources, in the form of the HCP Endowment Fund, the IAF, and Borderlands Endowment Fund, to pay to the Cooperative according to the terms described herein, and to collect and temporarily hold CFD Funds that are to be transferred to the UC to fund the FONR Endowment.

"FONR Endowment" means the endowment held and managed by the UC and funded by FONR or the Cooperative for the purpose of adequately funding all HCP-related costs on the FONR.

"HCP" means the Installation-Wide Multispecies Habitat Conservation Plan.

"HMA" means Habitat Management Area as defined within the HCP.

"Implementing Agreement" means the **"Implementing Agreement for the Former**

Fort Ord Installation-Wide Multispecies Habitat Conservation Plan.”

“Habitat Reserve System” means the Habitat Reserve System as set forth in the HCP.

“Take” means:

- A. under the federal Permit, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any listed or unlisted HCP species. Harm means an act that actually kills or injures a member of an HCP species, including an act that causes significant habitat modification or degradation where it actually kills or injures a member of an HCP species by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
- B. under the state Permit, to hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture or kill a listed species (FGC Section 86). Harm and harassment constitute Take if they are the proximate cause of death (CDFG General Counsel). Section 2080 of the FGC prohibits commerce and taking of species listed as endangered or threatened under the CESA.

“USFWS” means the United States Fish and Wildlife Service.

2.0 PURPOSE

This Agreement achieves the following objectives:

- A. Establishes the Cooperative to fulfill obligations of the Implementing Agreement and the HCP, including the management and expenditure of funds that are derived from fees/exactions collected by the Parties for implementing the HCP.
- B. Requires the Cooperative to:
 - 1) oversee, monitor, and report on HCP implementation;
 - 2) manage the Habitat Reserve System as defined in the HCP;
 - 3) secure or receive funding for conservation management;
 - 4) provide HCP public information and outreach; and
 - 5) exercise the powers described in Section 6 of this agreement.

3.0 TERM, TERMINATION, AND WITHDRAWAL

3.1. Effective Date. This Agreement becomes effective when ratified by 2/3's (two-thirds) of the endorsing Parties. It will continue until terminated. The Agreement may be terminated by a majority of the Parties after 90-day advance written notice to the other Parties. The Agreement may be terminated immediately by a written supplemental mutual agreement of the Parties.

3.2. Withdrawal. Any Party may withdraw from this Agreement upon 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 Cooperative

debts, liabilities, and obligations arising from or related to Cooperative actions Taken while the withdrawing party was a party to the Agreement.

3.3. Effect of Withdrawal. Upon withdrawal, the withdrawing party shall no longer be a Party, and the term "Parties" as used in this Agreement shall thereafter mean the remaining Parties. Withdrawing parties cease to enjoy the regulatory benefits conferred upon Parties by USFWS and CDFG.

4.0 COOPERATIVE

4.1. Cooperative Establishment. There is hereby established under the Act an agency and public entity to be known as the "Fort Ord Regional Habitat Cooperative." As provided in the Act, the Cooperative is a public entity separate from its Parties. Debts, liabilities and obligations of the Cooperative are its own and not those of the Parties.

4.2. State Filing. Within 30 days after the effective date of this Agreement or any amendment hereto, the Cooperative will cause a notice of this Agreement and any amendment hereof to be filed with the office of the Secretary of State of the State of California as provided in Section 6503.5 of the Act.

4.3. Governing Board. The Cooperative will be governed by a Governing Board. The Board shall consist of one representative from each of the twelve Parties, unless otherwise specified. The Board shall consist of voting and non-voting members as described under Section 4.4 of this Agreement. Each Party's legislative body shall appoint that Party's representative(s) and may also appoint alternate representative(s). Appointees shall serve at the pleasure of the appointing body. The term of office of each Board member and alternate terminates when the member or alternate is replaced by his/her appointing body or when the member or alternate ceases to be an elected official of the appointing body. Each Party's governing city council or board shall appoint a new representative to the Board whenever the Party's seat on the Board becomes vacant.

4.4 Voting. The initial Governing Board structure shall include twelve voting members as follows: City of Del Rey Oaks (1), City of Monterey (1), City of Marina (2), City of Seaside (2), County of Monterey (2), MPC (1), UC (1), CSUMB (1), and MCWD (1). Each voting Board member has one vote for all decisions relating to the governance, budget, and administration of the Cooperative. The Chair shall break tie votes.

4.4.1 Non-Voting Member Assurances. The non-voting members agree to fulfill their responsibilities in compliance with the HCP, the permits, and the Implementing Agreement.

4.4.2 Voting Member Assurances. Since voting members have the responsibility of ensuring HCP compliance through habitat management activities, coordination with other HMA managers, annual monitoring and reporting, and the HCP concurrence process, the voting members agree to: (1) perform habitat management activities in compliance with the HCP and (2) reserve ____ number of acres for non-voting members' development needs, in compliance with the HCP stay-ahead provision, until those ____ acres are completely utilized by non-voting members, or

all HCP HMAs have transferred from the Army to the ultimate recipient and are in active habitat management, allowing planned development buildout under the HCP.

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

4.6 Staff Costs. FORA shall provide staff support to the Cooperative until the Board elects otherwise or FORA sunsets. The Cooperative shall reimburse FORA for staff support costs according to a Board approved annual budget. Upon FORA's sunset, scheduled for June 30, 2020, any remaining FORA HCP obligations will be transferred to the Cooperative.

4.7 Meetings of Board.

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

4.7.2 *Legal Notice.* Meetings of the Board shall be called, noticed, held, and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part I of Division 2 of Title 5 of the Government Code, [Sections 54950–54961]).

4.7.3 *Minutes.* The Cooperative Program Administrator shall cause minutes of meetings of the Board to be kept and shall, as soon as possible after a meeting, cause a copy of the minutes to be forwarded to members of the Board.

4.7.4 *Quorum.* A majority of the members of the Board constitutes a quorum for the transaction of business, except that less than a quorum may adjourn meetings.

4.8 Officers: Duties; Bonding.

4.8.1 *Chair.* The Board shall elect from its members a Chair who shall serve as Chair of the Cooperative and a Vice Chair who shall serve as Vice Chair of the Cooperative. The Chair and the Vice Chair shall have the duties assigned by the Board or set forth in by-laws adopted by the Board.

4.8.2 *Administrator.* The FORA Executive Officer will serve as Program Administrator of the Cooperative until the sunset of FORA or until Board replacement. The Program Administrator, or designee: a) is the custodian of Cooperative records, b) prepares minutes to be submitted for Board review, c) acts as Secretary at meetings, d) keeps a Cooperative Proceedings journal record, and e) performs duties incident to the office as assigned by the Board.

4.8.3 *Grant Officer.* The FORA Senior Planner will act as Senior Grant Specialist of the Cooperative until Board replacement. The Senior Grant Specialist is the custodian of Cooperative revenue, from whatever source, and, as such, has the powers,

duties and responsibilities specified in Section 6505.5 of the Act.

4.8.4 *Manager.* The FORA Controller will be the Accounting Manager of the Cooperative until the Board appoints a replacement. The Accounting Manager has the powers, duties, and responsibilities specified in Section 6505.5 of the Act. The Accounting Manager shall draw checks to pay demands against the Cooperative under the direction of the Board.

4.8.5 *FORA Expenses.* The Cooperative shall reimburse FORA for providing the services of the Program Administrator, Senior Grant Specialist, and Accounting Manager, as applicable, according to an annual budget approved by the Board.

4.8.6 *Bonded Officers.* The Cooperative Senior Grant Specialist and Accounting Manager are designated as the public officers or persons who have charge of, handle, or have access to Cooperative property. Such officers shall file an official bond in the amount such officers determine is necessary as required by Section 6505.1 of the Act, provided, that such bond shall not be required if Cooperative property or funds has an aggregate value less than \$1,500.00.

4.8.7 *Audits.* The Senior Grant Specialist and Accounting Manager of the Cooperative are hereby authorized and directed to prepare or cause to be prepared: (a) a special audit as required by 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 Board and the Parties. The report shall: (a) describe the amount of money held by the Senior Grant Specialist and Accounting Manager of 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.

4.8.8 *Other Officers.* The Board may: (a) appoint such other officers and employees as it may deem necessary; and (b) retain independent counsel, consultants and accountants.

4.8.9 *FORA's Termination.* Upon sunset of FORA, the Cooperative shall assume FORA's liabilities, obligations, and responsibilities under this agreement and the Cooperative shall select its own employees and officers. The Cooperative shall remain liable for performing FORA's obligations under this Agreement. The Cooperative shall have the authority to hire a management firm to implement its responsibilities. This agreement shall not authorize FORA, or its successors, to assign its responsibilities or obligations under this Agreement to a third party without the prior approval of USFWS and CDFG, which approval shall not be unreasonably withheld.

5.0 COMMITTEES

5.1 Coordinated Resource Management and Planning Program. Technical guidance for implementing the HCP will be provided through the Fort Ord Coordinated Resource Management and Planning (CRMP) program, which was established after adoption of the 1997 Installation-Wide Multispecies Habitat Management Plan as a discussion forum for jurisdictions with natural lands management responsibilities at the former Fort Ord. The

objectives of the Fort Ord CRMP program are to provide a forum for information and resource exchange on habitat related issues; to develop standards for habitat management, monitoring and reporting; to provide input on the adaptive management program; and to coordinate the implementation of the HMP. CRMP program involvement is voluntary and; thus, implementation of the recommendations made by the CRMP program is not required.

6.0 POWERS AND RESPONSIBILITIES

6.1 Specific Powers. The Cooperative has the powers granted to joint powers authorities in Articles 2 and 4 of the Act. The Cooperative may do acts necessary to exercise those specific 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; (e) sue and be sued in its own name including, without limitation, to file or intervene in lawsuits that pertain to HCP implementation.

6.2 HCP Concurrence. Each Permit Applicant has primary responsibility to determine whether projects subject to its review and approval are in concurrence with the HCP. Such determinations are final unless appealed to the Cooperative within 30 (thirty) days of the Permit Applicant's decision. The Cooperative, its members, or a member of the public may appeal a Permit Applicant's concurrence decision to the Cooperative. The Cooperative shall establish a process for filing an appeal that ensures a complete appeal will provide the Cooperative with adequate information to determine if a project is in concurrence with the HCP. If appealed, the Cooperative must review and determine HCP concurrence for projects funded or implemented by Permit Applicant s and projects for which there are private (i.e., non-signatory, third-party) applicants, which require entitlements from a Permit Applicant. For all projects requesting Take coverage under the HCP, the Permit Applicant, and the Cooperative on appeal, will compare terms of the HCP as contrasted with project elements to make the concurrence determination. The project proponent must submit an application package (described in Section 7.5.2.1 of the HCP) that evaluates compliance with the HCP. Once the application package is deemed complete, the Permit Applicant, and the Cooperative on appeal, may decide whether it is in concurrence with the HCP. That determination will be made based on the four following criteria. The Permit Applicant, and the Cooperative on appeal, will find a project in concurrence with the HCP if it:

- is conducted by, or is subject to the jurisdiction of, a Permit Applicant;
- is a type of covered activity described in Section 3.3 of the HCP;
- is consistent with the amount of Take coverage assumed by the Plan and sufficient Take coverage under the permits remains available for other covered activities; and
- does not preclude achieving the biological goals and objectives of the Plan (see Chapter 5, *Conservation Strategy*, of the HCP).

6.3 Data and Compliance Tracking. The Cooperative will develop and maintain a comprehensive data repository to track permit compliance and all other aspects of the HCP including land management and monitoring. The Cooperative's compliance monitoring and

data tracking responsibilities are listed in Sections 6.2 and 7.9.2 of the HCP and are incorporated by reference.

6.4 Reporting. All Permit Applicants and the BLM will submit annual land use status and HCP Compliance Monitoring data to the Cooperative Program Administrator (see Section 6.2, *HCP Compliance Monitoring*, of the HCP) for HCP annual report compilation. Each Permit Applicant and BLM will also report its HCP-related activities for the year to the Cooperative. The Cooperative will be in charge of compiling the information from all Permit Applicants and the BLM and preparing the annual report for submittal to the Wildlife Agencies. This will allow one annual report to be prepared and filed with the Wildlife Agencies rather than many separate reports. The Cooperative will ensure that the annual reporting section includes a requirement to report all known Take occurrences cumulatively each year. The Cooperative's reporting responsibilities are listed in Section 7.9.3 of the HCP and are incorporated by reference.

6.5 Schedule. To successfully implement the HCP, the Cooperative will need to make progress on a variety of tasks simultaneously. Task completion during the first several years of HCP implementation will allow early compliance with HCP terms and conditions. Reporting requirements by entity are presented in Table 7-2 of the HCP and tasks designated to the Cooperative and its Governing Board in this table are incorporated as Cooperative responsibilities by reference.

6.6 Limitations. Cooperative powers are limited only by restrictions on the Parties for exercise of similar powers as provided in Section 6509 of the Act.

7.0 TERMINATION OF POWERS

The Cooperative shall continue to exercise the powers until the termination of this Agreement.

8.0 DISBURSEMENTS AND DEPOSITS OF FEES

8.1 Fee Collection. The Implementing Agreement requires Marina, Seaside, Del Rey Oaks, Monterey (collectively the "Cities") and the County to enforce the collection of FORA Community Facilities District ("CFD") Funds (Special Tax). Any such separate development fee to fund the HCP also shall be included in the definition of "CFD Funds."

8.2 Fee Disbursement. FORA, the County and the Cities shall enforce CFD Special Tax collection. The County and Cities shall disburse to the Cooperative Endowment Manager twenty-five percent (25%) of any such revenues quarterly, on or about December 31, March 30, June 30, and September 30. The Cooperative Endowment Manager shall hold such revenues in an investment account under the Mitigation Fee Act (Gov. Code §66000 et seq.) until disbursement or expenditure according to this Agreement. The Cooperative shall use CFD Funds for the purposes for which they were imposed, and for no other purpose.

9.0 ENDOWMENT

Funds generated by a portion of CFD Funds will capitalize: (a) the HCP Endowment

Fund; (b) the FONR Endowment Fund; (c) the Implementation Assurances Fund; and (d) the Borderlands Endowment Fund described in HCP Chapter 9 to offset both capital and operational HCP costs.

9.1 Funding Sources. HCP Chapter 9, *Cost and Funding* describes HCP implementation costs, funding sources, and assurances. The HCP cost model (Appendix N to the HCP) is a planning-level estimate of total HCP costs. The cost model was developed to conservatively estimate HCP implementation expenses of the Cooperative, UC/NRS, State Parks, and BLM over the permit term. The cost model was designed to demonstrate that all costs were accounted for and reasonably estimated. In the Implementing Agreement, the Parties commit to adequately fund the costs associated with the HCP. CFD Funds and annual appropriations from state and federal budgets will be the primary HCP funding sources.

9.2 Endowment Amount. FORA will continue to collect CFD Funds until it expires (current expiration date is June 30, 2020) and the Cities and County will collect CFD Funds after FORA's expiration date to fund the Endowment, which includes: (a) the HCP Endowment Fund; (b) the FONR Endowment Fund; (c) the IAF; and (d) the Borderlands Endowment Fund. FORA, the Cities, and the County will contribute 25% of CFD Funds collected to the Cooperative Endowment Manager until the endowments are fully funded.

9.3 Stay-Ahead Provision Funding. Initial conservation resource demands to support HCP services or other HCP needs will be provided through FORA, BLM, and State Parks to meet HCP requirements, and by separate agreement between FORA and UC/NRS. FORA will continue to collect funding as noted herein and will seek grant or contract award support where applicable. BLM and State Parks are committed to meeting the HCP conservation demands on their property through federal or state management and resource processes. HCP Section 7.6, *Stay-Ahead Provision* states that the proportion of dedicated reserve acreage for each HCP species' habitat transferred from the Army shall be at least 5% higher than the proportion of allowable development-related impacts on each species' habitat. In order to meet the stay-ahead provision, reserve lands in HMAs must also have funding to ensure management according to the conservation strategy (see Section 9.3.4.1 of the HCP). The HCP is designed so that habitat and habitat management funding are provided prior to impact on an HCP species' habitat.

9.4 Habitat Management and Monitoring Funding. The Cooperative shall use funds from the HCP Endowment Fund to implement HCP-required actions on HMA land to be held by County, MPRPD, MPC, and Marina. The Cooperative shall also use funds from the HCP Endowment Fund for monitoring on HMAs within the HCP area, regardless of ownership (i.e., including BLM, State Parks, and UC/NRS lands).

9.5 Fort Ord Natural Reserve Funding. FORA provides approximately \$82,000 annually to UC for its interim management of the 606-acre FONR to meet FONR's annual costs of complying with the Habitat Management Plan for the former Fort Ord. The Cooperative will provide annual funding to UC sufficient to meet the annual costs of complying with the HCP on FONR lands, which funding will be increased annually to reflect increases in the Consumer Price Index San Francisco Bay Area, All Urban Consumers, published by the United States Department of Labor, Bureau of Labor Statistics until 1 year

after FORA or the Cooperative has fully funded the FONR Endowment. As CFD Funds are transferred to the Cooperative Endowment Manager pursuant to Section 9.2 above, the Cooperative Endowment Manager thereupon will transfer those funds to the Regents of the University of California General Endowment Pool. The proportionate rate by which the FONR Endowment is funded will equal the proportionate rate by which the HCP Endowment Fund is funded. These transfers shall continue until both endowments have been fully funded.

9.6 Implementation Assurances Funding. The Cooperative will use funds from the IAF to ensure adequate funding of necessary remedial measures to address any of the changed circumstances described in HCP Section 8.1.1.2. The Cooperative will also use funds from the IAF to augment HCP annual revenues if CFD Funds do not keep pace with HCP funding needs or federal or state appropriations unexpectedly decline. The Endowment Manager will reinvest interest from this fund to ensure that it keeps pace with inflation and the rising costs of HCP implementation.

10.0 COOPERATIVE ACCOUNTABILITY

In managing the Endowment, the Cooperative is subject to Gov. Code 65965-65968. The Board shall assure that revenue from the Endowment is accounted for in the manner required by law.

11.0 FISCAL YEAR

Unless and until changed by majority vote of the Board, the fiscal year of the Cooperative shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to the following June 30.

12.0 DISPOSITION OF ASSETS AND REAL PROPERTY

Upon termination of this Agreement, and after the repayment of advances and contributions in accordance with Section 14, 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 an individual Member's overall unreimbursed contribution of assets to the Cooperative. The Cooperative shall transfer any real property, and any funding 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.

13.0 CONTRIBUTIONS AND ADVANCES

With the Board's approval, any Party may contribute or advance public funds, 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 in writing by the Cooperative and the Party making the advance prior to when it is made. Except as otherwise expressly provided in this Agreement, no Party is obligated to pay the Cooperative's administrative expenses. With the exception of State Parks, no Party may be compelled to obligate its General Fund to satisfy its financial obligations under this

Agreement.

14.0 ACCOUNTS AND REPORTS

14.1 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. The Cooperative shall give an audited written report of financial activities for the fiscal year to the Parties within 6 months after the close of the fiscal year.

14.2 Audits. To the extent required by Section 6505.6 of the Act, the Accounting Manager of 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 in compliance with Section 6505.6 of the Act. The minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California 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 public records with the Parties and, if required by Section 6505.6 of the Act, with the Auditor Controller of the County. Such report shall be filed within twelve months of the end of the fiscal year or years under examination. The Cooperative may replace the annual special audit with an audit covering a 2-year period.

14.3 Audit Costs. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants, in making an audit under this Section shall be borne by the Cooperative and shall be a charge against any unencumbered funds of the Cooperative available for the purpose.

15.0 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.

16.0 DISPUTE RESOLUTION

16.1 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 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 15 days of such selection.

16.2 Attorney Fees. If legal proceedings are brought to interpret or enforce this Agreement, the prevailing party shall be awarded reasonable attorney fees and costs, including reasonable costs of experts reasonably engaged by the attorney.

17.0 LIABILITY AND INDEMNIFICATION

The Parties shall defend, hold harmless and indemnify the other Parties and their officers, agents, and employees against claims, demands, damages, costs, expenses or liability to the extent they shall arise out of the indemnifying parties' actions and inactions under this Agreement for which the indemnifying party has accepted responsibility pursuant to a written agreement to which it is a party.

17.0 BREACH

Breaches to this Agreement do not excuse further breaches by the party in breach. The remedies given to the Parties hereunder or by law are cumulative and not elective. The exercise of one right or remedy does not impair other rights and remedies.

18.0 SEVERABILITY

If a court finds any term of this Agreement to be unenforceable, the remaining provisions will be unaffected.

19.0 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.

20.0 AMENDMENT OF AGREEMENT

This Agreement may be amended only by supplemental written agreement executed by the Parties.

21.0 FORM OF APPROVALS

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

22.0 NOTICES

Notices to the Parties shall be sufficient if delivered to the chief executive of the Party at the Party's principal location within 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: Executive Officer
Fort Ord Reuse Authority
100 12th St., Bldg. 2880
Marina, CA 93933

ATTN: Economic
Development Director
County of Monterey
168 W. Alisal St., 3rd Floor
Salinas, CA 93901

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

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

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

ATTN: City Manager
City of Del Rey Oaks

650 Canyon Del Rey
Del Rey Oaks, CA 93940

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

ATTN: Assistant Director
UCSC Real Estate Office
c/o REO/MBEST
1156 High Street
Santa Cruz, CA 95064

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

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

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

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

ATTN: Regional Park
District Superintendent
60 Garden Court, Suite
325
Monterey, CA 93940

ATTN: Monterey County
Administrative Officer
168 W. Alisal Street, 3rd
Floor
Salinas, CA 93901

23.0 SECTION HEADINGS

Section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

24.0 COUNTERPARTS

This Agreement may be executed in counterparts and so executed shall constitute an Agreement which shall be binding upon the Parties. Electronic or photocopies of the fully executed Agreement are the same as duplicate originals.

25.0 SIGNATURES

Persons signing this Agreement represent and warrant that: 1) they have read and understand the Agreement, 2) they are authorized to sign this Agreement, and 3) the Party on behalf of whom the signature is offered has agreed to be bound by its terms.

Dated: _____, 2012

COUNTY OF MONTEREY

By: _____
County Administrative Officer

Approved as to form:

By: _____
County/Deputy County Counsel

Dated: _____, 2012

CITY OF MARINA

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2012

CITY OF SEASIDE

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2012

CITY OF DEL REY OAKS

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2012

CITY OF MONTEREY

By: _____
City Manager

Approved as to form:

By: _____
City Attorney

Dated: _____, 2012

MARINA COAST WATER DISTRICT

By: _____
General Manager

Approved as to form

By: _____
District Attorney

Dated: _____, 2012

UNIVERSITY OF CALIFORNIA

By: _____
Secretary to the Regents

Approved as to form:

By: _____
General Counsel

Dated: _____, 2012

CALIFORNIA STATE UNIVERSITY

By: _____
President

Approved as to form:

By: _____
General Counsel

Dated: _____, 2012

MONTEREY PENINSULA COLLEGE

By: _____
President

Approved as to form:

By: _____
General Counsel

Dated: _____, 2012

CALIFORNIA DEPARTMENT OF PARKS AND
RECREATION

By: _____
Regional Manager

Approved as to form:

By: _____
General Counsel

Dated: _____, 2012

MONTEREY PENINSULA REGIONAL PARK
DISTRICT

By: _____
Chief Administrative Officer

Approved as to form:

By: _____
General Counsel

Dated: _____, 2012

FORT ORD REUSE AUTHORITY

By: _____
Chair, Board of Directors

Approved as to form:

By: _____
Authority Counsel

DRAFT

ORDINANCE NO. 2013-XX (uncodified)

(Adoption of the Fort Ord Installation-Wide Multispecies Habitat Conservation Plan
Community Facilities District Special Tax Collection and Implementation Procedures)

The Monterey County Board of Supervisors ordains as follows:

SECTION I. SUMMARY.

This ordinance implements the Fort Ord Installation-Wide Multispecies Habitat Conservation Plan ("HCP") within the County of Monterey ("County") by County collecting fees to fund habitat conservation. The HCP will mitigate potential County development impact on certain species.

SECTION II. AUTHORITY.

This ordinance is enacted under the Mitigation Fee Act (Gov. Code, §66000 et seq.) and Article II, Section 7 of the California Constitution.

SECTION III. NOTICE AND HEARING.

This ordinance complies with Government Code Sections 54986 and 66017–66018. Required notices have been given and public hearing held.

SECTION IV. DEFINITIONS.

As used in this ordinance:

- A. "Affected Development Projects" means the development projects to which this ordinance applies.
- B. "Cooperative" means the Fort Ord Regional Habitat Cooperative, a Joint Powers Authority (JPA) formed by the Fort Ord Reuse Authority ("FORA"), County of Monterey ("County"), City of Marina ("Marina"), City of Seaside ("Seaside"), City of Del Rey Oaks ("Del Rey Oaks"), City of Monterey ("Monterey"), California Department of Parks and Recreation ("State Parks"), Regents of the University of California ("UC"), Board of Trustees of California State University ("CSUMB") (on behalf of the Monterey Bay), Monterey Peninsula College ("MPC"), Monterey Peninsula Regional Park District ("MPRPD"), and Marina Coast Water District ("MCWD") to oversee the implementation of the HCP.
- C. "Community Facilities District Special Tax" or "Special Tax" means the FORA Base-wide Community Facilities District ("CFD") Special Tax described in Section 9.3 of the HCP and adopted in 2002.
- D. "Development Project" means flat or vertical construction, including a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

- E. "Endowment Manager(s)" means the entity(ies), approved by the U.S. Fish and Wildlife Service ("USFWS") and California Department of Fish and Game ("CDFG"), which will hold the collected Special Tax funds or other capital resources to pay to the Cooperative to implement the HCP.
- F. "FORA Base-wide Community Facilities District Special Tax" means the special tax imposed on development projects under the FORA Base-wide Community Facilities District Notice of Special Tax Lien, recorded May 22, 2002. This special tax will finance all or a portion of the costs of the following types of facilities or programs: Roadway Improvements, Transit Improvements and Vehicles, Water and Storm Drain Improvements, Habitat Management, and Other Public Facilities.
- G. "HCP" means the Fort Ord Installation-Wide Multispecies Habitat Conservation Plan, approved by the USFWS on _____, as may be revised.
- H. "HCP Species" means those species of plants and animals whose conservation and management are provided for by the HCP for which limited take is authorized by state and federal permits.
- I. "Implementing Agreement" means the agreement by and among the Cooperative, FORA, County, Marina, Seaside, Del Rey Oaks, Monterey, State Parks, UC, Board of Trustees of California State University (on behalf of the Monterey Bay), MPC, MPRPD, MCWD, Bureau of Land Management, USFWS, and CDFG that sets forth terms and conditions for implementing the HCP.
- J. "Project Applicant" means a property owner, or designated agent of the property owner, who has submitted a Development Project approval request to the County.
- K. "Public facilities" includes public improvements or utility services.
- L. "State and federal permits" means the permit issued by CDFG to the County and others on _____, authorizing take of state listed species under the HCP (permit number _____) and the permit issued by the USFWS to the County and others on _____, authorizing incidental take of federal listed species under the HCP and the federal Endangered Species Act ("ESA") (permit number _____), as those documents may be amended.
- M. "Take" has the same meaning provided by the ESA, as amended (16 United States Code [USC] §1531 et seq.) and its implementing regulations with regard to activities subject to that Act. It has the same meaning provided in the California Fish and Game Code with regard to activities subject to the California Endangered Species Act (Fish and Game Code §2050 et seq.) ("CESA") and the Natural Community Conservation Planning Act (Fish and Game Code §2800 et seq.). Take is defined in ESA to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to

engage in any such conduct" (16 USC §1532(18)) and in CESA section 86 as "to hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, capture, or kill."

- N. "Urban Development Area" means the areas designated for urban development that are depicted on the map attached hereto as Exhibit A, incorporated herein by reference.

SECTION V. APPLICATION OF ORDINANCE.

- A. This ordinance applies to all Development Projects in unincorporated Monterey County within the Urban Development Area.
- B. The Development Projects to which this ordinance applies, may be referred to as "Affected Development Projects."

SECTION VI. SPECIAL TAX/USE OF REVENUE.

A portion of the Special Tax will be set aside to finance HCP defined habitat management obligations as follows:

- A. mitigate impacts on habitat and HCP covered species,
- B. fund habitat management to protect HCP species,
- C. fund monitoring of HCP species and their habitats, and
- D. administrative actions necessary to implement the HCP.

SECTION VII. FINDINGS.

The County Board of Supervisors finds and determines:

- A. There is a need to establish a comprehensive framework to protect and conserve species, wetlands, natural communities, and ecosystems in the County, while improving the environmental permitting process for impacts of future development on rare, threatened, and endangered species.
- B. To meet the purposes identified in Section VI, the County joined with FORA and other agencies to develop the HCP and the Implementing Agreement. The Board finds that the HCP, implemented in accordance with the Implementing Agreement, will: a) provide comprehensive species and ecosystem conservation; b) help preserve endangered species; c) balance open space, habitat, and urban development; d) reduce the cost and increase the clarity and consistency of federal and state permits; e) consolidate these processes into a single plan; f) encourage multiple uses of protected areas; g) share the costs and benefits of the HCP as widely and equitably as possible; and h) protect private property rights.

- C. This ordinance will enable the County to: a) promote public benefit by helping achieve the conservation goals in the HCP, b) implement the terms and conditions of the Implementing Agreement, and c) preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act, the California Environmental Quality Act, ESA, CESA, and other applicable laws.
- D. There is a reasonable relationship between the use of the Special Tax and Development Projects.
- E. There is a reasonable relationship between the need for the conservation activities to be funded by the Special Tax and the type of Development Projects on which the tax is imposed because the need for these activities, which includes the management of habitat, arises from mitigating impacts of the very Development Projects to which the Special Tax will apply (i.e., Development Projects that disturb open space, habitat, and HCP species).
- F. There is a reasonable relationship between the amount of the Special Tax and the cost of the conservation activities attributable to the Development Projects.

SECTION VIII. SPECIAL TAX.

The Special Tax funds conservation activities identified in Section VI, as follows:

A. Special Tax

1. FORA charges a Special Tax against Affected Development Projects described in the Fort Ord Reuse Authority Base-wide Community Facilities District Notice of Special Tax Lien, recorded May 22, 2002.
2. The County will collect the Special Tax, according to the terms and conditions of the FORA-County Implementation Agreement.
3. After FORA's June 30, 2014 expiration, the County will ensure collection of the Special Tax in the unincorporated area of former Fort Ord.

B. Condition of Approval

Compliance with this ordinance, including payment of the Special Tax is a condition of approval of Affected Development Projects.

C. Fee Transmittal

Affected Development Project developers will transmit the Special Tax to the FORA Controller until June 30, 2014 and FORA shall disburse no less than 25% of the collected Special Tax to the HCP Capital Account and to the Endowment

Manager(s) until the complete HCP Endowments are funded consistent with the HCP. After June 30, 2014, Affected Development Project developers will transmit the Special Tax to the County Auditor-Controller and the County shall disburse no less than 25% of the collected Special Tax to the HCP Capital Account and Endowment Manager(s) until the HCP Endowments are funded consistent with the HCP.

SECTION IX. ADJUSTMENTS TO SPECIAL TAX.

On July 1 of each year, FORA will adjust the Special Tax as described in the Fort Ord Reuse Authority Base-wide Community Facilities District Notice of Special Tax Lien, recorded May 22, 2002. On July 1 of each year, beginning July 1, 2014, the County of Monterey will adjust the Special Tax as described in the Fort Ord Reuse Authority Base-wide Community Facilities District Notice of Special Tax Lien, recorded May 22, 2002.

SECTION X. CERTIFICATE OF INCLUSION APPLICATION AND REVIEW PROCEDURES.

A. Section 3.3 of the HCP defines covered activities, which are those projects for which take authority is issued under the HCP. These projects fall into two general categories: 1) projects funded and implemented by Permit Applicants and 2) projects for which there are private (i.e., non-signatory, third-party) applicants, which require entitlements from a Permit Applicant. In both cases, the entity seeking take authorization must follow the HCP concurrence process described in Section 7.5 of the HCP. If the project is an ongoing maintenance, management or other activity not subject to discretionary review, the Permit Applicant or Cooperative shall issue a notice of HCP concurrence once they determine that the proposal is a covered activity under the HCP. If the proposed activity is subject to discretionary review, the third-party applicant will submit a report or certificate of inclusion application to the Permit Applicant with jurisdiction over the area at the time of project application that supplies the following information:

- Definition of project area, including project footprint, extent of construction, and extent of ongoing maintenance activities.
- Written description of project, including maps.
- Results of planning surveys.
- Compliance with avoidance and minimization measures, especially in Borderlands (see Section 5.4, *Measures to Avoid and Minimize Impacts*).
- Quantification of anticipated direct and indirect impacts on HCP species habitats.
- Other information as directed by the Planning Director under the HCP.

B. The County may extend a portion of its take authorization under permit number (TEXXXXX) if it finds, on substantial evidence, that:

1. The application for a certificate of inclusion is complete.
2. The approval requires the Development Project/applicant to comply with the Implementing Agreement, the HCP, and the state and federal permits. Such terms and conditions include but are not necessarily limited to the following:
 - a. Special Tax payment.
 - b. Compliance with surveys, monitoring, avoidance, minimization and mitigation measures applicable to the project, under the HCP.
 - c. Take authorization extension to be consistent with the HCP, the Implementing Agreement, the state and federal permits and federal, state and local laws and regulations.

SECTION XI. JUDICIAL REVIEW.

An action to void the Special Tax shall be commenced within one hundred twenty (120) days after this ordinance is adopted. Any action to attack an increase adopted under Section IX shall be commenced within one hundred twenty (120) days after the effective date of the increase.

SECTION XII. SEVERABILITY.

If any part of the Special Tax or any provision of this ordinance is held invalid, that holding will not affect the validity of the remaining fee components and/or ordinance provisions. The Board declares it would have adopted each part of this ordinance irrespective of the validity of any other part.

SECTION XIII. EFFECTIVE DATE.

This ordinance becomes effective _____, or sixty (60) days after passage, whichever is later, and within fifteen (15) days after passage shall be published once with the names of the Supervisors voting for and against it in the Monterey County Herald, a newspaper of general circulation published in this County.

PASSED AND ADOPTED on _____, by the following vote:

NOES: -

ABSENT:

ABSTAIN: ----

ATTEST: