



FORT ORD REUSE AUTHORITY

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REGULAR MEETING FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS

Friday, April 11, 2014 at 2:00 p.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CLOSED SESSION

- a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – **2 Cases**
 - i. Keep Fort Ord Wild v. Fort Ord Reuse Authority (FORA), Case Number: M114961
 - ii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M11856

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

5. ROLL CALL

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

- a. Approve Resolution Acknowledging Pacific Grove Mayor Bill Kampe ([Pg. 1](#)) ACTION

ANNUAL LEGISLATIVE SESSION (FEDERAL)

Receive Report from Congressman Sam Farr - 20th Congressional District INFORMATION

7. CONSENT AGENDA

ACTION

- a. Approve February 13, 2014 Board Meeting Minutes ([Pg. 2-4](#))
- b. Approve March 14, 2014 Board Meeting Minutes ([Pg. 5-8](#))
- c. Approve Resolutions Transferring Fire Fighting Enhancement Equipment Titles ([Pg. 9-15](#))
- d. Approve Legal Services Budget Line Item Reallocation ([Pg. 16](#))

8. OLD BUSINESS

- a. California Central Coast Veterans Cemetery (CCCVC) Items ([Pg. 17-36](#))
 - i. Cemetery Update INFORMATION
 - ii. Approve Amended FORA-Seaside Agreement ACTION
 - iii. Approve Army-FORA Economic Development Conveyance Agreement Amendment #7 - Cemetery Water Resources ACTION
 - iv. Approve Resolution 14-XX, allocating 15 acre-feet per year (AFY) for 2 years and 5 AFY permanently of groundwater to California Department of Veterans Affairs ACTION
- b. Quarterly Environmental Services Cooperative Agreement Update ([Pg. 37-40](#)) INFORMATION
- c. Status of Pollution Legal Liability Insurance Solicitation ([Pg. 41-47](#)) INFORMATION

9. NEW BUSINESS

- a. Appeal: Marina Coast Water District Determination Bay View Community Annexation ([Pg. 48-78](#)) ACTION

- | | |
|--|--------------------|
| b. Post Base Reuse Plan Reassessment Follow-up (Pg. 79-84) | INFORMATION/ACTION |
| i. Regional Urban Design Guidelines Task Force Update | |
| ii. Status of Remaining Category 3 Items | |

10. PUBLIC COMMENT PERIOD

Members of the public wishing to address the FORA Board of Directors on matters within the jurisdiction of FORA, but not on this agenda, may do so during the Public Comment Period for up to three minutes. Comments on specific agenda items are heard under that item.

11. EXECUTIVE OFFICER'S REPORT

- | | |
|---|-------------|
| a. Outstanding Receivables (Pg. 85) | INFORMATION |
| b. Habitat Conservation Plan Update (Pg. 86-88) | INFORMATION |
| c. Administrative Committee (Pg. 89-91) | INFORMATION |
| d. Veterans Issues Advisory Committee (Pg. 92-94) | INFORMATION |
| e. Finance Committee (Pg. 95) | INFORMATION |
| f. Water/Wastewater Oversight Committee (Pg. 96-97) | INFORMATION |
| g. Travel Report (Pg. 98-99) | INFORMATION |
| h. Public Correspondence to the Board (Pg. 100) | INFORMATION |

12. ITEMS FROM MEMBERS

13. ADJOURNMENT

NEXT REGULAR BOARD MEETING: May 9, 2014

Persons seeking disability related accommodations should contact FORA 24 hrs prior to the meeting. This meeting is recorded by Access Monterey Peninsula and televised Sundays at 9 a.m. and 1 p.m. on Marina/Peninsula Chanel 25. The video and meeting materials are available online at www.fora.org.

FORT ORD REUSE AUTHORITY

Resolution of Appreciation

Mayor Bill Kampe

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

WHEREAS, Bill Kampe was elected the Pacific Grove City Council in 2008 and ascended to his Mayoral post in 2012, concurrently appointed to the Fort Ord Reuse Authority Board of Directors - serving continuously, tirelessly, and commendably for the past five years; and

WHEREAS, Mayor Kampe served with extraordinary distinction as an Authority Finance Committee Member from 2011 - 2012, as Chair of the Finance Committee from 2012 - 2014, offering indispensable input and valued coordination with staff; and

WHEREAS, during his tenure as Finance Committee Chair, Mayor Kampe oversaw selection/work of the Authority's external audits, instigated the enhancement of Authority expense policies, effectively directed the budgeting process - strengthening the Authority's financial stability; and

WHEREAS, Bill Kampe also served as Chair of the Preston Park Negotiating Committee, offering sage advice and regional perspective to this key economic item; and

WHEREAS, Mayor Kampe has steadfastly supported the Monterey Bay's military/community partnerships and has been an active advocate for a comprehensive regional approach to critical water, infrastructure/public works and public safety issues; and

WHEREAS, the Fort Ord Reuse Authority has benefited in extraordinary ways from Bill Kampe's laudable patience and noteworthy diplomacy in both apprehending acronyms and navigating the bureaucratic cloud that hovers over the former Ford Ord economic recovery activities; and

WHEREAS, Mayor Kampe has consistently sought regional solutions to the political, socio-economic, and environmental issues facing the Monterey Bay community; and

NOW, THEREFORE, BE IT RESOLVED for all the supporting notations cited above, but not limited thereto, the Fort Ord Reuse Authority Board of Directors hereby expresses its sincere commendation to Mayor Bill Kampe;

BE IT FUTHER RESOLVED, on behalf of all Fort Ord Reuse Authority jurisdictions and staff the Board of Directors extends its gracious appreciation and deepest gratitude to Bill Kampe for his leadership of Pacific Grove and exemplary service to the Monterey Bay Region.

PASSED AND ADOPTED by the Fort Ord Reuse Authority Board of Directors this 11th day of April, 2014.

April 11, 2014

Supervisor Jerry Edelen, Chair

Date



FORT ORD REUSE AUTHORITY

BOARD OF DIRECTORS SPECIAL MEETING MINUTES

2:00 p.m. - Thursday, February 13, 2014
Carpenters Union Hall - 910 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Chair Edelen called the meeting to order at 2:00 p.m.

2. PLEDGE OF ALLEGIANCE

Councilmember Cohen led the Pledge of Allegiance.

3. CLOSED SESSION - The Board adjourned into closed session at 2:01 p.m.

- a. **Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – 2 Cases**
 - i. **Keep Fort Ord Wild v. Fort Ord Reuse Authority (FORA), Case Number: M114961**
 - ii. **The City of Marina v. Fort Ord Reuse Authority, Case Number: M11856**

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

The Board reconvened into open session at 2:28 p.m. Authority Counsel Jon Giffen announced no reportable action was taken.

5. ROLL CALL

Voting Members Present: (*alternates)(AR: entered after roll call)

Chair/Mayor Edelen (City of Del Rey Oaks)
Councilmember Beach (City of Carmel-by-the-Sea)
Supervisor Calcagno (County of Monterey)
Mayor Gunter (City of Salinas)
Councilmember Cohen* (City of Pacific Grove)
Councilmember Morton (City of Marina) *via telephone*
Mayor ProTem O'Connell (City of Marina)

Mayor Pro-Tem Oglesby (City of Seaside) *AR*
Supervisor Parker (County of Monterey)
Mayor Pendergrass (City of Sand City)
Supervisor Potter (County of Monterey)
Mayor Rubio (City of Seaside)
Councilmember Selfridge (City of Monterey)

Ex-officio (Non-Voting) Board Members Present: Alec Arago* (20th Congressional District), Nicole Charles* (17th State Senate District), Erica Parker* (29th State Assembly District), Graham Bice* (University of California, Santa Cruz), Andre Lewis* (California State University, Monterey Bay), Vicki Nakamura* (Monterey Peninsula College), Dan Albert, Jr.* (Monterey Peninsula Unified School District), Debbie Hale (Transportation Agency for Monterey County), COL Fellingner (US Army), Bill Collins (Fort Ord BRAC Office), and Director Moore (Marina Coast Water District).

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Chair Edelen noted that because Councilmember Morton was participating via teleconference, all votes would be conducted by roll call.

Executive Officer Michael Houlemard stated FORA continued to receive good feedback from the state on the progress of the veterans cemetery. It appeared that the grading work for the joint Veterans Affairs/Department of Defense Clinic would begin the following month.

7. CONSENT AGENDA

Supervisor Parker requested agenda item 7b be pulled for discussion.

- a. **Approve January 10, 2014 Board Meeting Minutes**
- c. **Approve Veterans Issues Advisory Committee Extension and Revised Committee Charge**
- d. **Confirm Chair's Legislative Advisory Committee and Finance Advisory Committee Appointments**

Chair Edelen stated that unless there were any objections, items 8a, 8c, and 8d would be deemed approved. No objections were received and the items were unanimously approved.

- b. **Approve Executive Officer Contract Extension**

Supervisor Parker stated the staff recommended contract extension of six years was longer than customary for public agencies and proposed a three-year term instead.

MOTION: Supervisor Parker moved, seconded by Councilmember Morton, to approve extension of the Executive Officer employment agreement until June 30, 2017.

MOTION FAILED: Ayes: Morton, Parker. Noes: Beach, Calcagno, Cohen, Edelen, Gunter, O'Connell, Pendergrass, Potter, Rubio, Selfridge. Absent: Oglesby.

MOTION: Mayor Rubio moved, seconded by Mayor Gunter, to approve extension of the Executive Officer employment agreement until June 30, 2020.

MOTION RECEIVED MAJORITY APPROVAL (2nd Vote Required for Passage): Ayes: Beach, Calcagno, Cohen, Edelen, Gunter, O'Connell, Pendergrass, Potter, Rubio, Selfridge. Noes: Morton, Parker. Absent: Oglesby.

8. OLD BUSINESS

- a. **Consistency Determination: Consider Certification, in Whole or in Part, of 2010 Monterey County General Plan as Consistent with the 1997 Fort Ord Reuse Plan**

Senior Planner Jonathan Garcia gave a PowerPoint presentation. Benny Young, County of Monterey, provided additional background information and clarified the County's commitment to meet Base Reuse Plan policies in response questions received from the Board and public.

- i. **Noticed Public Hearing**

Chair Edelen opened the public hearing and the Board received comments on the item from members of the public. After all comments were received, Chair Edelen asked whether there were any other members of the public wishing to speak. Seeing none, Chair Edelen brought discussion of the item back to the Board, signaling a close to the public hearing.

- ii. **Board Determination of Consistency**

MOTION: Supervisor Potter moved, seconded by Mayor Gunter, to approve resolution 14-XX, certifying that the 2010 Monterey County General Plan is consistent with the Fort Ord Base Reuse Plan.

John Ford and Wendy Strimling, County of Monterey, responded to questions from the Board and public.

MOTION RECEIVED MAJORITY APPROVAL (2nd Vote Required for Passage):

Ayes: Cohen, Calcagno, Gunter, Rubio, Oglesby, Pendergrass, Edelen, Potter, Beach.
Noes: Parker, Morton, O'Connell, Selfridge.

- b. **Post Reassessment Items**

Mr. Houlemard introduced the item and Assistant Executive Officer Steve Endsley provided a quick overview of each item on the agenda.

i. Approve Amended Post Reassessment Work-Plan

Associate Planner Josh Metz reviewed the Post Reassessment Work Plan.

ii. Approve Post Reassessment Advisory Committee (PRAC) Extension and Revised Committee Charge

Chair Edelen provided a report on changes to the PRAC and Finance Committees. He stated that Mayor Kampe planned to step down from his position on the FORA Board and had appointed Councilmember Lucius as his replacement, Mayor Pro-Tem Oglesby agreed to replace Mayor Kampe as Finance Committee Chair and had resigned from his position on the PRAC, and Councilmember Lucius agreed to fill the vacancy on the PRAC.

iii. Receive a Budget Report for the Fort Ord Reuse Authority/ California State University, Monterey Bay Colloquium Event

Mr. Garcia provided a budget report.

MOTION: Supervisor Potter moved, seconded by Supervisor Parker, to approve the amended Post Reassessment Work-Plan, extend the PRAC, and approve the revised PRAC charge, as recommended.

MOTION PASSED: Unanimous.

9. NEW BUSINESS

a. FORA Master Resolution Amendments

Chair Edelen reviewed the proposed Master Resolution amendments, as described in the Board packet and recommended by the Executive Committee.

MOTION: Mayor Rubio moved, seconded by Supervisor Parker, to approve the proposed amendments, as presented.

MOTION PASSED: Unanimous.

10. PUBLIC COMMENT PERIOD

The Board received comments from members of the public.

11. EXECUTIVE OFFICER'S REPORT

a. Outstanding Receivables

b. Habitat Conservation Plan (HCP) Update

Mr. Houlemard provided an update on the progress of the HCP, noting that staff was working with Senator Monning and Assemblymember Stone to move the document forward at the state level. He stated that the FORA Federal Legislative Mission delegation planned to address federal progress with Congressman Farr during their March trip to Washington, D.C.

c. Administrative Committee

d. Travel Report

Mr. Houlemard briefly discussed the travel report.

e. Public Correspondence to the Board

The Board deemed the Executive Officer's report accepted.

12. ITEMS FROM MEMBERS

None.

13. ADJOURNMENT

Chair Edelen adjourned the meeting at 4:13 p.m.



FORT ORD REUSE AUTHORITY

BOARD OF DIRECTORS SPECIAL MEETING MINUTES

2:00 p.m. - Friday, March 14, 2014

Carpenters Union Hall - 910 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Chair Edelen called the meeting to order at 2:01 p.m.

2. PLEDGE OF ALLEGIANCE

Assistant Executive Officer Steve Endsley led the Pledge of Allegiance.

3. CLOSED SESSION -

The Board adjourned into closed session at 2:03 p.m. Supervisor Parker (and Executive Officer Michael Houlemard) joined the meeting in closed session via telephone.

a. Conference with Legal Counsel - Existing Litigation, Gov Code 54956.9(a) – 2 Cases

i. Keep Fort Ord Wild v. Fort Ord Reuse Authority (FORA), Case Number: M114961

ii. The City of Marina v. Fort Ord Reuse Authority, Case Number: M11856

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

The Board reconvened into open session at 2:51 p.m. Authority Counsel Jon Giffen announced no reportable action was taken.

5. ROLL CALL

Participating via Teleconference:

Supervisor Parker - Ahwahnee Hotel - Lobby, 1 Ahwahnee Dr., Yosemite National Park, CA 95389

Voting Members Present: (*alternates)(AR: entered after roll call)

Chair/Mayor Edelen (City of Del Rey Oaks)

Mayor Pro-Tem Oglesby (City of Seaside)

Councilmember Beach (City of Carmel-by-the-Sea)

Supervisor Parker (County of Monterey) AR via telephone

Supervisor Calcagno (County of Monterey)

Mayor Pendergrass (City of Sand City)

Mayor Gunter (City of Salinas)

Supervisor Potter (County of Monterey)

Councilmember Lucius (City of Pacific Grove)

Mayor Rubio (City of Seaside)

Councilmember Morton (City of Marina)

Councilmember Selfridge (City of Monterey)

Mayor ProTem O'Connell (City of Marina)

Ex-officio (Non-Voting) Board Members Present: Nicole Charles* (17th State Senate District), Erica Parker* (29th State Assembly District), Graham Bice* (University of California, Santa Cruz), Eduardo Ochoa (California State University, Monterey Bay), Vicki Nakamura* (Monterey Peninsula College), Dan Albert, Jr.* (Monterey Peninsula Unified School District), Debbie Hale (Transportation Agency for Monterey County), COL Fellingner (US Army), Bill Collins (Fort Ord BRAC Office), and Director Moore (Marina Coast Water District).

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Chair Edelen welcomed Councilmember Lucius to the FORA Board. He announced that the Army had held their Annual Community Workshop and Bus Tour the previous weekend, with over 100 participants. The same day the East Garrison housing project had also held their grand opening. Both events enjoyed significant participation.

Chair Edelen stated that to assist the local jurisdictions with wildland fire protection, as required by the Base Reuse Plan Environmental Impact Report, FORA purchased four wildland fire engines for the Cities of Monterey, Seaside, and Marina, the Ord Military Community, and the Salinas Rural Fire Protection District. He announced that the engines had been recently officially paid in full and recognized representatives in attendance from each of the jurisdictions.

7. CONSENT AGENDA

a. Approve January 13, 2014 Board Meeting Minutes

Chair Edelen explained that staff had requested to pull the item for reconsideration at the next Board meeting. The Board allowed comment from a member of the public, but did not discuss or consider the item.

Supervisor Parker joined the meeting at 2:58pm.

8. OLD BUSINESS

a. 2nd VOTE: Consistency Determination - Consider Certification, in Whole or in Part, of 2010 Monterey County General Plan as Consistent with the 1997 Fort Ord Reuse Plan

Chair Edelen stated that a noticed public hearing on the item was held at the February 13, 2014 Board meeting. At that time, the Board received comments from all members of the public wishing to speak. He explained that the formal public hearing would not reopen, but that the Board would receive public comments on the agenda item, per Brown Act requirements. Chair Edelen also briefly discussed FORA protocol for receiving public correspondence. The Board received comments from members of the public. The Board discussed the item and County representatives responded to questions.

ORIGINAL MOTION: Approve resolution 14-XX, certifying that the 2010 Monterey County General Plan is consistent with the Fort Ord Base Reuse Plan.

2ND VOTE - MOTION FAILED (roll call vote): Ayes: Edelen, Gunter, Oglesby, Pendergrass, Potter, Rubio. Noes: Beach, Calcagno, Morton, O'Connell, Parker, Selfridge. *Abstain:* Lucius.

b. 2nd VOTE: Approve Executive Officer Contract Extension

ORIGINAL MOTION: Approve extension of the Executive Officer employment agreement until June 30, 2020.

2ND VOTE - MOTION PASSED (roll call vote): Ayes: Beach, Calcagno, Edelen, Gunter, Lucius, O'Connell, Oglesby, Pendergrass, Potter, Rubio, Selfridge. Noes: Morton, Parker.

9. NEW BUSINESS

a. Consistency Determination: Consider Certification, in Whole or in Part, of Seaside Zoning Code Text Amendments and Use Permit for a Youth Hostel, Located at 4420 Sixth Avenue, Seaside, CA, as Consistent with the 1997 Base Reuse Plan

Associate Planner Josh Metz introduced Rick Medina, City of Seaside. Mr. Medina provided background information on the item and reviewed the project specifics.

i. Noticed Public Hearing

Chair Edelen opened public hearing at 4:00 pm. The Board received comments from all interested members of the public and Chair Edelen closed the public hearing at 4:04 pm.

ii. Board Determination of Consistency

MOTION: Mayor Rubio moved, seconded by Councilmember Beach, to approve Resolution 14-01, certifying the City of Seaside's legislative land use decision and development entitlement that the Seaside General Plan zoning text amendment and project entitlements related to American Youth Hostel are consistent with the Fort Ord Base Reuse Plan.

MOTION PASSED UNANIMOUSLY (roll call vote): Ayes: Beach, Calcagno, Edelen, Gunter, Lucius, Morton, O'Connell, Oglesby, Parker, Pendergrass, Potter, Rubio, Selfridge.

b. Appeal: Marina Coast Water District Determination Bay View Community Annexation

Chair Edelen stated that, unless there were any objections, the Board would accept the Bay View Community's request for a 30-day continuance of the item to allow the Marina Coast Water District Board an opportunity to respond to the latest proposal. No objections were received.

c. Marina Coast Water District (MCWD) Presentation on Status of Water Augmentation Program

Director Tom Moore presented information to the Board regarding MCWD financials, the status of MCWD system assets, and various options for water augmentation.

Supervisor Parker left the meeting at 4:13 pm.

The Board discussed the item and received comments from members of the public, and Chair Edelen deemed the report received.

d. FORA FY 2013-14 Mid-Year Budget

Mr. Endsley provided a brief overview of the mid-year budget adjustment, noting that staff would return in May with the next fiscal year budget.

Supervisor Calcagno left the meeting at 4:48 pm.

MOTION: Councilmember Lucius moved, seconded by Councilmember Morton, to extend the meeting to 5:25 pm.

MOTION PASSED UNANIMOUSLY: Ayes: Beach, Calcagno, Edelen, Gunter, Lucius, Morton, O'Connell, Oglesby, Pendergrass, Potter, Rubio, Selfridge. *Absent*: Parker, Calcagno.

Controller Ivana Bednarik answered questions from members of the public regarding the mid-year budget.

MOTION: Mayor Gunter moved, seconded by Mayor Pro-Tem Oglesby, to accept the FY 13-14 FORA Operating Budget mid-year status report approving additional expenditures, as noted and recommended by the Finance Committee.

MOTION PASSED UNANIMOUSLY: Ayes: Beach, Calcagno, Edelen, Gunter, Lucius, Morton, O'Connell, Oglesby, Parker, Pendergrass, Potter, Rubio, Selfridge. *Absent*: Parker, Calcagno.

e. Base Reuse Plan Implementation - Regional Urban Design Guidelines

i. Consultant Solicitation

ii. Process/Schedule

Chair Edelen suggested that, in the interest of time, the Board consider continuing the item to the next Board meeting.

MOTION: Mayor Rubio moved, seconded by Councilmember Morton, to continue the item to the next Board meeting.

MOTION PASSED UNANIMOUSLY: Ayes: Beach, Calcagno, Edelen, Gunter, Lucius, Morton, O'Connell, Oglesby, Parker, Pendergrass, Potter, Rubio, Selfridge. *Absent:* Parker, Calcagno.

10. PUBLIC COMMENT PERIOD

None.

11. EXECUTIVE OFFICER'S REPORT

- a. Outstanding Receivables
- b. Habitat Conservation Plan Update
- c. Administrative Committee
- d. Veterans Issues Advisory Committee
- e. Finance Committee
- f. Water/Wastewater Oversight Committee
- g. Travel Report

Chair Edelen discussed the recent Federal Legislative Mission to Washington DC, noting that the FORA delegation may have secured important grant funds, details of which could not yet be discussed. He provided an overview of an ongoing language dispute between the Environmental Protection Agency and the Department of Defense that could greatly affect the jurisdiction's liability for munitions and explosives of concern (MEC). Mayor Rubio discussed several of the meetings and reported that it had been a very positive trip.

- h. FORA Master Resolution - Revised Version
- i. Public Correspondence to the Board

12. ITEMS FROM MEMBERS

None.

13. ADJOURNMENT

Chair Edelen adjourned the meeting at 5:14 p.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Approve Resolutions Transferring Fire Fighting Enhancement Equipment Titles	
Meeting Date:	April 11, 2014	ACTION
Agenda Number:	7c	

RECOMMENDATION:

Approve resolutions (**Attachment A**) transferring titles for four wildfire fighting fire vehicles and one water tender to the appropriate fire control agencies.

BACKGROUND/DISCUSSION:

The Fort Ord Base Reuse Plan (BRP) Environmental Impact Report (EIR) identified that the Fort Ord Reuse Authority (FORA), jointly with the local city managers and fire protection agencies involved, shall develop a regional program that promotes joint efficiencies in operations and funding for additional required fire protection services as a mitigation to reuse of the former Fort Ord. The Land Use Jurisdictions' Fire Chiefs met and agreed that fire-fighting apparatus would be the best use of the BRP allocated funds toward fire control. In July 2003, the FORA Board authorized the lease-purchase of five pieces of fire-fighting equipment, including four 4x4 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, Ord Military Community, and Salinas Rural Fire Departments.

This lease-purchase of equipment accomplished FORA's capital obligation under the BRP EIR to enhance the fire-fighting capabilities on the former Fort Ord in response to proposed development. The lease-purchase payments began in July 2004 and are now fully satisfied. The title transfer of this equipment completes the BRP EIR mitigation measure. FORA staff recommends the FORA Board approve the resolutions and transfer title of the equipment to the appropriate agencies.

FISCAL IMPACT:

Reviewed by FORA Controller 

FORA expended \$1,160,000 from development fees financing the purchase of this fire-fighting equipment.

COORDINATION:

Fire departments of the Cities of Marina, Monterey and Seaside, Ord Military Community and Salinas Rural.

Prepared by

Crissy Maras

Approved by

Michael A. Houlemard, Jr.

Attachment A

to Item 7c

- 1. Resolution 14-XX Transferring Title of Fire-Fighting Equipment to the City of Marina**
- 2. Resolution 14-XX Transferring Title of Fire-Fighting Equipment to the City of Monterey**
- 3. Resolution 14-XX Transferring Title of Fire-Fighting Equipment to the City of Seaside**
- 4. Resolution 14-XX Transferring Title of Fire-Fighting Equipment to the Ord Military Community**
- 5. Resolution 14-XX Transferring Title of Fire-Fighting Equipment to the Salinas Rural Fire Protection District**

**FORT ORD REUSE AUTHORITY
Resolution 14-XX**

**Resolution of the Fort Ord Reuse Authority Board Recognizing
Title Transfer of Fire-Fighting Equipment to the City of Marina**

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

WHEREAS, the Fort Ord Base Reuse Plan (BRP) Environmental Impact Report (EIR) identified that FORA, jointly with the local city managers and fire protection agencies involved, shall develop a regional program that promotes joint efficiencies in operations and funding for additional required fire protection services as a former Fort Ord reuse mitigation; and,

WHEREAS, former Fort Ord Land Use Jurisdictions' Fire Chiefs determined that the addition of wildfire fighting apparatus would be an appropriate method/mitigation to increase wildfire protection and an effective use of Fort Ord Reuse Authority (FORA) funding; and,

WHEREAS, in July 2003 the FORA Board approved the lease-purchase of five fire-fighting engines/equipment; and,

WHEREAS, the City of Marina received a fire-fighting engine capable of fighting wildfires in the undeveloped areas of the former Fort Ord; and,

WHEREAS, this coordinated effort between former Fort Ord Land Use Jurisdictions' Public Safety leadership and FORA exemplifies the intent of State Law in creating a multi-agency approach to the economic recovery from the impact of Fort Ord closure; and

WHEREAS, the lease-purchase contract has been fully satisfied by FORA.

NOW THEREFORE the Board hereby resolves that:

1. FORA transfers fire-fighting vehicle title to the City of Marina to sustain the City's ongoing support of wildfire protection and to supplement existing equipment, enabling increased safety on the former Fort Ord and the City of Marina.
2. The Board further resolves that in the title transfer of this equipment to Marina and other agencies, the BRP EIR mitigation measure is hereby declared complete.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jerry Edelen, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

**FORT ORD REUSE AUTHORITY
Resolution 14-XX**

**Resolution of the Fort Ord Reuse Authority Board Recognizing
Title Transfer of Fire-Fighting Equipment to the City of Monterey**

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

WHEREAS, the Fort Ord Base Reuse Plan (BRP) Environmental Impact Report (EIR) identified that FORA, jointly with the local city managers and fire protection agencies involved, shall develop a regional program that promotes joint efficiencies in operations and funding for additional required fire protection services as a former Fort Ord reuse mitigation; and,

WHEREAS, former Fort Ord Land Use Jurisdictions' Fire Chiefs determined that the addition of wildfire fighting apparatus would be an appropriate method/mitigation to increase wildfire protection and an effective use of Fort Ord Reuse Authority (FORA) funding; and,

WHEREAS, in July 2003 the FORA Board approved the lease-purchase of five fire-fighting engines/equipment; and,

WHEREAS, the City of Monterey received a fire-fighting engine capable of fighting wildfires in the undeveloped areas of the former Fort Ord; and,

WHEREAS, this coordinated effort between former Fort Ord Land Use Jurisdictions' Public Safety leadership and FORA exemplifies the intent of State Law in creating a multi-agency approach to the economic recovery from the impact of Fort Ord closure; and

WHEREAS, the lease-purchase contract has been fully satisfied by FORA.

NOW THEREFORE the Board hereby resolves that:

1. FORA transfers fire-fighting vehicle title to the City of Monterey to sustain the City's ongoing support of wildfire protection and to supplement existing equipment, enabling increased safety on the former Fort Ord and the City of Monterey.
2. The Board further resolves that in the title transfer of this equipment to Monterey and other agencies, the BRP EIR mitigation measure is hereby declared complete.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jerry Edelen, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

**FORT ORD REUSE AUTHORITY
Resolution 14-XX**

**Resolution of the Fort Ord Reuse Authority Board Recognizing
Title Transfer of Fire-Fighting Equipment to the City of Seaside**

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

WHEREAS, the Fort Ord Base Reuse Plan (BRP) Environmental Impact Report (EIR) identified that FORA, jointly with the local city managers and fire protection agencies involved, shall develop a regional program that promotes joint efficiencies in operations and funding for additional required fire protection services as a former Fort Ord reuse mitigation; and,

WHEREAS, former Fort Ord Land Use Jurisdictions' Fire Chiefs determined that the addition of wildfire fighting apparatus would be an appropriate method/mitigation to increase wildfire protection and an effective use of Fort Ord Reuse Authority (FORA) funding; and,

WHEREAS, in July 2003 the FORA Board approved the lease-purchase of five fire-fighting engines/equipment; and,

WHEREAS, the City of Seaside received a fire-fighting engine capable of fighting wildfires in the undeveloped areas of the former Fort Ord; and,

WHEREAS, this coordinated effort between former Fort Ord Land Use Jurisdictions' Public Safety leadership and FORA exemplifies the intent of State Law in creating a multi-agency approach to the economic recovery from the impact of Fort Ord closure; and

WHEREAS, the lease-purchase contract has been fully satisfied by FORA.

NOW THEREFORE the Board hereby resolves that:

1. FORA transfers fire-fighting vehicle title to the City of Seaside to sustain the City's ongoing support of wildfire protection and to supplement existing equipment, enabling increased safety on the former Fort Ord and the City of Seaside.
2. The Board further resolves that in the title transfer of this equipment to Seaside and other agencies, the BRP EIR mitigation measure is hereby declared complete.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jerry Edelen, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

**FORT ORD REUSE AUTHORITY
Resolution 14-XX**

**Resolution of the Fort Ord Reuse Authority Board Recognizing Title
Transfer of Fire-Fighting Equipment to the Ord Military Community**

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

WHEREAS, the Fort Ord Base Reuse Plan (BRP) Environmental Impact Report (EIR) identified that FORA, jointly with the local city managers and fire protection agencies involved, shall develop a regional program that promotes joint efficiencies in operations and funding for additional required fire protection services as a former Fort Ord reuse mitigation; and,

WHEREAS, former Fort Ord Land Use Jurisdictions' Fire Chiefs determined that the addition of wildfire fighting apparatus would be an appropriate method/mitigation to increase wildfire protection and an effective use of Fort Ord Reuse Authority (FORA) funding; and,

WHEREAS, in July 2003 the FORA Board approved the lease-purchase of five fire-fighting engines/equipment; and,

WHEREAS, the Ord Military Community received a fire-fighting engine capable of fighting wildfires in the undeveloped areas of the former Fort Ord; and,

WHEREAS, this coordinated effort between former Fort Ord Land Use Jurisdictions' Public Safety leadership and FORA exemplifies the intent of State Law in creating a multi-agency approach to the economic recovery from the impact of Fort Ord closure; and

WHEREAS, the lease-purchase contract has been fully satisfied by FORA.

NOW THEREFORE the Board hereby resolves that:

1. FORA transfers fire-fighting vehicle title to the Ord Military Community to sustain the ongoing support of wildfire protection and to supplement existing equipment, enabling increased safety on the former Fort Ord and the Ord Military Community.
2. The Board further resolves that in the title transfer of this equipment to the Ord Military Community and other agencies, the BRP EIR mitigation measure is hereby declared complete.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jerry Edelen, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

**FORT ORD REUSE AUTHORITY
Resolution 14-XX**

**Resolution of the Fort Ord Reuse Authority Board Recognizing Title
Transfer of Fire-Fighting Equipment to the Salinas Rural Fire
Protection District**

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

WHEREAS, the Fort Ord Base Reuse Plan (BRP) Environmental Impact Report (EIR) identified that FORA, jointly with the local city managers and fire protection agencies involved, shall develop a regional program that promotes joint efficiencies in operations and funding for additional required fire protection services as a former Fort Ord reuse mitigation; and,

WHEREAS, former Fort Ord Land Use Jurisdictions' Fire Chiefs determined that the addition of wildfire fighting apparatus would be an appropriate method/mitigation to increase wildfire protection and an effective use of Fort Ord Reuse Authority (FORA) funding; and,

WHEREAS, in July 2003 the FORA Board approved the lease-purchase of five fire-fighting engines/equipment; and,

WHEREAS, the Salinas Rural Fire Protection District received a water tender capable of assisting fighting wildfires in the undeveloped areas of the former Fort Ord; and,

WHEREAS, this coordinated effort between former Fort Ord Land Use Jurisdictions' Public Safety leadership and FORA exemplifies the intent of State Law in creating a multi-agency approach to the economic recovery from the impact of Fort Ord closure; and

WHEREAS, the lease-purchase contract has been fully satisfied by FORA.

NOW THEREFORE the Board hereby resolves that:

1. FORA transfers water tender title to the Salinas Rural Fire Protection District to sustain the ongoing support of wildfire protection and to supplement existing equipment, enabling increased safety on the former Fort Ord.
2. The Board further resolves that in the title transfer of this equipment to the Salinas Rural Fire Protection District and other agencies, the BRP EIR mitigation measure is hereby declared complete.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this ____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Jerry Edelen, Chair

Michael A. Houlemard, Jr., Secretary

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Approve Legal Services Budget Line Item Reallocation	
Meeting Date:	April 11, 2014	ACTION
Agenda Number:	7d	

RECOMMENDATION(S):

Approve a \$100,000 expense budget line item shift from *Legal/Litigation* to *Authority Counsel*.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority holds a contract with Jon Giffen to serve as Authority Counsel through the law firm of Kennedy, Archer and Giffen (KAG). These services are for Litigation/Legal Representation and Authority Counsel services. In the approved FY 13-14 budget, the budget allocation for these services was \$500,000 for Litigation and \$135,000 for Authority Counsel respectively. At that time, Mr. Giffen and staff expected more litigation representation. However, many of Mr. Giffen's hours under the category of Authority Counsel were in response to a significant number of unexpected legal challenges to project related issues and consistency determinations that did not become litigation. Conversely, many of the expected litigation hours have been deferred due to delays in legal maneuvering that will result in savings in the Legal Representation category.

There remains about \$400,000 in the Legal Representation line item available for this transfer. Staff recommends moving \$100,000 from *Legal/Litigation* to *Authority Counsel* to cover this required ongoing expense. As a reminder to the Board, the rates charged by KAG for Authority Counsel work are lower, than for litigation services. Consequently, staff anticipates a slightly lower overall cost for legal services this fiscal year.

FISCAL IMPACT:

Reviewed by FORA Controller 

No fiscal effect as this is reallocation of budgeted (approved) funds.

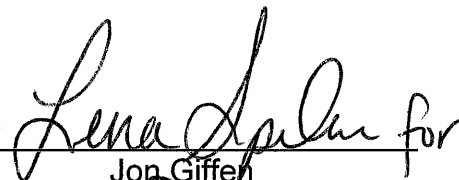
COORDINATION:

FORA Executive Committee, Authority Counsel

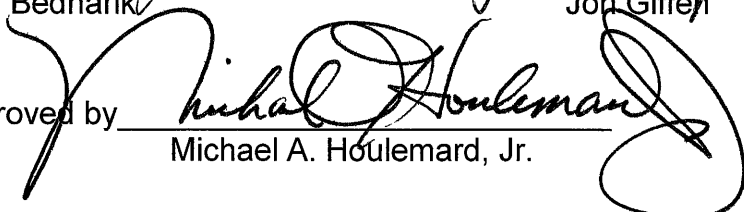
Prepared by


Ivana Bednarik

Reviewed by


Jon Giffen

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT		
OLD BUSINESS		
Subject:	California Central Coast Veterans Cemetery (CCCVC) Items	
Meeting Date:	April 11, 2014	INFORMATION/ACTION
Agenda Number:	8a	

RECOMMENDATION(S):

- i. Receive a Veterans Cemetery update.
- ii. Authorize the Executive Officer to execute an amended FORA-Seaside Cemetery Agreement (**Attachment A**).
- iii. Authorize the Executive Officer to execute an amended Army-FORA Economic Development Conveyance (EDC) Agreement Amendment #7 – Cemetery Water Resources (**Attachment B**).
- iv. Approve resolution 14-XX, allocating 15 acre-feet per year (AFY) for 2 years and 5 AFY permanently of groundwater to California Department of Veterans Affairs (CDVA) (**Attachment C**).

BACKGROUND/DISCUSSION:

Veterans Cemetery advocates, after working for more than 20 years, have made significant progress over the past year. Recent milestones include:

- State Senator Bill Monning's successful legislation securing a \$1 million loan from the State for the CCCVC;
- State Assembly providing an additional \$1 million in funding;
- Mayor Jason Burnett and Jimmy Panetta leading a fundraising campaign with the Central Coast State Veterans Cemetery Foundation that resulted in securing \$600,000 in funding;
- Representative Sam Farr's support in securing a Federal Department of Veterans Administration (DVA) grant for design and construction of the CCCVC;
- City of Seaside, County of Monterey, FORA, CDVA, and California Department of General Services (CDGS) completing resolutions/agreements allowing transfer of cemetery land to the State; and
- CDVA and CDGS working with DVA accomplished preliminary plans – 35% of CCCVC phase I design – by April 1, 2014.

In terms of schedule, CDVA and CDGS working with DVA have accomplished substantial work within the last 4-5 months and are on track to complete the design and obtain bids in June 2014, a crucial step in securing the federal DVA grant for construction in Fall 2014.

At its December 13, 2013 meeting, the FORA Board authorized execution of the FORA-State Veterans Cemetery transfer agreement. FORA and other entities need to accomplish several action items prior to the State's execution of the transfer agreement. First, CDGS requested that FORA and Seaside execute an amended FORA-Seaside Cemetery Agreement to clarify how the State would be obligated to transfer the cemetery parcel to the City of Seaside if the cemetery is not built. Staff recommends Board authorization to execute the amended agreement. Second, during its legislative mission in Washington, D.C., FORA legislative representatives met with Department of Defense (DoD)

representatives to discuss the Army providing sufficient groundwater for the CCCVC. Staff recommends Board authorization to executive FORA-EDC Agreement Amendment #7 to obtain these water resources.

Third, staff recommends Board approval of resolution 14-XX, allocating water resources to CDVA for the CCCVC.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

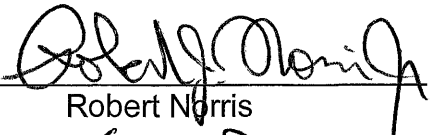
COORDINATION:

CDVA, CDGS, City of Seaside, U.S. Army, Representative Sam Farr, State Senator Bill Monning, Assemblymember Mark Stone, Central Coast State Veterans Cemetery Foundation, Administrative Committee, and Executive Committee.

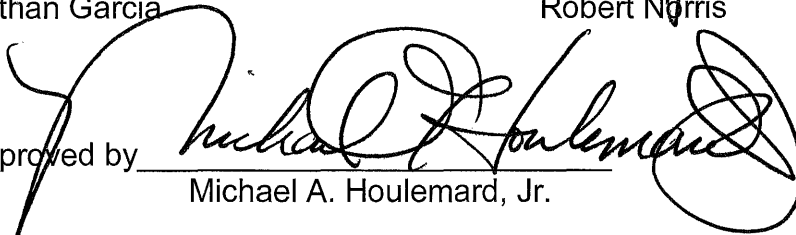
Prepared by


Jonathan Garcia

Reviewed by


Robert Norris

Approved by


Michael A. Houlemard, Jr.

**CITY OF SEASIDE AND FORT ORD REUSE AUTHORITY
CEMETERY AGREEMENT**

This Agreement is made by and among the **FORT ORD REUSE AUTHORITY** (FORA) and the **CITY OF SEASIDE** (CITY) (collectively the "Parties"). It is dated for reference on _____, 2014.

I. RECITALS

- A. Seaside and FORA initially made this agreement on April 19, 2013. This is an amended version of that agreement. This amended agreement replaces and supercedes that initial agreement.
- B. FORA was formed in 1994 by the Fort Ord Reuse Authority Act, Government Code sections 67650 and following. The goals of the FORA Act are set out in section 67651 as follows:
- "(a) To facilitate the transfer and reuse of the real and other property comprising the military reservation known as Fort Ord with all practical speed.
 - (b) To minimize the disruption caused by the base's closure on the civilian economy and the people of the Monterey Bay area.
 - (c) To provide for the reuse and development of the base area in ways that enhance the economy and quality of life of the Monterey Bay community.
 - (d) To maintain and protect the unique environmental resources of the area."

The FORA Board of Directors has determined by Resolution that, in principle, establishing a California Central Coast Veterans Cemetery (Veterans Cemetery) on the former Fort Ord would carry out these goals. This Agreement sets forth terms and conditions to assist the State of California (STATE) in its efforts to plan for that objective.

- C. In 2011, the Legislature amended Military and Veterans Code section 1450.1, attached to this Agreement as Exhibit B, directing the STATE Department of Veterans Affairs (DEPARTMENT), in cooperation with the CITY, County of Monterey (COUNTY), FORA, and surrounding local agencies, to design, develop, and construct the Veterans Cemetery on the former Fort Ord. This statute also directed the DEPARTMENT to oversee and coordinate the design, development and construction of the Veterans Cemetery consistent with the concepts published in the Monterey County Redevelopment Agency's "California Central Coast Veterans Cemetery Fort Ord Development Master Plan."
- D. FORA holds title to a parcel of land that may be suitable for use as burial site for a Veterans Cemetery (Cemetery Parcel), described in **Exhibit A** to this Agreement. FORA and the CITY have agreed to cooperate with the STATE in planning activities to evaluate the potential establishment of a Veterans Cemetery on that site. The decision to proceed with this project rests with the STATE.

- E. Transfer of Title to the property noted in Exhibit A furthers the STATE's effort to apply for federal funds for the planning, processing, review, design, construction and operations financing for a STATE Veterans Cemetery.
- F. By separate agreement with the CITY, FORA has agreed to transfer title to the Cemetery Parcel to the STATE for use as a Veterans Cemetery under restrictions administered by the United States Department of Veterans Affairs and the California Department of Veterans Affairs.

NOW THEREFORE, the parties agree as follows:

II. AGREEMENT

1.1. **Consent to Transfer.** CITY authorizes and directs FORA to transfer title to its portion of the Cemetery Parcel described in Exhibit A to the STATE for potential use as a Veterans Cemetery.

1.2. **Use of Cemetery Parcel.** The transfer of title to the Cemetery Parcel will be restricted to the STATE's future potential efforts to apply for federal support and STATE planning of the goals and principles for a STATE Veterans Cemetery under regulations administered by the United States Department of Veterans Affairs and the STATE Department of Veterans Affairs.

1.3. **Waiver of Transfer Right.** CITY waives its right to receive title to the portion of the Cemetery Parcel lying within its jurisdictional limits from FORA, except as otherwise provided in Section 1.6.

1.4. **State Conveyance.** CITY authorizes and directs FORA to convey the Cemetery Parcel directly to the STATE.

1.5. **Lead Agency.** This Agreement does not obligate any of the parties to proceed with the Veterans Cemetery. That decision has not been made. The decision to proceed with the Veterans Cemetery is in the purview of the STATE. If the STATE elects to proceed, it will act as "lead agency" for purposes of complying with the California Environmental Quality Act ("CEQA") and, to the extent applicable, the National Environmental Policy Act ("NEPA"). The Veterans Cemetery shall not proceed unless and until the STATE has planned for and prepared additional studies, documents and agreements based on information produced from the CEQA/NEPA environmental review process and on other public review and hearing processes subject to all applicable governmental approvals.

1.6. **Failure to Process a Grant Application to the U.S. Department of Veterans Affairs or Complete Veterans Cemetery.** The parties to this Agreement acknowledge that the state may fail to establish a Veterans Cemetery. The STATE has agreed to convey title to the Cemetery Parcel back to the CITY at the CITY's election within one hundred and eighty (180) days of the date on which any one of the following conditions occur, and the terms of this Agreement may be terminated by the CITY:

- (a) The Veterans Cemetery is not approved and permitted by all necessary local, state, and federal authorities by June 30, 2020, or

- (b) CalVet elects not to proceed with the construction and operation of the Veterans Cemetery on the Cemetery Parcel, or
- (c) If CalVet commences construction and begins operation of any part of the Veterans Cemetery by June 30, 2020, there shall be no reversion or retransfer pursuant to this condition, or
- (d) Use of the Cemetery Parcel as the Veterans Cemetery is discontinued for more than two consecutive years.

1.7. Consideration. As consideration for this Agreement:

- (a) FORA relinquishes its right to receive half the value of the Cemetery Parcel. If, however, the state reconveys the parcel to City under section 1.6, FORA will be entitled to half the land sale proceeds as provided in the Implementation Agreement.
- (b) CITY relinquishes its entitlement to receive title to the portion of the Cemetery Parcel lying within its boundaries, except as set forth in the Agreement.

2. Further Actions.

Any further actions resulting from this Agreement will become effective only if and after such actions have been considered and approved by FORA and the CITY, following conduct of all legally required procedures. This Agreement does not obligate any of the parties to proceed with the Veterans Cemetery. That decision has not been made. The decision to proceed with the Veterans Cemetery is in the purview of the STATE. The Veterans Cemetery shall not proceed unless and until the STATE has planned for and executed all required studies, documents and agreements based on information produced from the CEQA/NEPA environmental review process and on other public review and hearing processes subject to all applicable governmental approvals. In the event the STATE commences required studies, documents and agreements for the proposed Veterans Cemetery, the STATE shall include an analysis of transportation plans for access into and out of the Veterans Cemetery, including but not limited to, the potential extension of a roadway as shown in the Regional Transportation Plan dated April 2005. .

Each of the Parties agrees to execute and deliver to the other party such documents and instruments, and to take such actions, as may reasonably be required to give effect to the terms and conditions of this Agreement.

3. Amendment.

This Agreement may only be amended in writing executed by the Parties.

4. Interpretation.

This Agreement contains all of the terms and supersedes any prior oral understandings. This Agreement has been arrived at through negotiation, and has been reviewed by each party's respective counsel. Neither party is to be deemed the drafter under California Civil Code Section 1654.

5. Notices.

Any notice required to be given to any party shall be in writing and deemed given if personally delivered upon the other party or deposited in the United States mail and sent certified mail,

return receipt requested postage prepaid and addressed to the other party at the address set forth below, or sent via facsimile transmission during normal business hours to the party to which notice is given at the telephone number listed for fax transmission:

To FORA: Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority
920 Second Ave
Marina, CA 93933

Telephone: (831) 883-3672 Facsimile: (831) 883-3675

To CITY: John Dunn
City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

6. Indemnification.

Parties indemnify, defend and hold harmless each other, their officers, agents and employees, from and against any and all claims, liabilities and losses whatsoever (including but not limited to, damages to property, and injuries to or death of persons, court costs and attorneys fees) occurring to or resulting in any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies hired in connection with the performance of this Agreement, and from any and all claims, liabilities and losses occurring to or resulting in any person, firm, or corporation for damage, injury, or death arising out of or connected with the performance of this Agreement. This indemnification and hold harmless obligation shall not extend to any claim arising from the negligent or willful misconduct of the Parties, their officers, agents, and employees. The provisions of this Section shall survive the termination or expiration of this Agreement and extend for a five-year period thereafter.

7. Dispute Resolution.

Disputes arising under this agreement shall be resolved as follows:

a. Prevention of Claims/ Meet and confer (3 days)

The parties agree that they share an interest in preventing misunderstandings that could become claims against one another under this agreement. The parties agree to attempt to identify and discuss in advance any areas of potential misunderstanding that could lead to a dispute. If either party identifies an issue of disagreement, the parties agree to engage in a face-to-face discussion of the matter within three calendar days of the initial request. If the parties are unable to amicably resolve such disagreements or misunderstandings, they agree to enlist the informal assistance of a third party to help them reach an accord. If any disagreement remains unresolved for ten days, the parties agree to submit it to mediation.

b. Mediation (30 days)

Either party may demand, and shall be entitled to, mediation of any dispute arising under this agreement at any time after completing the meet and confer process described in subsection (a). Mediation shall commence not more than ten days after the initial mediation demand and must be concluded not more than thirty (30) days after the date of the first mediation demand. If mediation is not concluded within that time, then either party may demand arbitration.

Mediation shall be submitted first to a mediator with at least ten years experience in public law. The mediator shall be selected by mutual agreement of the parties. Failing such mutual agreement, a mediator shall be selected by the presiding judge of the Monterey County Superior Court. In the interest of promoting resolution of the dispute, nothing said, done or produced by either party at the mediation may be discussed or repeated outside of the mediation or offered as evidence in any subsequent proceeding. The parties acknowledge the confidentiality of mediation as required by Evidence Code 1152.5.

No mediator shall submit, and no arbitrator or court shall consider, any mediator recommendations, declarations, or findings unless the parties give their written consent to the proposed mediator statement.

c. Arbitration (60 days)

If mediation fails to resolve the dispute, the mediator shall become the arbitrator, and shall proceed to dispose of the case under such rules or procedures as he or she shall select. If the mediator is unable or unwilling to serve as arbitrator, the parties shall select an arbitrator by mutual agreement. Failing such agreement, the arbitrator shall be selected by the Presiding Judge of the Superior Court. The decision of the arbitrator shall be final and not subject to judicial litigation.

Arbitration shall be commenced within thirty days of the arbitration demand and concluded within 60 days of arbitration demand.

Arbitration shall follow the so-called "baseball arbitration" rule in which the arbitrator is required to select an award from among the final offers presented by the contending parties. The arbitrator may not render an award that compromises between the final offers.

Unless the arbitrator selects another set of rules, the arbitration shall be conducted under the J.A.M.S. Endispute Streamlined Arbitration Rules and Procedures, but not necessarily under the auspices of J.A.M.S. Upon mutual agreement, the parties may agree to arbitrate under an alternative scheme or statute. The Arbitrator may award damages according to proof. Judgment may be entered on the arbitrator's award in any court of competent jurisdiction.

NOTICE: IN AGREEING TO THE FOREGOING PROVISION, YOU ARE WAIVING YOUR RIGHT TO HAVE YOUR RIGHTS UNDER THIS AGREEMENT TRIED IN A COURT OF LAW OR EQUITY. THAT MEANS YOU ARE GIVING UP YOUR RIGHT TO TRIAL BY JUDGE OR JURY. YOU ARE ALSO GIVING UP YOUR RIGHT TO DISCOVERY AND APPEAL EXCEPT AS PROVIDED IN THE ARBITRATION RULES. IF YOU REFUSE TO ARBITRATE YOUR DISPUTE AFTER A PROPER DEMAND FOR ARBITRATION HAS BEEN MADE, YOU CAN BE FORCED TO ARBITRATE OR HAVE AN AWARD ENTERED AGAINST YOU BY DEFAULT. YOUR AGREEMENT TO ARBITRATE IS VOLUNTARY.

BY INITIALING THIS PROVISION BELOW, THE PARTIES AFFIRM THAT THEY HAVE READ AND UNDERSTOOD THE FOREGOING ARBITRATION PROVISIONS AND AGREE TO SUBMIT ANY DISPUTES UNDER THIS AGREEMENT TO NEUTRAL BINDING ARBITRATION AS PROVIDED IN THIS AGREEMENT.

FORA's INITIALS _____ CITY's INITIALS _____

8. Attorney's Fees.

If arbitration or suit is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of costs of suit, and not as damages, a reasonable attorneys' fee to be fixed by the arbitrator or Court. The "prevailing party" shall be the party entitled to recover costs of suit, whether or not the suit proceeds to arbitrator's award

or judgment. A party not entitled to recover costs shall not recover attorneys' fees. No sum for attorneys' fees shall be counted in calculating the amount of an award or judgment for purposes of determining whether a party is entitled to recover costs or attorneys' fees.

If either party initiates litigation without first participating in good faith in the alternative forms of dispute resolution specified in this Agreement, that party shall not be entitled to recover any amount as attorneys' fees or costs of suit even if such entitlement is established by statute.

9. Severability

If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

10. Waivers

Any waiver by the Parties of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the individual Parties to take action on any breach or default of Parties or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to either of the Parties to perform any individual obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement.

III. EXECUTION

FORT ORD REUSE AUTHORITY

By: _____
MICHAEL A. HOULEMARD, JR.
FORA Executive Officer

CITY OF SEASIDE

By: _____

IV. EXHIBITS

The following Exhibits are incorporated into this Agreement.

EXHIBIT A. Description of Cemetery Parcel

EXHIBIT B. Section 1450 of the Military and Veterans Code

EXHIBIT "A"
LEGAL DESCRIPTION
CALIFORNIA CENTRAL COAST VETERANS CEMETERY

Parcel X

Certain real property situate in the incorporated area of the City of Seaside, also situate in the City Lands of Monterey, Tract No. 1, County of Monterey, State of California, described as follows:

Being a portion of the land shown as Parcel B on the map filed in Volume 29 of Surveys at Page 106, Official Records of said County, particularly described as follows:

Beginning at the most northeasterly corner of said Parcel B, thence along the easterly boundary line of said Parcel B, South $18^{\circ}59'46''$ West, 1951.16 feet, said line also being the City Limit line of the City of Seaside, to the **True Point of Beginning**; thence continuing along said line

- X-1) South $18^{\circ}59'46''$ West, 1938.75 feet; thence departing said easterly line and said City Limit line
- X-2) Along the arc of a non-tangent curve, the center of which bears North $36^{\circ}12'19''$ East, 2468.00 feet distant, through a central angle of $11^{\circ}54'41''$, for an arc distance of 513.08 feet; thence
- X-3) North $41^{\circ}53'00''$ West, 1237.64 feet to a point which bears North $48^{\circ}07'00''$ East, 59.00 feet from the northwesterly terminus of the course shown as N $41^{\circ}53'00''$ W, 791.67' on said map filed in Volume 29 of Surveys at Page 106; thence
- X-4) Along the arc of a tangent curve, the center of which bears North $48^{\circ}07'00''$ East, 91.00 feet distant, through a central angle of $30^{\circ}00'00''$, for an arc distance of 47.65 feet; thence
- X-5) North $11^{\circ}53'00''$ West, 59.60 feet; thence
- X-6) Along the arc of a tangent curve, the center of which bears North $78^{\circ}07'00''$ East, 20.00 feet distant, through a central angle of $117^{\circ}07'49''$, for an arc distance of 40.89 feet; thence
- X-7) Along the arc of a tangent reverse curve, the center of which bears North $15^{\circ}14'49''$ East, 552 feet distant, through a central angle of $13^{\circ}02'02''$, for an arc distance of 125.57 feet; thence
- X-8) South $05^{\circ}24'15''$ East, 194.48 feet; thence
- X-9) South $41^{\circ}53'00''$ East, 53.63 feet; thence
- X-10) North $84^{\circ}35'45''$ East, 278.11 feet; thence
- X-11) North $05^{\circ}24'15''$ West, 232.73 feet; thence

- X-12) North 84° 35' 45" East, 297.28 feet; thence
- X-13) Along the arc of a tangent curve, the center of which bears North 05° 24' 15" West, 1832.00 feet distant, through a central angle of 20° 16' 03", for an arc distance of 648.04 feet; thence
- X-14) North 64° 19' 42" East, 542.01 feet; thence
- X-15) Along the arc of a tangent curve, the center of which bears South 25° 40' 18" East, 468.00 feet distant, through a central angle of 00° 58' 31", for an arc distance of 7.97 feet, more or less, to the True Point of Beginning.

Containing an area of 32.22 acres, more or less.

Parcel Y

Certain real property situate in the unincorporated area of Monterey County, also situate in the City Lands of Monterey, Tract No. 1, County of Monterey, State of California, described as follows:

Being a portion of the land shown as Parcel 1 on the map filed in Volume 23 of Surveys at Page 105, Official Records of said County, particularly described as follows:

Beginning at the most northeasterly corner of Parcel B, as shown on the map filed in Volume 29 of Surveys at Page 106, Official Records of said County, thence along the easterly boundary line of said Parcel B, South 18° 59' 46" West (shown as S 18° 59' 35" W on the map filed in Volume 30 of Surveys at Page 41), 1951.16 feet, said line also being the City Limit line of the City of Seaside, to the **True Point of Beginning**; thence departing said line

- Y-1) Along the arc of a non-tangent curve, the center of which bears South 24° 41' 47" East, 468.00 feet distant, through a central angle of 27° 51' 54", for an arc distance of 227.61 feet; thence
- Y-2) South 86° 49' 53" East, 248.88 feet, more or less, to a point on the easterly line of Parcel D, as shown on the map filed in Volume 30 of Surveys at Page 41; thence along said easterly line
- Y-3) South 04° 34' 26" East, 255.63 feet; thence
- Y-4) South 14° 47' 14" East, 1369.35 feet; thence
- Y-5) South 20° 28' 20" West, 520.37 feet; thence
- Y-6) South 30° 46' 05" West, 373.72 feet; thence departing said easterly line
- Y-7) North 59° 56' 41" West, 185.02 feet; thence
- Y-8) Along the arc of a non-tangent curve, the center of which bears North 31° 48' 45" West, 245.00 feet distant, through a central angle of 64° 30' 09", for an arc distance of 275.82 feet; thence

- Y-9) South $48^{\circ} 26' 44''$ West, 151.27 feet; thence
- Y-10) Along the arc of a tangent curve, the center of which bears South $48^{\circ} 26' 44''$ West, 632.00 feet distant, through a central angle of $01^{\circ} 45' 32''$, for an arc distance of 19.40 feet; thence
- Y-11) North $43^{\circ} 18' 48''$ West, 400.28 feet; thence
- Y-12) Along the arc of a tangent curve, the center of which bears South $46^{\circ} 41' 12''$ West, 1302.00 feet distant, through a central angle of $12^{\circ} 17' 09''$, for an arc distance of 279.19 feet; thence
- Y-13) Along the arc of a tangent reverse curve, the center of which bears North $34^{\circ} 24' 03''$ East, 2468.00 feet distant, through a central angle of $01^{\circ} 48' 16''$, for an arc distance of 77.73 feet, more or less, to a point on the easterly line of said Parcel B as shown on said map filed in Volume 29 of Surveys at Page 106, said point also being on the City Limit line of the City of Seaside; thence along said easterly line
- Y-14) North $18^{\circ} 59' 46''$ East (shown as S $18^{\circ} 59' 35''$ W on said map filed in Volume 30 of Surveys at Page 41), 1938.75 feet to the true point of beginning.

Containing an area of 52.16 acres, more or less.

Attached hereto is a plat to accompany this legal description, and by this reference made a part hereof.

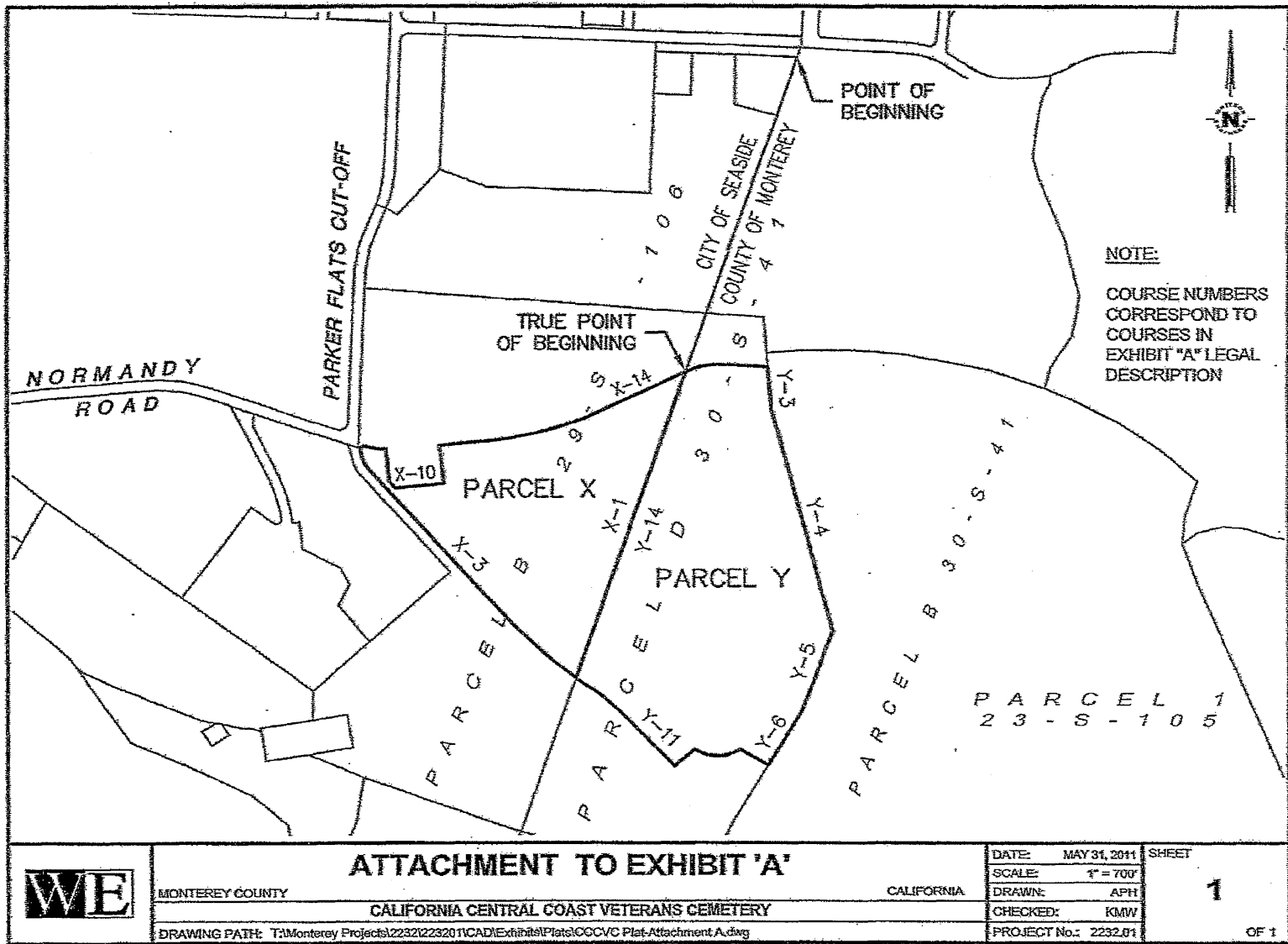
END OF DESCRIPTION

PREPARED BY:

WHITSON ENGINEERS


KENNETH M. WHITSON, P.E.
R.C.E. NO. 25766





MILITARY AND VETERANS CODE

SECTION 1450

1450. For purposes of this chapter, the following definitions apply:

(a) "Administrative and oversight costs" means costs incurred by the department for the maintenance of the veterans cemetery including, but not limited to, personnel costs, the opening and closing of graves, the interment of remains, committal service coordination, grounds keeping, landscaping, general maintenance, and janitorial services.

(b) "Department" means the Department of Veterans Affairs.

(c) "Endowment Fund" means the California Central Coast State Veterans Cemetery at Fort Ord Endowment Fund.

(d) "Operations Fund" means the California Central Coast State Veterans Cemetery at Fort Ord Operations Fund.

(e) "Phases" means the usual phases of a capital outlay project, and includes studies, preliminary plans, working drawings, including documents necessary to put the construction phase out to bid, and construction.

(f) "Veterans cemetery" means the California Central Coast State Veterans Cemetery at Fort Ord.

1450.1. (a) Pursuant to this chapter, the department, in voluntary cooperation with the Board of Supervisors of the County of Monterey, the City of Seaside, the Fort Ord Reuse Authority, and surrounding counties, cities, and local agencies, shall design, develop, and construct the state-owned and state-operated veterans cemetery, which shall be located on the site of the former Fort Ord.

(b) The department shall oversee and coordinate the design, development, construction, and equipping of the veterans cemetery.

(c) It is the intent of the Legislature that the design of the veterans cemetery closely follows the concepts published in the California Central Coast Veterans Cemetery Fort Ord Development Master Plan as prepared for the Monterey County Redevelopment Agency.

(d) Notwithstanding Section 10107 of the Public Contract Code, and as authorized by Section 67679 of the Government Code, in fulfilling the requirements of subdivision (a), the department may enter into an agreement with the Fort Ord Reuse Authority for the project under subdivision (a) to be under the sole charge and direct control of the veterans cemetery public works project.

1450.2. (a) The Secretary of the California Department of Veterans Affairs shall establish the California Central Coast Veterans Cemetery Advisory Committee that consists of the following persons appointed by the secretary:

(1) One representative from the County of Monterey, nominated by the Board of Supervisors of the County of Monterey.

(2) One representative from the City of Seaside, nominated by the City Council of the City of Seaside.

(3) One representative from the Fort Ord Reuse Authority, nominated by the board of directors of the Fort Ord Reuse Authority.

(4) Two members from the Fort Ord Veterans Cemetery Citizens Advisory Committee, nominated by that committee.

(5) At least two members from the department.

(b) In recognition of the fact that the Endowment Fund will be made up largely of private and local funds, the department shall seek the advice of the Advisory Committee when considering significant changes in the design of the veterans cemetery.

Kutak Rock Draft

**AMENDMENT NO. 7
TO THE
MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
ACTING BY AND THROUGH
THE SECRETARY OF THE ARMY
UNITED STATES DEPARTMENT OF THE ARMY
AND
THE FORT ORD REUSE AUTHORITY
FOR THE SALE OF
PORTIONS OF THE FORMER FORT ORD
LOCATED IN MONTEREY COUNTY, CALIFORNIA**

1 **THIS AMENDMENT NO. 7** (“Amendment No. 7”) to the *Memorandum of Agreement*
2 *between the United States of America acting by and through the Secretary of the Army, United*
3 *States Department of the Army, and the Fort Ord Reuse Authority for the Sale of Portions of the*
4 *Former Fort Ord Located in Monterey County, California dated June 20, 2000* (“Agreement”) is
5 entered into on this ____ day of _____ 2014 by and between **THE UNITED STATES OF**
6 **AMERICA**, acting by and through the Department of the Army (“Government”), and **THE**
7 **FORT ORD REUSE AUTHORITY**, recognized as the local redevelopment authority for the
8 former Fort Ord, California, by the Office of Economic Adjustment on behalf of the Secretary of
9 Defense (“Authority”). The Government and the Authority are sometimes referred to herein
10 collectively as a “Party” or, collectively, as the “Parties.”
11

RECITALS

12 **WHEREAS**, the Parties did enter into the Agreement for the Economic Development
13 Conveyance (“EDC”) to the Authority of a portion of the former Fort Ord, California
14 (“Property”) pursuant to Section 2905(b)(4) of the Defense Base Closure and Realignment Act
15 of 1990, as amended, and the implementing regulations of the Department of Defense (32 CFR
16 Part 174); and
17
18
19

20 **WHEREAS**, pursuant to Article 5.02 of the Agreement, the Government reserved 1,729
21 acre feet per year of water exclusively for Government use (“Government Water Rights”); and
22

23 **WHEREAS**, pursuant to Amendment No. 1 to the Agreement dated October 23, 2001,
24 that certain *Exchange Agreement Between the City of Seaside and the Army* dated May 9, 2008,
25 Amendment No. 6 to the Agreement dated _____, and other Government actions, the
26 Government reduced its reserved Government Water Rights to _____ acre feet per year of
27 Government Water Rights; and

WHEREAS, pursuant to Article 5.02 of the Agreement, the Authority is granted the right of first refusal to negotiate with the Government for use of the Government Water Rights not utilized by the Government (“Unutilized Government Water Rights”); and

WHEREAS, the Government has determined that it has such Unutilized Government Water Rights within the meaning of the Agreement; and

WHEREAS, the Authority desires to have access to ____ acre feet of Unutilized Government Water Rights for purposes of conveying such ____ acre feet of Unutilized Government Water Rights to the State of California for use at a State Veterans Cemetery in the City of Seaside and unincorporated Monterey County, California (“Veterans Cemetery”) (“Veteran Facility Water Rights”); and

WHEREAS, the Government desires to make the Veterans Facility Water Rights available to the Authority in exchange for the Authority making such Veterans Facility Water Rights available to the State of California.

NOW THEREFORE, in consideration of the foregoing water rights and the respective representations, agreements, covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENTS

Article 1. Availability of Veterans Facility Water Rights:

1.01. Out of the Government's Unutilized Government Water Rights, the Government shall assign to the Authority, and its successors and assigns, the right to use up to ____ acre feet of potable water per year from the Government's allocation of potable water pursuant to a Government Water Deed in substantially the form attached hereto as Exhibit "A" to this Amendment No. 7.

1.02. The Authority shall cause the conveyance of (a) up to ____ acre feet of potable water per year to the State of California pursuant to an Authority/State Water Deed in substantially the form attached hereto as Exhibit “B” to this Amendment No. 7.

Article 2. Closing:

2.01. Requirements for Closing: The transfer of water rights (the “Closing”) shall occur as follows:

a. Escrow. The Closing shall be consummated through an escrow, or such other means as the Parties may mutually agree. The Parties agree to appoint Chicago Title – Salinas, California, as the Escrow Agent (“Escrow Agent”) pursuant to a mutually acceptable Escrow

1 Agreement (“Escrow Agreement”) substantially in the form of Exhibit “C” to this Amendment
2 No. 7 to facilitate the exchange of water rights contemplated by this Amendment No. 7.
3

4 b. Time and Place. The Closing shall take place within thirty (30) days following
5 the Parties’ written notification to each other that all necessary documentation has been
6 completed and delivered to the Escrow Agent in accordance with this Amendment No. 7. If
7 Closing does not occur within one year of the execution of this Amendment No. 7, this
8 Amendment No. 7 shall be void, and the Parties shall have no further obligations to each other
9 under this Amendment No. 7.
10

11 c. Army Deliveries. The Army shall deliver to the Escrow Agent, on or before the
12 Closing, the Government Water Deed in a form previously reviewed and approved by the
13 Authority.
14

15 d. Authority Deliveries. The Authority shall deliver to the Escrow Agent, on or
16 before the Closing, the Authority/State Water Deed and Authority/Seaside Water Deed in a form
17 previously reviewed and approved by the Authority and the State of California, respectively.
18

19 **Article 3. Survival and Benefit:**
20

21 a. Unless defined separately, the terms used in this Amendment No. 7 shall be the
22 same as used and defined in the Agreement, as amended.
23

24 b. Except as set forth herein, and unless modified specifically by this Amendment
25 No. 7, the terms and conditions contained in the Agreement, as amended, shall remain binding
26 upon the Parties and their respective successors and assigns as set forth in the Agreement, as
27 amended.
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Article 4. Exhibits:

The following exhibits are attached and made a part hereof:

- Exhibit A:** Government Water Deed
Exhibit B: Authority/State Water Deed
Exhibit C: Escrow Agreement

In Witness Whereof, the Parties, intending to be legally bound, have caused their duly authorized representatives to execute and deliver this Amendment No. 7 as of the date first above written.

**UNITED STATES OF AMERICA,
Acting by and through the Department of the Army**

By: _____

**FORT ORD REUSE AUTHORITY
LOCAL REDEVELOPMENT AUTHORITY**

By: _____
Michael A. Houlemard, Jr.
Executive Officer

Resolution of the Authority Board)
Allocating 15 acre-feet per year)
(AFY) for 2 years and 5 AFY)
Permanently of groundwater to)
California Department of Veterans)
Affairs (CDVA))

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

WHEREAS, on June 20, 2000, the Fort Ord Reuse Authority (FORA) and U.S. Army (Army) signed an Economic Development Conveyance (EDC) Agreement transferring the Army's 6,600 AFY of water rights with a reservation of 1,729 AFY of water exclusively for Army use; and

WHEREAS, the California Department of Veterans Affairs (CDVA) intends to design, build, and operate the California Central Coast Veterans Cemetery (CCCVC) on former Fort Ord; and

WHEREAS, the Army has agreed to provide 15 AFY for 2 years and 5 AFY permanently of groundwater to FORA for the purpose of providing the CCCVC an adequate water supply; and

WHEREAS, the Army and FORA will formalize provision of Army groundwater for the CCCVC through execution of Amendment #7 to the June 20, 2000 FORA-Army EDC Agreement; and

NOW, THEREFORE, BE IT RESOLVED by the FORA Board of Directors that:

1. Upon FORA and Army's execution of Amendment #7 to the FORA-Army EDC Agreement, the FORA Board of Directors hereby allocates 15 AFY for 2 years and 5 AFY permanently of groundwater to CDVA.

Upon motion by _____, seconded by _____, the foregoing Resolution was passed on this 11th day of April, 2014, 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:	Quarterly Environmental Services Cooperative Agreement Update	
Meeting Date:	April 11, 2014	INFORMATION
Agenda Number:	8b	

RECOMMENDATION:

Receive an Environmental Services Cooperative Agreement (ESCA) status report.

BACKGROUND:

In Spring 2005, the U.S. Army (Army) and the Fort Ord Reuse Authority (FORA) entered into negotiations toward an Army-funded Environmental Services Cooperative Agreement (ESCA) for the removal of remnant Munitions and Explosives of Concern (MEC) on the former Fort Ord. Under the terms of this ESCA contract, FORA accepted transfer of 3,340 acres of former Fort Ord land prior to regulatory environmental sign-off. In early 2007, the Army awarded FORA approximately \$98 million to perform the munitions cleanup on the ESCA parcels. FORA also entered into an Administrative Order on Consent (AOC) with U.S. Environmental Protection Agency (EPA) and California Department of Toxic Substance Control (DTSC) defining contractual conditions under which FORA completes Army remediation obligations for the ESCA parcels.

In order to complete the AOC defined work, after a competitive selection process, FORA entered into a Remediation Services Agreement with LFR Inc. (now ARCADIS) to provide MEC remediation services and executed a Cost-Cap insurance policy for this remediation work through American International Group (AIG). FORA received the "ESCA parcels" after EPA approval and gubernatorial concurrence under a Finding of Suitability for Early Transfer on May 8, 2009.

The ESCA Remediation Program (RP) has been underway for seven (7) years. Currently, the FORA team has completed known ESCA RP field work, pending regulatory review.

DISCUSSION:

The ESCA requires FORA, acting as the Army's contractor, to address safety issues resulting from previous munitions training operations conducted at the former Fort Ord. This allows the FORA ESCA RP team to successfully implement cleanup actions that address three major past concerns: 1) the requirement for yearly appropriation of federal funding that delayed cleanup and necessitated costly mobilization/demobilization expenses; 2) state and federal regulatory questions about protectiveness of previous actions for sensitive uses; and 3) local jurisdictional/community/FORA's desire to reduce, to the extent possible, risk to individuals accessing the property.

Under the ESCA grant contract with the U.S. Army, FORA received approximately \$98 million grant to clear munitions and to secure regulatory approval for the former Fort Ord ESCA parcels. FORA subsequently entered into a guaranteed fixed-price contract with LFR (now ARCADIS) to complete the work as defined in a Technical Specifications and Review

Statement (TSRS) appended to the ESCA grant contract. As part of a contract between FORA and ARCADIS, insurance coverage was secured from AIG for which FORA paid \$82.1 million upfront from grant funds. This policy provides the funds that AIG uses to pay ARCADIS for the work performed.

The AIG coverage also provides for up to \$128 million to address additional work for both known and unknown site conditions, if needed. That assures extra funds in place to complete the scope of work to the satisfaction of the Regulators. AIG monitors/approves ARCADIS expenditures in meeting AOC/TSRS grant requirements.

Based on the Army ESCA grant contract, the EPA AOC requirements and AIG insurance coverage provisions, AIG controls the ARCADIS/AIG \$82.1 million Commutation Account. The full amount was provided to AIG in 2008 as payment for a cost-cap insurance policy where AIG reviews ARCADIS' work performed and makes payments directly to ARCADIS. FORA oversees that the work complies with grant/AOC requirements.

Item	Originally Allocated	Accrued through December 2013
FORA Self-Insurance Policy	\$916,056	916,056
Reimburse Regulators & Quality Assurance	\$4,725,000	2,027,586
State of California Surplus Lines Tax, Risk Transfer, Mobilization	\$6,100,000	\$6,100,000
Contractor's Pollution Liability Insurance	\$477,344	\$477,344
Work Performed ARCADIS/AIG Commutation Account	\$82,117,553	\$66,869,544
FORA Administrative Fees	\$3,392,656	2,799,114
Total	\$97,728,609	\$79,189,644
	ESCA Remainder	\$18,538,965

It is important to highlight that data collected during the ESCA investigation stage remains under review by the regulatory agencies who determine when the remediation work is complete. They will only issue written confirmation of regulatory site closure when they are satisfied the work is protective of human health and that the Final Proposed Plan, Record of Decision, Land Use Control Operation and Maintenance Plan is completed and approved. The process of completing the review and documentation is dependent on Army and regulatory agency responses/decisions. Until regulatory site closure is received, the ESCA property remains closed to the public. When regulatory site closure is received, FORA will transfer land title to the appropriate jurisdiction.

To date, the ESCA RP has provided the stewardship for 3,340 ESCA acres. The stewardship includes the following:

1. Through primary ESCA actions
 - A. Over 4,900 munitions items recovered
 - B. Over 50,000 lbs munitions debris
 - C. Over 133,000 cu yd soil sifted

2. Through supporting ESCA actions

A. Removed Illegal Dumping Material

- Sponsored a Volunteer Cleanup Day for 2 miles of Fort Ord roads
- Provided a system to report/notify jurisdictions of illegal trash dumping

B. Removed dilapidated Army structures

- Latrines
- Range towers
- Army training structures, equipment

C. Removed residual Army cultural debris - 121,000 lbs

D. Removed invasive weed species

- Ice Plant
- French Broom
- Pampas Grass

E. Habitat Management Restoration Monitoring

- Coordinated habitat and species needs with UXO removal efforts to minimize impacts
- Managed 3,340 acres for 15 threatened and endangered species for 7 years
- Restoration of 14 acres of Coastal Chaparral habitat
- Sprouted, planted more than 30,000 native plant seedlings

F. Provided safe coordinated access through ESCA properties for seven (7) years

- Members of the public – no injuries
- Fort Ord National Monument
- Use of ESCA multiple roads by bikers, hikers, runners, equestrians
- Community outreach concerning access restrictions and corridors
 - Informal Community Workshops
 - Dedicated ESCA website, newsletters, Facebook, ESCA Hotline
 - On-site information kiosks, signage at various trailheads
 - ESCA updates at Army Community Information Workshops
 - ESCA updates at FORA Board meetings
 - ESCA representation at informational booths at community events

G. Site safety sustained throughout removal program

- Site preparation, biologists, munitions workers – no injuries

The ESCA team continues to actively monitor biological resources and track restoration activities on the ESCA property.

The ESCA RP team's major effort is on the required Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) documentation to gain regulatory certification of completion. Two significant issues have surfaced impacting the document delivery schedule. First is an issue between the Army and EPA concerning the definition of MEC as hazardous substances under CERCLA. After months of informal discussions, EPA invoked the formal Dispute Resolution process. This has specifically impacted the Group 2 and Group 3 Record of Decision schedules. The second significant issue concerns documenting FORA's Residential Quality Assurance (RQA) process as developed under a pilot study in accordance with the terms of the ESCA. DTSC has required reporting, in addition to the CERCLA documentation, on the RQA process which is likely to further impact

the ESCA document schedule. FORA staff and the ESCA RP team are closely monitoring these two issues to efficiently execute the documentation phase of the program.

For the County North and Parker Flats Phase 1 ESCA properties, FORA received written confirmation from the regulatory agencies that CERCLA MEC remediation work is complete (regulatory site closure). For these properties, ARCADIS commuted ESCA insurance coverage for related clean-up costs for coverage for unknown conditions.

Per the existing FORA/Jurisdiction Implementation Agreements and Memorandum of Agreement regarding property ownership and responsibilities during the period of environmental services, deeds and access control for these properties has been transferred to the new land owner. At the County's request, FORA staff is working with County staff to adjust the former ESCA signage based on a signage plan being developed under the joint direction of Monterey County staff, Monterey County Sheriff's Department and the Bureau of Land Management, with review by the FORA ESCA team.

Regulatory approval does not determine end use. Underlying jurisdictions are empowered to impose or limit zoning, decide property density or make related land use decisions in compliance with the FORA Base Reuse Plan.

FISCAL IMPACT:

Reviewed by FORA Controller 

The funds for this review and report are part of the existing FORA ESCA funds.

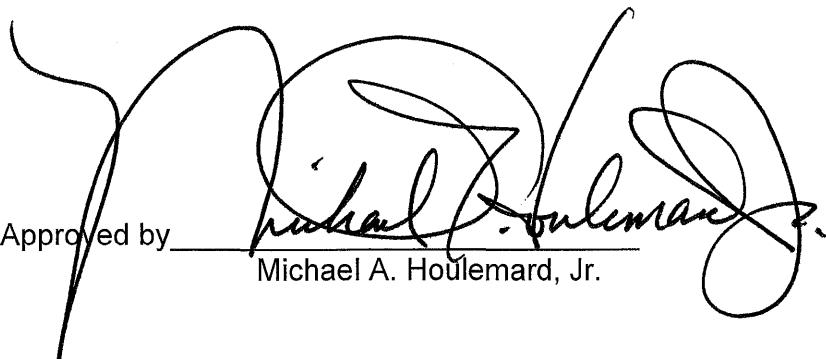
COORDINATION:

Administrative Committee; Executive Committee; FORA Authority Counsel; ARCADIS; U.S. Army EPA; and DTSC

Prepared by


Stan Cook

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT		
OLD BUSINESS		
Subject:	Status of Pollution Legal Liability Insurance Solicitation	
Meeting Date:	April 11, 2014	INFORMATION
Agenda Number:	8c	

RECOMMENDATION(S):

Receive a report on FORA's Pollution Legal Liability (PLL) insurance solicitation process.

BACKGROUND/DISCUSSION:

On June 20, 2000, the Fort Ord Reuse Authority (FORA) entered into an Economic Development Conveyance Agreement with the United States Army (Army) for the transfer of former Fort Ord land. In 2001, FORA entered into property transfer agreements with underlying jurisdictions. Under the terms of these Implementation Agreements, with a few exceptions, FORA is obligated to transfer former Army property to individual jurisdictions, and those jurisdictions are required to accept title to this property from FORA (or direct FORA to transfer to their designee) once regulatory approval of environmental conditions is achieved. The affected jurisdiction then owns former Fort Ord land within their jurisdictional boundary to transfer for private development or to maintain for public purposes. Since both FORA and the underlying jurisdictions are in the chain of title for these former military lands, environmental liability concerns exist. Board members expressed concern that associated environmental risk might expose their general funds to claims and asked FORA staff to provide options for environmental insurance coverage, which would be cheaper and more efficient if acquired collectively. In 2002, after research and industry inquiries, FORA staff determined that only limited coverage was available for former military owned land. Subsequently, after consultation with FORA special counsel Barry Steinberg, it was concluded that coverage could be obtained, but at significant cost.

In 2004, after noting changes in the financial markets and upon receipt of information from the Association of Defense Communities, staff reported on options for coverage for PLL insurance. That year, the Board authorized purchase of a ten-year policy to provide PLL insurance coverage to FORA, its member land use jurisdictions, and their developers. This insurance policy will expire at the end of calendar year 2014. No formal claims against the policy have been made over the years it has been in place.

While the existing cost cap policy addresses FORA's obligations under the Environmental Services Cooperative Agreement (ESCA) with the Army, that coverage terminates upon completion of remedial work. The current cost-cap policies do not adequately address many of the risks associated with the day-to-day operations and activities that will occur over the next 5 to 10 years.

In Spring 2005, the Army and FORA entered negotiations for an Army-funded ESCA for removal of remnant Munitions and Explosives of Concern (MEC) on the former Fort Ord. Under the terms of this ESCA contract, FORA accepted transfer of 3,340 former Fort Ord acres prior to regulatory environmental sign-off. In early 2007, the Army awarded FORA approximately \$98 million to perform the ESCA parcels MEC cleanup. FORA also entered into an Administrative Order on Consent (AOC) with the U.S. Environmental Protection

Agency and the California Department of Toxic Substance Control defining conditions under which FORA performs contractual responsibilities for these Army remediation obligations.

In order to complete the AOC defined work, after a competitive selection process, FORA entered into a Remediation Services Agreement with LFR Inc. (now ARCADIS) to provide MEC remediation services and executed a Cost-Cap insurance policy for this remediation work through American International Insurance Group. The Army ESCA Grant also provided FORA with \$916,056 toward the purchase of PLL insurance coverage similar to what the FORA Board purchased in 2004.

Through FORA's ESCA contract and the Army's other work under the Comprehensive Environmental Response, Compensation, and Liability Act, most of the remaining lands transferring through FORA have completed significant risk "characterization." In other words, much more is known today about the pollution conditions on the 6,000 acres than was known ten years ago. This should assist in attracting proposals from the insurance industry. The combination of: 1) the availability of ESCA PLL insurance funds and 2) the status of the investigations and characterization that has been performed since 2004 provides the FORA Board with a unique opportunity to supplement these funds and negotiate an extension to or replacement of the existing FORA PLL policy.

On January 10, 2014, the FORA Board authorized Insurance Broker Kathy Gettys, Marsh, to distribute a Request for Proposals (RFP) for a new PLL insurance policy.

Marsh distributed the RFP in March 2014 and held an in-person informational meeting with potential PLL insurance providers on April 1, 2014. The RFP is included under **Attachment A**. Next steps include:

1. Submission of proposals to FORA – May 1, 2014
2. Evaluation of proposals – complete by June 1, 2014
3. Notification of acceptance/rejection – June 15, 2014
4. Negotiation with carriers: July 1 through September 2014
5. Presentation to FORA Board for approval – November 8, 2014
6. Bind new PLL policy – December 1, 2014

FISCAL IMPACT:

Reviewed by FORA Controller 

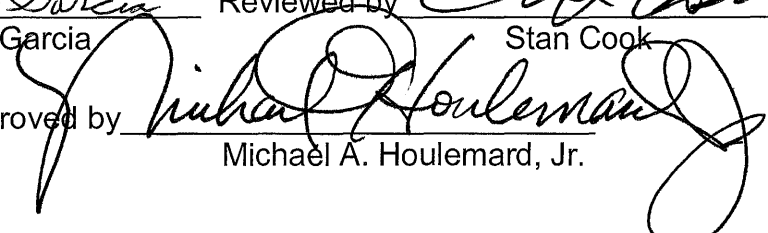
Fiscal impact is yet to be determined. Staff time for this item is included in the approved FORA budget.

COORDINATION:

FORA land use jurisdictions and other agencies receiving property and/or accessing insurance coverage include: City of Marina, City of Seaside, City of Monterey, City of Del Rey Oaks, County of Monterey, Monterey Peninsula College, Marina Coast Water District, Transportation Agency for Monterey County, and Monterey-Salinas Transit.

Prepared by 
Jonathan Garcia

Reviewed by 
Stan Cook

Approved by 
Michael A. Houlemard, Jr.

**Fort Ord Reuse Authority
Request for Proposal
Pollution and Munitions/Explosives of Concern Legal Liability**
Effective: December 31, 2014



On behalf of the Fort Ord Reuse Authority (FORA), this correspondence constitutes a Request for Proposal for Pollution Legal Liability insurance coverage for the Army's transferred parcels of Fort Ord.

Overview

In June of 2000, FORA entered into an Economic Development Conveyance Agreement with the US Army for the transfer of portions of the former Fort Ord. In 2001, FORA entered into property transfer agreements with local jurisdictions and municipal utility providers. FORA in turn transferred some of these properties received from the Army to local jurisdictions. Remaining portions are undergoing environmental investigation pursuant to an agreement with Federal and State regulators. The substantive investigation and evaluation has been completed. Documentation to support regulatory approval of completion is being prepared and reviewed. Upon regulatory approval, remaining portions will be similarly transferred. Since both FORA and these local jurisdictions faced potential environmental liabilities arising from former military operations, FORA explored environmental insurance options that would protect the interests of FORA, the title holders and other stake-holders for retained and conveyed properties.

In 2004, FORA obtained a ten-year environmental insurance policy to address pollution conditions and munitions and explosives of concern (MEC) liability. Listed insureds included FORA, the local jurisdictions including the Cities of Monterey, Seaside, Marina, Del Ray Oaks and the County of Monterey and their respective developers. Each entity was provided a sub-limit within the policy which provided \$100,000,000 in total aggregate limit.

In the Spring of 2005, the Army and FORA entered into an Environmental Services Cooperative Agreement (ESCA) pursuant to Title 10, United States Code, section 2701(d) for the investigation and removal of remnant MEC at the former fort. A significant amount of MEC investigation, characterization and clean-up has occurred pursuant to the ESCA and an Administrative Order on Consent (AOC) that was entered with both the US Environmental Protection Agency and the California Department of Toxic Substances Control (DTSC). The Army retains clean-up obligations for on-going base-wide groundwater remediation.

Performance of the obligations of FORA pursuant to the ESCA and the AOC are the subject of a modified finite environmental insurance policy whereby the performance of the ESCA and AOC obligations are overseen and paid for by the insurance carrier. Funds for this policy were provided by the Army pursuant to the ESCA grant. Coverage sought in this RFP is for property that is or would no longer be the subject of FORA's remedial obligations.

Since emplacement of the environmental insurance in 2004, there have been no claims filed against it. Significant commercial, educational and infrastructure improvements have been made to the former Fort Ord. In addition, regulatory scrutiny of the AOC performance requirements have been highly favorable.

Purpose of New Environmental Insurance

The purpose for the new insurance is to replace the existing policy upon its expiration on December 31, 2014. It is anticipated that the land-holding entities, including current and to be named developers and municipal utility service providers will be insured parties. It is anticipated that FORA will have transferred all of its property to the respective jurisdictions and utility providers by 2020, at which time FORA will cease to exist. In order to ensure continuity of coverage for the property holding entities that will survive FORA beyond FORA's property transfer, the program sought will provide coverage for 10 years, with assumption of named insured responsibilities by other insured parties for the remainder of the term of insurance coverage after FORA's termination in 2020..

Insurance Specifications

We are looking for market(s) that can quote the following terms and conditions:

Limits:

\$50,000,000 per incident/ \$50,000,000 policy aggregate

Self-insured Retentions:

\$500,000

\$1,000,000

Coverage:

Pollution Legal Liability

Remediation Legal Liability

MEC Legal Liability

MEC Remediation Liability

3rd party Bodily Injury & Property Damage for known pollution (ground water contaminants undergoing clean-up by the Army)

Defense

Transportation

Non-owned Disposal Sites

Additional specifications:

Pre-existing and new pollution conditions

Additional Named Insureds

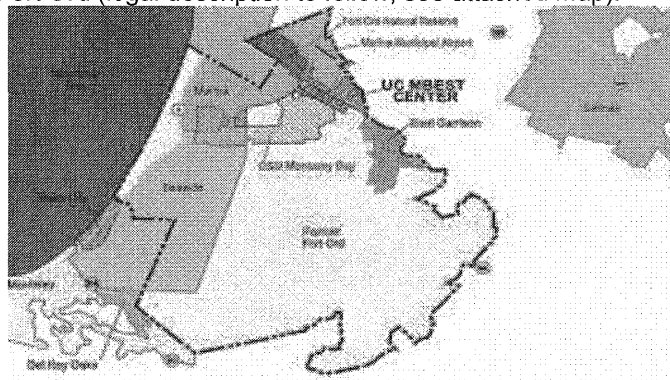
Dedicated limits of liability endorsement for the various jurisdictions

Developer partners as additional insured (Not all will be identified by binding)

Insured Contract endorsement
Disclosed document endorsement
Primary/non-contributory language
Aggregated SIR 3 times with maintenance
90 day extended reporting period
Auto-assignment provision after FORA sunsets
Give-back cover for areas undergoing or completed clean-up via ESCA
Cancellation requires consent of all insureds
Allocation formula for "cross-boarder" issues between insureds

Insured locations:

Transferred parcels of Fort Ord (legal description to follow, see attached map):



Proposal Response and Timeline

Please refer to the following link(s) for details on FORA the ESCA projects and status:

www.FORA.org

www.fortordcleanup.com/

Please note that we will be holding a carrier meeting at the Fort Ord Reuse Authority office located at:

Fort Ord Reuse Authority
920 2nd Avenue, Suite A
Marina, CA 93933

The meeting will be held on either March 31st or April 1st, 2014.

Your proposal to offer coverage is due on May 1, 2014.

Premiums should be provided with commission and net of commission.

Please indicate your interest in this risk either on a primary or excess position and your capacity.

If you cannot meet the desired limits, please indicate what you can.

Evaluation of proposals will be completed by June 1, 2014.

Page 4

Carrier notifications of acceptance/rejection by June 15, 2014.

Negotiations with selected carriers between July 1 and September 30, 2014.

Presentation to FORA Board for approval by November 8, 2014.

Bind new policy by December 1, 2014, effective December 31, 2014.

Please feel free to contact us if you have any questions.

Kathy Gettys
Managing Director
(303) 308-4559
Kathy.Gettys@marsh.com

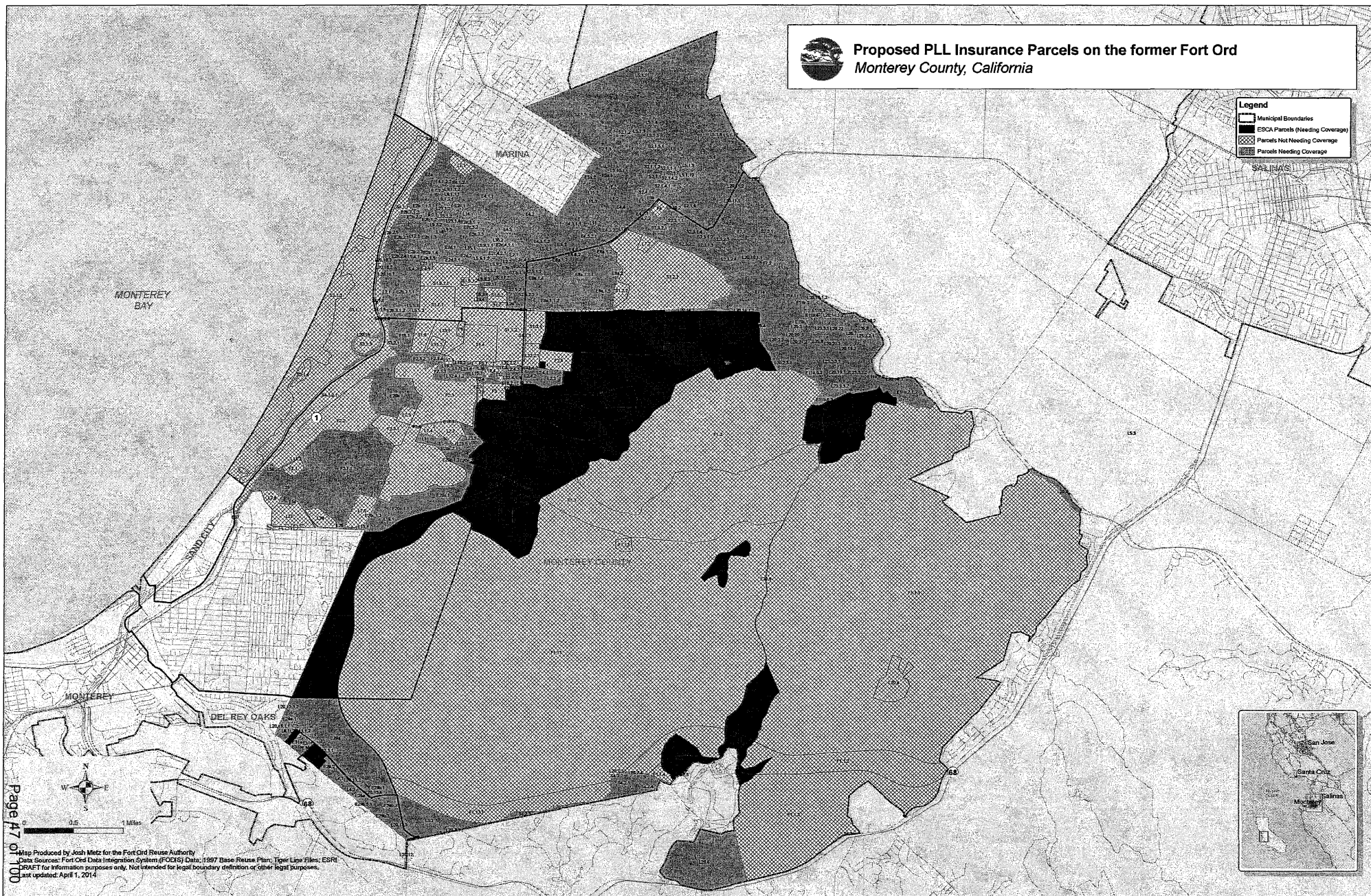
Ed Morales
Senior Vice President
(415) 743-8023
Ed.R.Morales@marsh.com

Patricia Cristobal
Vice President
(415) 743-8656
Patricia.Cristobal@marsh.com



Proposed PLL Insurance Parcels on the former Fort Ord Monterey County, California

- Legend**
- Municipal Boundaries
 - EDCA Parcels (Needing Coverage)
 - Parcels Not Needing Coverage
 - Parcels Needing Coverage



FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject:	Appeal: Marina Coast Water District Determination Bay View Community Annexation	
Meeting Date:	April 11, 2014	ACTION
Agenda Number:	9a	

RECOMMENDATION(S):

Adopt a proposed resolution from interim MCWD General Manager and Bay View Community Owners (**Attachment A**). The proposed resolution would not result in MCWD assuming ownership and operational responsibility of the water system located within Bay View Community. However, the proposed resolution may result in an acceptable metering program for the community.

BACKGROUND/DISCUSSION:

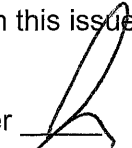
Bay View Community is a privately owned 223-residential unit community located at 5100 Coe Avenue, Seaside, within the former Fort Ord. MCWD provides water and wastewater services to the community. In April 2012, the owners of the Bay View Community requested that MCWD assume ownership and operational responsibility of the water distribution system located within Bay View Community. On May 10, 2012, the MCWD General Manager refused the request.

On September 21, 2012, Bay View Community addressed a letter to FORA, appealing MCWD's request denial (**Attachment B**). Over the course of the last two years, MCWD and Bay View Community representatives have attempted to negotiate a solution to the issue. A few months ago, the interim MCWD General Manager and Bay View Community representatives negotiated a proposed resolution. However, the MCWD Board has not adopted the proposed resolution. On March 14, 2014, Bay View Community representatives requested an additional 30-day period to attempt to resolve the issue with MCWD before bringing their appeal of MCWD's denial to the FORA Board of Directors for consideration, as provided for on page 7 of the FORA-MCWD Facilities Agreement Section 5.13, which reads:

"5.1.3 Complaints. Complaints about MCWD's operation of the facilities will be dealt with in the first instance by MCWD's General Manager or designee. Decisions of the General Manager or designee may be appealed to the FORA Board in the same manner that decisions within the boundaries of MCWD are appealed to MCWD's Board. The decision of the FORA Board on complaints will be final and will exhaust all administrative remedies."

Additional correspondence on this issue is provided under **Attachment C**.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

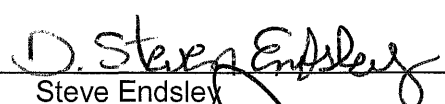
COORDINATION:

MCWD, Bay View Community representatives, Administrative and Executive Committees.

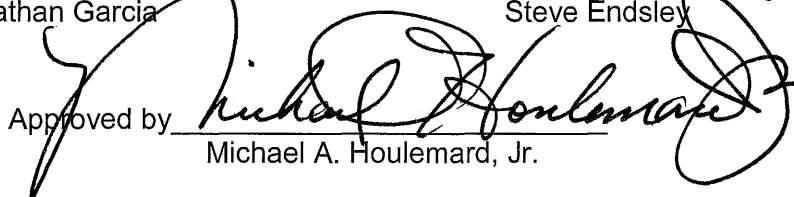
Prepared by


Jonathan Garcia

Reviewed by


Steve Endsley

Approved by


Michael A. Houlemard, Jr.

Proposed resolution:

1. Bay View Community owners agree to purchase replacement individual community water meters. Marina Coast Water District (MCWD) agrees to install the replacement meters.
2. MCWD agrees to read and bill the community water meters individually.
3. The eight-inch water meter serving Bay View Community will remain in place. MCWD will read this meter as a control meter.
4. Bay View Community owners and MCWD agree that Bay View Community owners will be responsible for payment above a system loss of 10% as measured between the eight-inch water meter and individual community water meters.
5. Bay View Community owners remain responsible for upkeep and maintenance of the water system.

ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

Attachment B to Item 9a
FORA Board Meeting, 4/11/2014

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
DEBRA GEMGNANI TIPTON

SALINAS, CA 93902
(831) 751-2330
FAX (831) 751-2331

September 21, 2012

File No. 03138.001

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

Re: **Bay View Community**

Dear Mr. Houlemard:

Our firm represents the owners of the Bay View Community located in the former Fort Ord area.

Please accept this letter as an appeal to the Fort Ord Reuse Authority (FORA) of the May 10, 2012 decision of the Marina Coast Water District ("MCWD") General Manager refusing to assume ownership and operational responsibility of the water distribution system located within the Bay View Community.

The attached May 10th letter from MCWD provides no explanation for MCWD's refusal to accept the system. Bay View Community is entitled to receive water service on the same basis as all other properties within the former Fort Ord. I am also enclosing copies of the relevant documents from my research which seem to indicate that MCWD does have an obligation to accept the responsibility for the ownership and maintenance of the system.

Attached as Exhibit A is Amendment No. 1 to the MOA between the United States Army and FORA. Article 1, paragraph f of that Agreement states that Bay View Community is to receive service under the same terms and conditions as any other existing residential development in the City of Seaside. The language of this document is clearly inconsistent with MCWD's interpretation that the Bay View Community is to be held to a different standard than the remaining existing residential development in the City of Seaside and treated as if it were a multi-unit residential development in Marina. It appears clear to me from the unequivocal language of this document that Bay View is entitled to have the water system turned over to MCWD and have MCWD read and bill the meters just as they do with every other residential property owner in the City of Seaside.

Attached as Exhibit B is correspondence from the former Mayor of Seaside, former General Manager of the MCWD and the Executive Director of FORA confirming that fact to the owner of Bay View, which again reiterates and amplifies the fact that MCWD is going to provide the

Mr. Michael Houlemard, Jr.
Fort Ord Reuse Authority
September 21, 2012
Page 2

same level of service as it does to other existing residential housing units within the City and FORA development area. Based on our research, it appears that all of those developments are individually metered as has been requested by Bay View.

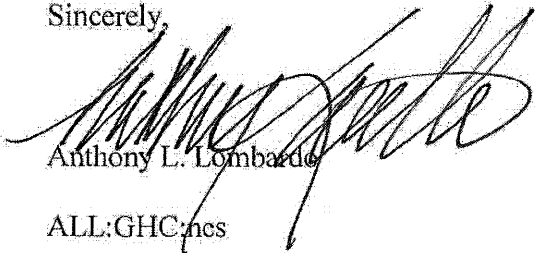
I have also reviewed the In-Tract Water and Wastewater Collection System Infrastructure Policy dated January, 2004 from MCWD and nowhere in that policy does it describe a situation where any capital improvement is required of a water system within Fort Ord absent the redevelopment of the site by the property owner. Since this portion of the Bay View development is neither scheduled for development nor redevelopment, there is nothing in this property which would mandate any changes to the existing water system which MCWD should have taken ownership and control of many years ago.

Further, the Water/Wastewater Facilities Agreement between the Fort Ord Reuse Authority and MCWD reiterates in paragraph 5.5.1 that it will operate the facilities in Fort Ord consistent with the rules, regulations and policies established by the FORA Board and MCWD which, as they relate to this property, are clearly set forth in the correspondence I referenced previously.

Since paragraph 5.13 of that Agreement makes decisions of the General Manager of the MCWD appealable to the FORA Board, we are hereby filing that appeal.

Please let me know if there is any additional information you need to process this appeal.

Sincerely,



Anthony L. Lombardo

ALL:GHC:ncs

Enclosures

cc: Mr. Ray Roeder
Jerry Bowden, Esq.
Terra Chaffee, Esq.



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099

Home Page: www.mcwd.org

TEL: (831) 384-6131 FAX: (831) 883-5995

DIRECTORS

DAN BURNS
President

HOWARD GUSTAFSON
Vice President

KENNETH K. NISHI
JAN SHRINER
WILLIAM Y. LEE

May 10, 2012

Mr. Ray Roeder
RINC Diversified
5100 Coe Avenue
Seaside, CA 93955

Subject: Bay View Community Water and Sewer Infrastructure

Dear Mr. Roeder,

The Marina Coast Water District (District) has reviewed your request for the District assuming ownership and operational responsibility for the potable water and sanitary sewer infrastructure that serves your Bay View Community in Seaside. The District staff has reviewed the submitted Bay View water and sewer system as-built drawings and has conducted a review of the infrastructure.

The results of the review indicate that the Bay View Community water and sewer systems do not conform to MCWD requirements and standards and would require substantial modification to achieve compliance. As such, it would not be in the best interest of the District to assume ownership and operational responsibility.

If you would like to meet to review our findings, please give me a call at (831) 883-5925. Thank you for your patience in this matter.

Sincerely,

Carl Niizawa, P.E.
Deputy General Manager/District Engineer

Cc: James Derbin Jim Heitzman
Lloyd Lowrey Brian True

EXHIBIT A

KR LLP DRAFT

7/26/01

AMENDMENT NO. 1
TO THE
MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
ACTING BY AND THROUGH
THE SECRETARY OF THE ARMY
UNITED STATES DEPARTMENT OF THE ARMY
AND
THE FORT ORD REUSE AUTHORITY
FOR THE SALE OF
PORTIONS OF THE FORMER FORT ORD
LOCATED IN MONTEREY COUNTY, CALIFORNIA

THIS AMENDMENT NO. 1 to the *Memorandum of Agreement between the United States of America acting by and through the Secretary of the Army, United States Department of the Army, and the Fort Ord Reuse Authority for the Sale of Portions of the Former Fort Ord Located in Monterey County, California dated June 20, 2000* ("Agreement") is entered into on this ____ day of _____, 2001 by and between **THE UNITED STATES OF AMERICA**, acting by and through the Department of the Army ("Government"), and **THE FORT ORD REUSE AUTHORITY** ("Authority"), recognized as the local redevelopment authority by the Office of Economic Adjustment on behalf of the Secretary of Defense. Government and Authority are sometimes referred to herein collectively as the "Parties."

RECITALS

WHEREAS, the Parties did enter into the Agreement for the "No Cost" Economic Development Conveyance ("EDC") to the Authority of a portion of the former Fort Ord, California ("Property") pursuant to Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, as amended, and the implementing regulations of the Department of Defense (32 CFR Part 175);

WHEREAS, subsequent to the execution and delivery of the Agreement, the Parties determined that in accordance with the Reuse Plan and in order to facilitate the economic redevelopment of the Property, it is desirable and necessary to include within the scope of the Agreement the Water and Wastewater Systems at the former Fort Ord ("Water Systems"), more particularly described in the Quitclaim Deed attached as Exhibit A to this Amendment No. 1, for transfer through the Authority to the Marina Coast Water District ("District") in lieu of a direct transfer of the Water Systems from the Government to the District under a Public Benefit Conveyance ("PBC");

FORT ORD MOA AMENDMENT NO. 1

1
2 WHEREAS, subsequent to the execution and delivery of the Agreement, Section
3 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 was amended by Section
4 2821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. No. 106-398) to
5 change certain requirements regarding the use of proceeds from the sale or lease of the Property
6 transferred under the Agreement.
7

8 NOW THEREFORE, in consideration of the foregoing premises and the respective
9 representations, agreements, covenants and conditions herein contained, and other good and
10 valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the
11 Parties agree as follows:
12

13 AGREEMENTS

14 Article 1. Water and Wastewater Systems

15
16 a. In lieu of the Government transferring the Water and Wastewater Systems and all
17 associated and ancillary rights directly to the District under the PBC dated August 26, 1997, as
18 described in paragraph 5.01 of the Agreement, the Government, pursuant to paragraph 2.01 of
19 the Agreement, shall transfer to the Authority at no-cost, as part of the Economic Development
20 Conveyance, simultaneously with the execution of this Amendment No. 1, the Water and
21 Wastewater Systems on the Property and the Presidio of Monterey Annex, together with all their
22 respective water rights and wastewater discharge rights and ancillary rights.
23
24

25 b. Notwithstanding Article 5.02 of the MOA, the Government and the Authority
26 agree that the water rights reserved to the Government are reduced by 38 acre feet per year
27 ("afy") for a total reservation of water rights for the Government of 1691 afy. The Government
28 and the Authority agree further that the water rights to be conveyed to the Authority pursuant to
29 this Amendment No. 1 shall be 38 afy in addition to the water rights described in the District
30 PBC Application dated August 26, 1997 for a total conveyance of water rights to the Authority
31 of 4,909 afy.
32

33 c. The Transfer of the Water and Wastewater Systems on the Property and the
34 Presidio of Monterey Annex, together with all their respective water rights and wastewater
35 discharge rights and ancillary rights, shall be accomplished upon the execution by the
36 Government and the recordation by the Authority of the Deed attached as Exhibit A to this
37 Amendment No. 1.
38

39 d. Immediately following the transfer of the Water and Wastewater Systems and
40 their associated and ancillary rights from the Government to the Authority, the Authority shall
41 transfer the Water and Wastewater Systems and all associated and ancillary rights to the District.
42

FORT ORD MOA AMENDMENT NO. 1

1 e. The Authority, through allocation instructions to the District, the Authority
2 selected water purveyor, agrees to provide water service to the SunBay Housing Area
3 ("SunBay"), in an amount up to 120 afy in the same fashion as water service is provided to other
4 users on the former Fort Ord.

5
6 f. The Authority, through allocation instructions to the District, the Authority
7 selected water purveyor, agrees to provide water service to the Bay View Community/Brostrom
8 Housing Area ("Bay View"), in an amount equal to .21 afy per residential housing unit times 223
9 residential housing units, and 38 afy (.21 afy X 223 + 38 afy) as follows:

- 10
11 1. Under the same terms and conditions of any other existing residential
12 development in the City of Seaside, California ("Seaside").
- 13 2. Bay View residents will have three years to reduce consumption at Bay View to
14 meet Seaside's .21 afy per unit conservation requirement without penalty.
- 15 3. Bay View residents will be charged at the then District rate as any other former
16 Fort Ord user will be charged for similar water services.
- 17 4. The same level of water service (.21 afy per residential housing unit times 223
18 residential housing units, and 38 afy) shall be available for future residential
19 development on the Bay View site when and if a project is approved in
20 conformity with Seaside's General Plan and Zoning requirements.
- 21 5. If a future development on the Bay View site can achieve a more efficient use of
22 this amount of water service, credit for such conservation may be applied to an
23 increase in units on the Bay View property in conformity with Seaside's General
24 Plan and Zoning requirements if and when a project is approved.
- 25

26 Article 2. Reporting Period

27
28 In accordance with Section 2821 of the National Defense Authorization Act for Fiscal
29 Year 2001 (Pub. L. No. 106-398) and the Agreement, the Agreement is hereby amended as
30 follows:

31
32 a. In paragraph 1.20 of the Agreement, delete the definition of Reporting Period in
33 its entirety and substitute the following:

34
35 "A period of time, beginning with the recordation of the Deed or Lease in
36 Furtherance of Conveyance ("LIFOC") for the initial transfer of property and
37 ending seven (7) years thereafter, within which the Authority will submit annual
38 statements as described in paragraph 2.01(F) of this Agreement."

39
40 b. In paragraph 2.01(F) of the Agreement delete the first sentence and substitute the
41 following:
42

FORT ORD MOA AMENDMENT NO. 1

1 "The Authority shall prepare and submit to the Government an annual financial
2 statement certified by an independent certified public accountant. The statement
3 shall cover the Authority's use of proceeds it receives from the sale, lease, or
4 equivalent use of the Property. The first such statement shall cover the 12 month
5 period beginning on the date of recordation of the first Deed or LIFOC and shall
6 be delivered to Government within 60 days of the end of that period and annually
7 thereafter. The seven-year period will commence with the recordation of the
8 Deed or LIFOC for the initial transfer of property. The last such statement shall
9 cover the 12 month period beginning on the date seven years following the
10 recordation of the Deed or LIFOC for the initial transfer of property. The
11 financial statements shall cover all parcels of property that have been conveyed
12 during the seven-year period."

13
14 **Article 3. Survival and Benefit**

15
16 a. Unless defined separately, the terms used in this Amendment No. One shall be the
17 same as used and defined in the Agreement.

18
19 b. Except as set forth herein, and unless modified specifically by this Amendment
20 No. 1, the terms and conditions contained in the Agreement shall remain binding upon the
21 Parties and their respective successors and assigns as set forth in the Agreement.

22
23 In Witness whereof, the Parties, intending to be legally bound, have caused their duly
24 authorized representatives to execute and deliver this Amendment No. 1 as of the date first above
25 written.

26
27 **UNITED STATES OF AMERICA,**
28 **Acting by and through the Department of the Army**

29
30
31 By: _____
32 **PAUL W. JOHNSON**
33 **Deputy Assistant Secretary of the Army (I&H)**
34
35

36 **FORT ORD REUSE AUTHORITY**
37 **LOCAL REDEVELOPMENT AUTHORITY**
38
39

40 By: _____
41 **JIM PERRINE**
42 **Chair**

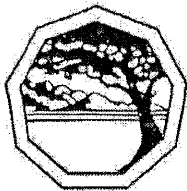


EXHIBIT B

FORT ORD REUSE AUTHORITY

100 12TH STREET, BUILDING 2880, MARINA, CALIFORNIA 93933

PHONE: (831) 883-3672 - FAX: (831) 883-3675

WEBSITE: www.fora.org

January 4, 2002

Bay View/Brostrom
ATTN: Ray Roeder
c/o The RINC Organization
5100 Coe Avenue
Seaside, CA 93955

RE: Bay View/Brostrom - Commitment Regarding Provision of Water Resources and Services

Dear Mr. Roeder:

This letter offers a specific commitment from the City of Seaside ("the City"), the Fort Ord Reuse Authority ("FORA") and the Marina Coast Water District ("MCWD") regarding the provision of water resources and services for the Bay View Community/Brostrom Housing Area ("Bay View/Brostrom") at the former Fort Ord.

FORA has adopted a policy that all existing and future developments on the former Fort Ord will be treated on an equitable basis. In order to implement this policy, and to comply with other provisions of the Final Fort Ord Base Reuse Plan, FORA has adopted a water resources and services distribution program that includes requirements for water conservation and use. The distribution program is formally acknowledged in agreements with the MCWD, the United States Army, and the underlying jurisdictions, including the City, to guide the supply of water resources and services to properties within the former Fort Ord geographic envelope.

As the State empowered redevelopment entity for the former Fort Ord, and in compliance with the approved distribution program, FORA recognizes the water resource and service needs for Bay View and assures the provision of water resources and services to these existing residential housing units under the same terms and conditions as other existing developments within the City and the FORA development area. Specifically, and pursuant to Amendment No. 1 dated October 23, 2001 to the Fort Ord Economic Development Memorandum of Agreement, FORA, through allocation instructions to MCWD, agrees to provide water resources and services to Bay View, in an amount equal to .21 acre feet per year ("afy") per residential housing unit times 223 residential housing units, and 38 afy (.21 afy X 223 + 38 afy) as follows:

1. Under the same terms and conditions of any other existing residential development in the City.
2. Bay View residents will have three years to reduce consumption at Bay View to meet the City's .21 afy per unit conservation requirement without penalty.
3. Bay View residents will be charged at the then MCWD rate as any other former Fort Ord user will be charged for similar water services.
4. The same level of water service (.21 afy per residential housing unit times 223 residential housing units, and 38 afy) shall be available for future residential development on the Bay View site when and if a project is approved in conformity with the City's General Plan and Zoning requirements.

RECEIVED JAN 11 2002

Bay View/Brostrom, Commitment Re Water Resources & Service

January 4, 2002

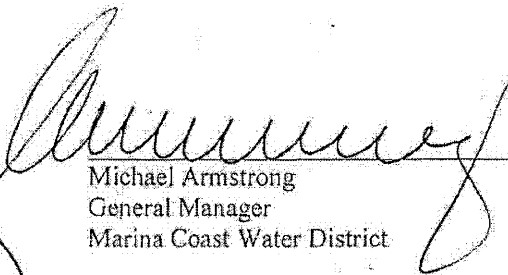
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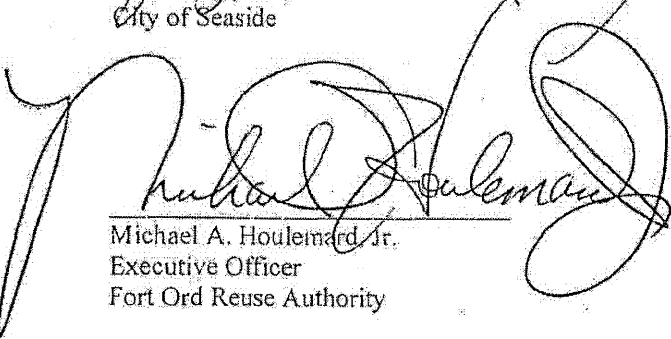
5. If a future development can achieve a more efficient use of this amount of water service, credit for such conservation will be applied to an increase in units on the Bay View property in conformity with the City's General Plan and Zoning requirements.

MCWD, as the FORA selected water purveyor for the former Fort Ord, accepts responsibility for providing the above-described level of water resources and services to Bay View consistent with the provision of water resources and services for all other projects and in compliance with the policies for conservation required throughout the former Fort Ord.

Yours truly,


Mayor Jerry Smith
City of Seaside


Michael Armstrong
General Manager
Marina Coast Water District


Michael A. Houlema, Jr.
Executive Officer
Fort Ord Reuse Authority

c: George Schlossberg, Esq., Kutak Rock
Jim Feeney, FORA

ANTHONY LOMBARDO & ASSOC
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
DEBRA GEMGNANI TIPTON

Attachment C to Item 9a
FORA Board Meeting, 4/11/2014

P.O Box 2330
SALINAS, CA 93902
(831) 751-2330
FAX (831) 751-2331

August 13, 2012

File No. 03138.001

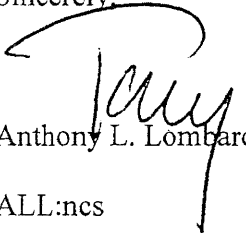
Mr. Michael Houlemard
Fort Ord Reuse Authority
920 Second Avenue, Suite A
Marina, CA 93933

Re: **Marina Coast Water District Issues/Bay View Mobile Home Park**

Dear Michael:

Per our conversation of last week, please find enclosed copies of my correspondence with Lloyd Lowrey and Jim Heitzman. Please call me after you have had a chance to review these.

Sincerely,


Anthony L. Lombardo

ALL:ncs

Enclosures

S

Tony Lombardo

8138.1

From: Tony Lombardo
Sent: Thursday, July 19, 2012 10:33 AM
To: Lowrey, Lloyd (lloyre@nheh.com); jheitzman@mcwd.org
Cc: rr@rincorg.com
Subject: BAY VIEW COMMUNITY

Lloyd and Jim:

I am writing to inform you that Marina Coast's most recent billing on Account No. 000990-000 of \$6,276.63 has been deposited in my trust account in addition to the amount previously deposited pending resolution of the dispute over the ownership and maintenance of the water system within the Bay View project.

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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5

3817

BAY VIEW COMMUNITY DE LLC-AP

GENERAL ACCOUNT
5100 COE AVENUE
SEASIDE, CA 93955
(831) 899-9900



CARMEL OFFICE
FREMONT BANK
26356 CARMEL RANCHO LANE, CARMEL, CA 93923

ETB Shield® Check Fraud
Protection for Business

90-788-1211

7/16/2012

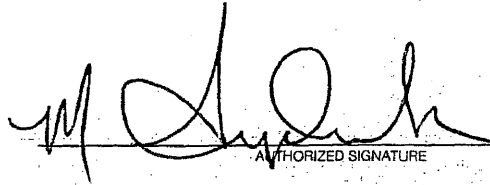
PAY TO THE ORDER OF Anthony Lombardo & Associates

\$ **6,276.63

Six Thousand Two Hundred Seventy-Six and 63/100*****

DOLLARS

Anthony Lombardo & Associates
450 Lincoln Ave, Suite 103
Salinas, Ca. 93901


AUTHORIZED SIGNATURE

MEMO

Marina Coast Water - Acct: 000990-000

⑈003817⑈ ⑆121107882⑆ 14⑈90250⑈8⑈

BAY VIEW COMMUNITY DE LLC-AP

3817

Anthony Lombardo & Associates

Date	Type	Reference	Original Amt.	Balance Due	7/16/2012 Discount	Payment
7/10/2012	Bill		6,276.63	6,276.63		6,276.63
					Check Amount	6,276.63

BVC - AP

Marina Coast Water - Acct: 000990-000

6,276.63

Tony Lombardo

3138.1

From: Tony Lombardo
Sent: Wednesday, July 11, 2012 3:31 PM
To: jheitzman@mcwd.org; Lowrey, Lloyd (lloyre@nheh.com)
Cc: rr@rincorg.com
Subject: BAY VIEW COMMUNITY

Jim and Lloyd:

I am following up on my letter of June 29th regarding the water system serving the Bay View Mobile Home Park. In light of the dispute between Bay View and the Marina Coast Water District over Marina Coast's responsibility to operate the system, my client has made payment to my trust account of \$5,229.90 which is the last month's billing to the master meter in addition to the billings which you were sending to the individual accounts in Bay View. I have deposited those amounts in my trust account for the benefit of Marina Coast Water District and will hold the monthly amounts of those billings in my trust account pending the resolution of this dispute.

I look forward to your reply to my previous correspondence.

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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5

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
LINDA NEFF SUNDE

450 LINCOLN AVENUE, SUITE 101
P.O BOX 2330
SALINAS, CA 93902
(831) 751-2330
FAX (831) 751-2331

June 29, 2012

File No. 03138.001

Mr. Jim Heitzman
General Manager
Marina Coast Water District
11 Reservation Road
Marina, CA 93933-2099

Lloyd W. Lowrey, Esq.
Noland, Hamerly
333 Salinas Street
Salinas, CA 93901

Re: Bay View Community Water Service

Dear Jim and Lloyd:

Thank you for sending me the information you referenced during our last meeting. I have also done some additional research regarding agreements between FORA and the Marina Coast Water District related to the Bay View property.

I am enclosing copies of the relevant documents from my research which seem to indicate that the District does have an obligation to accept the responsibility for the ownership and maintenance of the system.

Attached as Exhibit A is Amendment No. 1 to the MOA between the United States Army and FORA.

Article 1, paragraph f. of that Agreement states that Bay View Community is to receive service under the same terms and conditions as any other existing residential development in the City of Seaside. The language of this document is clearly inconsistent with the District's interpretation that the Bay View Community is to be held to a different standard than the remaining existing residential development in the City of Seaside and treated as if it were a multi-unit residential development in Marina. It appears clear to me from the unequivocal language of this document that Bay View is entitled to have the water system turned over to Marina Coast and have Marina Coast read and bill the meters just as they do with every other residential property owner in the City of Seaside.

Attached as Exhibit B is correspondence from the former Mayor of Seaside, former General Manager of the Marina Coast Water District and the Executive Director of FORA confirming that fact to the owner of Bay View, which again reiterates and amplifies the fact that Marina Coast is going to provide the same level of service as it does to other existing residential housing units within the City and FORA development area. As we discussed at our meeting last week, it

Mr. Jim Heitzman
Lloyd W. Lowrey, Esq.
June 29, 2012
Page 2

appears that all of those developments are individually metered as has been requested by Bay View.

I have also reviewed the In-Tract Water and Wastewater Collection System Infrastructure Policy dated January, 2004 from Marina Coast Water District and nowhere in that policy does it describe a situation where any capital improvement is required of a water system within Fort Ord absent the redevelopment of the site by the property owner. Since this portion of the Bay View development is neither scheduled for development nor redevelopment, there is nothing in this property which would mandate any changes to the existing water system which Marina Coast should have taken ownership and control of many years ago.

The document Lloyd was kind enough to send me, which is entitled Water/Wastewater Facilities Agreement between the Fort Ord Reuse Authority and Marina Coast reiterates in paragraph 5.5.1 that it will operate the facilities in Fort Ord consistent with the rules, regulations and policies established by the FORA Board and District which, as they relate to this property, are clearly set forth in the previous correspondence I referenced.

I also noted in paragraph 5.13 of the same Agreement that it references decisions of the General Manager being appealed to the FORA Board, not to the Marina Coast Board as it relates to this water system. It also, therefore, appears that the appeal of the General Manager's decision should potentially be to the FORA Board, not to the Marina Coast Board.

Please give me a call after you have had a chance to review this so we can determine how we need to proceed.

Sincerely,



Anthony L. Lombardo

ALL:ncs

Enclosures

cc: Mr. Ray Roeder

EXHIBIT A

KR LLP DRAFT
7/26/01

AMENDMENT NO. 1
TO THE
MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
ACTING BY AND THROUGH
THE SECRETARY OF THE ARMY
UNITED STATES DEPARTMENT OF THE ARMY
AND
THE FORT ORD REUSE AUTHORITY
FOR THE SALE OF
PORTIONS OF THE FORMER FORT ORD
LOCATED IN MONTEREY COUNTY, CALIFORNIA

THIS AMENDMENT NO. 1 to the *Memorandum of Agreement between the United States of America acting by and through the Secretary of the Army, United States Department of the Army, and the Fort Ord Reuse Authority for the Sale of Portions of the Former Fort Ord Located in Monterey County, California dated June 20, 2000* ("Agreement") is entered into on this ____ day of _____ 2001 by and between **THE UNITED STATES OF AMERICA**, acting by and through the Department of the Army ("Government"), and **THE FORT ORD REUSE AUTHORITY** ("Authority"), recognized as the local redevelopment authority by the Office of Economic Adjustment on behalf of the Secretary of Defense. Government and Authority are sometimes referred to herein collectively as the "Parties."

RECITALS

WHEREAS, the Parties did enter into the Agreement for the "No Cost" Economic Development Conveyance ("EDC") to the Authority of a portion of the former Fort Ord, California ("Property") pursuant to Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990, as amended, and the implementing regulations of the Department of Defense (32 CFR Part 175);

WHEREAS, subsequent to the execution and delivery of the Agreement, the Parties determined that in accordance with the Reuse Plan and in order to facilitate the economic redevelopment of the Property, it is desirable and necessary to include within the scope of the Agreement the Water and Wastewater Systems at the former Fort Ord ("Water Systems"), more particularly described in the Quitclaim Deed attached as Exhibit A to this Amendment No. 1, for transfer through the Authority to the Marina Coast Water District ("District") in lieu of a direct transfer of the Water Systems from the Government to the District under a Public Benefit Conveyance ("PBC");

WHEREAS, subsequent to the execution and delivery of the Agreement, Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 was amended by Section 2821 of the National Defense Authorization Act for Fiscal Year 2001 (Pub. L. No. 106-398) to change certain requirements regarding the use of proceeds from the sale or lease of the Property transferred under the Agreement.

AGREEMENTS

a. In lieu of the Government transferring the Water and Wastewater Systems and all associated and ancillary rights directly to the District under the PBC dated August 26, 1997, as described in paragraph 5.01 of the Agreement, the Government, pursuant to paragraph 2.01 of the Agreement, shall transfer to the Authority at no-cost, as part of the Economic Development Conveyance, simultaneously with the execution of this Amendment No. 1, the Water and Wastewater Systems on the Property and the Presidio of Monterey Annex, together with all their respective water rights and wastewater discharge rights and ancillary rights.

c. The Transfer of the Water and Wastewater Systems on the Property and the Presidio of Monterey Annex, together with all their respective water rights and wastewater discharge rights and ancillary rights, shall be accomplished upon the execution by the Government and the recordation by the Authority of the Deed attached as Exhibit A to this Amendment No. 1.

Page 66 of 100

FORT ORD MOA AMENDMENT NO. 1

1 e. The Authority, through allocation instructions to the District, the Authority
2 selected water purveyor, agrees to provide water service to the SunBay Housing Area
3 ("SunBay"), in an amount up to 120 afy in the same fashion as water service is provided to other
4 users on the former Fort Ord.

5
6 f. The Authority, through allocation instructions to the District, the Authority
7 selected water purveyor, agrees to provide water service to the Bay View Community/Brostrom
8 Housing Area ("Bay View"), in an amount equal to .21 afy per residential housing unit times 223
9 residential housing units, and 38 afy (.21 afy X 223 + 38 afy) as follows:

- 10
11 1. Under the same terms and conditions of any other existing residential
12 development in the City of Seaside, California ("Seaside").
- 13 2. Bay View residents will have three years to reduce consumption at Bay View to
14 meet Seaside's .21 afy per unit conservation requirement without penalty.
- 15 3. Bay View residents will be charged at the then District rate as any other former
16 Fort Ord user will be charged for similar water services.
- 17 4. The same level of water service (.21 afy per residential housing unit times 223
18 residential housing units, and 38 afy) shall be available for future residential
19 development on the Bay View site when and if a project is approved in
20 conformity with Seaside's General Plan and Zoning requirements.
- 21 5. If a future development on the Bay View site can achieve a more efficient use of
22 this amount of water service, credit for such conservation may be applied to an
23 increase in units on the Bay View property in conformity with Seaside's General
24 Plan and Zoning requirements if and when a project is approved.

25 26 **Article 2. Reporting Period**

27
28 In accordance with Section 2821 of the National Defense Authorization Act for Fiscal
29 Year 2001 (Pub. L. No. 106-398) and the Agreement, the Agreement is hereby amended as
30 follows:

31
32 a. In paragraph 1.20 of the Agreement, delete the definition of Reporting Period in
33 its entirety and substitute the following:

34
35 "A period of time, beginning with the recordation of the Deed or Lease in
36 Furtherance of Conveyance ("LIFOC") for the initial transfer of property and
37 ending seven (7) years thereafter, within which the Authority will submit annual
38 statements as described in paragraph 2.01(F) of this Agreement."

39
40 b. In paragraph 2.01(F) of the Agreement delete the first sentence and substitute the
41 following:
42

FORT ORD MOA AMENDMENT NO. 1

1 “The Authority shall prepare and submit to the Government an annual financial
2 statement certified by an independent certified public accountant. The statement
3 shall cover the Authority's use of proceeds it receives from the sale, lease, or
4 equivalent use of the Property. The first such statement shall cover the 12 month
5 period beginning on the date of recordation of the first Deed or LIFO and shall
6 be delivered to Government within 60 days of the end of that period and annually
7 thereafter. The seven-year period will commence with the recordation of the
8 Deed or LIFO for the initial transfer of property. The last such statement shall
9 cover the 12 month period beginning on the date seven years following the
10 recordation of the Deed or LIFO for the initial transfer of property. The
11 financial statements shall cover all parcels of property that have been conveyed
12 during the seven-year period.”
13

14 Article 3. Survival and Benefit

15
16 a. Unless defined separately, the terms used in this Amendment No. One shall be the
17 same as used and defined in the Agreement.
18

19 b. Except as set forth herein, and unless modified specifically by this Amendment
20 No. 1, the terms and conditions contained in the Agreement shall remain binding upon the
21 Parties and their respective successors and assigns as set forth in the Agreement.
22

23 In Witness whereof, the Parties, intending to be legally bound, have caused their duly
24 authorized representatives to execute and deliver this Amendment No. 1 as of the date first above
25 written.
26

27 UNITED STATES OF AMERICA,
28 Acting by and through the Department of the Army
29
30

31 By: _____
32 PAUL W. JOHNSON
33 Deputy Assistant Secretary of the Army (I&H)
34
35

36 FORT ORD REUSE AUTHORITY
37 LOCAL REDEVELOPMENT AUTHORITY
38
39

40 By: _____
41 JIM PERRINE
42 Chair

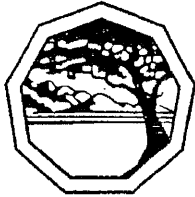


EXHIBIT B

FORT ORD REUSE AUTHORITY

100 12TH STREET, BUILDING 2880, MARINA, CALIFORNIA 93933

PHONE: (831) 883-3672 - FAX: (831) 883-3675

WEBSITE: www.fora.org

January 4, 2002

Bay View/Brostrom
ATTN: Ray Roeder
c/o The RINC Organization
5100 Coe Avenue
Seaside, CA 93955

RE: Bay View/Brostrom - Commitment Regarding Provision of Water Resources and Services

Dear Mr. Roeder:

This letter offers a specific commitment from the City of Seaside ("the City"), the Fort Ord Reuse Authority ("FORA") and the Marina Coast Water District ("MCWD") regarding the provision of water resources and services for the Bay View Community/Brostrom Housing Area ("Bay View/Brostrom") at the former Fort Ord.

FORA has adopted a policy that all existing and future developments on the former Fort Ord will be treated on an equitable basis. In order to implement this policy, and to comply with other provisions of the Final Fort Ord Base Reuse Plan, FORA has adopted a water resources and services distribution program that includes requirements for water conservation and use. The distribution program is formally acknowledged in agreements with the MCWD, the United States Army, and the underlying jurisdictions, including the City, to guide the supply of water resources and services to properties within the former Fort Ord geographic envelope.

As the State empowered redevelopment entity for the former Fort Ord, and in compliance with the approved distribution program, FORA recognizes the water resource and service needs for Bay View and assures the provision of water resources and services to these existing residential housing units under the same terms and conditions as other existing developments within the City and the FORA development area. Specifically, and pursuant to Amendment No. 1 dated October 23, 2001 to the Fort Ord Economic Development Memorandum of Agreement, FORA, through allocation instructions to MCWD, agrees to provide water resources and services to Bay View, in an amount equal to .21 acre feet per year ("afy") per residential housing unit times 223 residential housing units, and 38 afy (.21 afy X 223 + 38 afy) as follows:

1. Under the same terms and conditions of any other existing residential development in the City.
2. Bay View residents will have three years to reduce consumption at Bay View to meet the City's .21 afy per unit conservation requirement without penalty.
3. Bay View residents will be charged at the then MCWD rate as any other former Fort Ord user will be charged for similar water services.
4. The same level of water service (.21 afy per residential housing unit times 223 residential housing units, and 38 afy) shall be available for future residential development on the Bay View site when and if a project is approved in conformity with the City's General Plan and Zoning requirements.

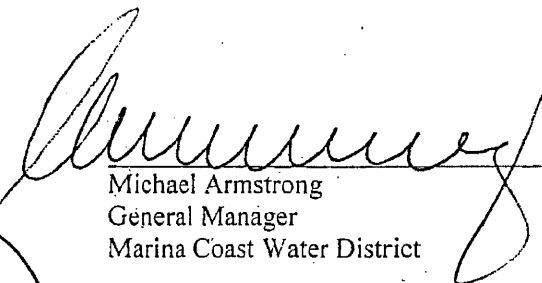
RECEIVED JAN 11 2002

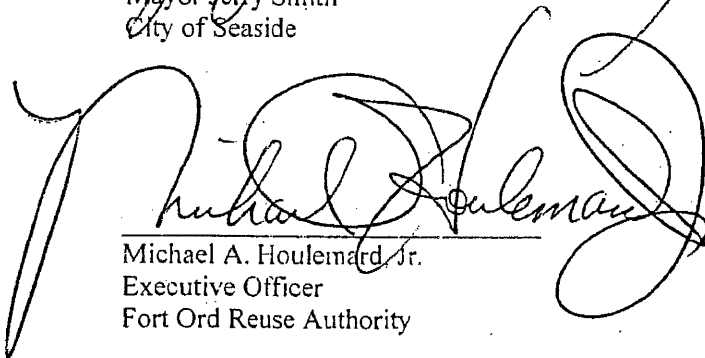
5. If a future development can achieve a more efficient use of this amount of water service, credit for such conservation will be applied to an increase in units on the Bay View property in conformity with the City's General Plan and Zoning requirements.

MCWD, as the FORA selected water purveyor for the former Fort Ord, accepts responsibility for providing the above-described level of water resources and services to Bay View consistent with the provision of water resources and services for all other projects and in compliance with the policies for conservation required throughout the former Fort Ord.

Yours truly,



Mayor Jerry Smith
City of Seaside

Michael Armstrong
General Manager
Marina Coast Water District

Michael A. Houlemard, Jr.
Executive Officer
Fort Ord Reuse Authority

c: George Schlossberg, Esq., Kutak Rock
Jim Feeney, FORA

Nancy Stafford

From: Nancy Stafford
Sent: Friday, June 29, 2012 11:57 AM
To: jheitzman@mcwd.org; Lowrey, Lloyd (lloy@nheh.com)
Cc: rr@rincorg.com
Subject: BAY VIEW COMMUNITY WATER SERVICE
Attachments: L-HEITZMAN, LOWREY.06.29.12.pdf

Good morning, Mr. Heitzman and Mr. Lowrey:

Please find attached a letter to you from Mr. Lombardo regarding the above referenced subject. The originals have been placed in today's mail.

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Nancy Stafford
Secretary to Anthony L. Lombardo and Dale Ellis
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email nancy@alombardolaw.com

Tony Lombardo

From: Tony Lombardo
Sent: Friday, June 01, 2012 2:28 PM
To: Lowrey, Lloyd (lloyre@nheh.com)
Cc: rr@rincorg.com; 'Dave Fuller (dfuller@wwdengineering.com)'; jheitzman@mcwd.org
Subject: BAY VIEW/MCWD

Lloyd:

Thank you for scheduling yesterday's meeting.

I am writing to follow up on our discussions.

My client would like to first investigate the issues raised in our discussions prior to scheduling the appeal hearing. Please accept this as a request by appellant to not set the hearing for the appeal until such time as we have had a chance to review the information we discussed yesterday. We can pick a date to set the hearing on the appeal (if necessary) once we have had an opportunity to further discuss the information you are going to provide.

In that regard, it is my understanding that the District is going to provide a copy of their Master Metering/Multi-Unit Residential Metering Ordinance as well as a copy of the Water/Wastewater Facilities Agreement between the District and Ft. Ord.

It would also be helpful, I believe, if the District could provide information on its ownership of the water system within the former Ft. Ord particularly those which were constructed prior to Base closure and are not consistent with the current construction standards for Marina Coast. As I mentioned yesterday, we could do this by Public Records Act request, but I assume we can work cooperatively to obtain this information.

I have also requested more information from my client on his future plans for the property and the status of the property as a mobile home park.

Thank you for your assistance. I look forward to receiving the information from you and will probably set up a subsequent meeting at that time.

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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ANTHONY LOMBARDO & ASSOCIATES
A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
LINDA NEFF SUNDE

450 LINCOLN AVENUE, SUITE 101
P.O. Box 2330
SALINAS, CA 93902
(831) 751-2330
FAX (831) 751-2331

May 17, 2012

File No. 03138.001

MAY 18 2012



Mr. Jim Heitzman
General Manager
Marina Coast Water District
11 Reservation Road
Marina, CA 93933-2099

Re: **Bay View Community**

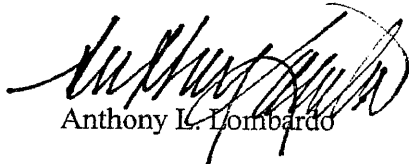
Dear Mr. Heitzman:

Our firm represents the owners of the Bay View Community located in the former Fort Ord area.

Please accept this letter as an appeal of the May 10, 2012 decision of the General Manager of the Marina Coast Water District ("MCWD") refusing to assume ownership and operational responsibility of the water distribution system located within the Bay View Community. The fifteen dollar (\$15.00) filing fee is enclosed.

The May 10th letter provides no explanation for the reason the District is refusing to accept the system. Bay View Community is entitled to receive water service on the same basis as all other properties within the former Fort Ord.

Respectfully submitted,



Anthony L. Lombardo

ALL:ncs

Enclosure

cc: Mr. Ray Roeder (without Enclosure)
Lloyd W. Lowrey, Esq. (without Enclosure)



3138.001

ANTHONY LOMBARDO & ASSOCIATES

A PROFESSIONAL CORPORATION

ANTHONY L. LOMBARDO
KELLY MCCARTHY SUTHERLAND
LINDA NEFF SUNDE

450 LINCOLN AVENUE, SUITE 101
P.O. Box 2330
SALINAS, CA 93902
(831) 751-2330
FAX (831) 751-2331

May 15, 2012

Lloyd Lowery, Esq.
Noland, Hamerly, Etienne & Hoss
Post Office Box 2510
Salinas, California 93902-2510

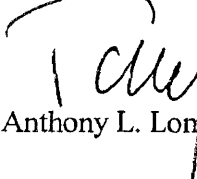
Re: **Marina Coast Water District**

Dear Lloyd:

We represent the Bay View Community in Seaside. On May 10, 2012, our client received a letter from your client, the Marina Coast Water District ("MCWD"), indicating that the MCWD staff had declined to "assume ownership and operational responsibility" for the water and sewer systems currently providing water to the Bay View Community. Can you please let me know what the process is that we need to follow to appeal the staff's decision?

Thank you.

Sincerely,


Anthony L. Lombardo

ALL/gp

cc: client

Tony Lombardo

3138.1

From: Tony Lombardo
Sent: Monday, May 14, 2012 4:33 PM
To: jheitzman@mcwd.org; Lowrey, Lloyd (lloyre@nheh.com)
Cc: rr@rincorg.com
Subject: BAY VIEW COMMUNITY WATER SYSTEM

Gentlemen:

I received a copy of the letter that was sent to my client last week.

I would appreciate it if the District would provide specifics of why you are refusing to accept the system and provide me with information regarding whether or not there is any right of appeal of that determination to the District Board and when such an appeal would have to be made.

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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Tony Lombardo

3138.1

From: Tony Lombardo
Sent: Wednesday, May 02, 2012 4:13 PM
To: jheitzman@mcwd.org
Cc: rr@rincorg.com
Subject: BAY VIEW

Jim:

I think I recall you telling me you were meeting with your staff last week on scheduling the hearing date. Do you have an update?

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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3138.1

Tony Lombardo

From: Tony Lombardo
Sent: Thursday, April 19, 2012 2:59 PM
To: jheitzman@mcwd.org
Cc: rr@rincorg.com
Subject: BAY VIEW SYSTEM DEDICATION

Jim:

I left you a message yesterday regarding the Bay View water system acceptance.

It is my understanding that all of the technical issues have been resolved and the client would like to get this on an agenda for the District as soon as possible so this property would be able to have its water service treated the same as everyone else in your District.

Thank you for your assistance.

Anthony L. Lombardo
ANTHONY LOMBARDO & ASSOCIATES
A Professional Corporation
450 Lincoln Avenue, Suite 101
Salinas, CA 93901
Phone (831) 751-2330
Fax (831) 751-2331
Email tony@alombardolaw.com

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FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject: Post Base Reuse Plan Reassessment Follow-up

Meeting Date: April 11, 2014

Agenda Number: 9b

INFORMATION/ACTION

RECOMMENDATION:

Receive Fort Ord Reuse Authority (FORA) staff report on Post Base Reuse Plan Reassessment Follow-up including:

- i. Regional Urban Design Guidelines (RUDG) Task Force Update
- ii. Status of remaining Category 3 items.

BACKGROUND:

RUDG consultant selection process: the 1997 Base Reuse Plan (BRP) called for completion of RUDG for the Highway 1 Corridor, Town & Village Centers, Regional Circulation Corridors, Trails and Gateways on the former Fort Ord. The FORA Board approved Design Guidelines for the Highway 1 Corridor in March 2005.

The 2012 Fort Ord BRP Reassessment Report ("BRP Reassessment") identified completion of the RUDG as a remaining FORA obligation. RUDG became one of the four focus topics for the December 2013 Fort Ord Colloquium.

At its February 13, 2014 meeting, the FORA Board approved the Post Reassessment 2014 Work Plan, which included staff action to recruit qualified consultants to facilitate a community engaged RUDG completion process.

The Board tasked the Administrative Committee with oversight of the RUDG process including regular Board updates. The focus of the RUDG process will be the remaining Town & Village Centers, Regional Circulation Corridors, Trails and Gateways.

Category 3 Items: The BRP Reassessment also included a detailed review of items from the BRP. These items were divided into 5 categories (**Attachment A**): Category 1 – BRP Corrections & Updates; Category 2 – Prior Board Actions & Regional Plan Consistency; Category 3 – Implementation of Policies & Programs; Category 4 – Policy & Program Modifications; Category 5 – FORA Procedures and Operations.

The 2014 Post Reassessment Work Plan approved by the Board in February assigned Category 3 items to the Administrative Committee for review and recommendation. Development of RUDG is one component of the Category 3 items. A total of 171 individual items are listed in Table 11, Section 3.4 of the BRP Reassessment Report (<http://www.fora.org/Reports/FinalReassessment/FinalReassessmentReport121412.pdf>). The task of determining the status of each item in Table 11 is being led by Staff in collaboration with the Administrative Committee.

DISCUSSION:

RUDG consultant selection process: FORA staff has released a Request for Qualifications (RFQ) (**Attachment B**) as part of a 2-stage selection process, culminating with a RUDG proposal competition. Stage 1 will involve review of Statements of Qualifications (SOQ)

received from a broad set of qualified urban design professionals. The goal is to recruit the best fit from nationally respected design professionals to enable an efficient and high quality completion of the RUDG.

The Chair appointed members of the RUDG Task Force, including FORA Board and Administrative Committee members, to make a consultant selection recommendation to the FORA Board and to participate in the RUDG preparation process. The RFQ was released on Friday March 21. Deadlines for return of SOQs is April 15th at 5:00pm. The RUDG Task Force will review the SOQs and choose three consultants/consultant teams to participate in the Stage 2 Competitive Selection Process.

The goal of Stage 2 is for finalists to produce in-depth proposals for RUDG Task Force evaluation. To provide sufficient incentive, FORA would award the RUDG contract to the best fit team, provide a \$15,000 award to the first runner-up, and provide a \$5,000 award to the second runner-up.

Following consultant selection and contract award, a FORA Board RUDG Workshop will be scheduled to outline the RUDG process and development schedule.

Category 3 Items: FORA Staff has categorized the items from Table 11, Section 3.4 of the BRP Reassessment Report, into a collection of items for attention by individual land use jurisdictions and the Administrative Committee. FORA Staff will consult with land use jurisdictions staff to provide a current status on each of the items and to discuss work plan development. Administrative Committee members will receive periodic updates and review Category 3 work plans as they develop.

FISCAL IMPACT:

Reviewed by FORA Controller 

Board approved Post Reassessment funds will be used to cover RUDG process costs through the remainder of the fiscal year. A total of \$350,000 remains for use on all Post Reassessment tasks through June 2014. The competitive proposal incentives would cost \$20,000. Specific costs for the RUDG process will become clear during the consultant selection process. Staff will report any identified costs associated with Category 3 item completion in future Post Reassessment Work Plan reports. Staff time related to this item is included in the approved FORA budget.

COORDINATION:

RUDG Task Force, Administrative and Executive Committees.

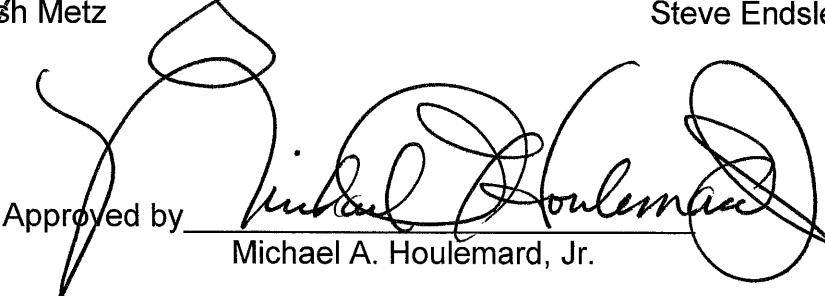
Prepared by


Josh Metz

Reviewed by


Steve Endsley

Approved by


Michael A. Houlemard, Jr.

**ISSUES IDENTIFIED
IN THE SCOPING REPORT**

(see Table 3)

OTHER ISSUES IDENTIFIED

(see Table 4)

SORTED INTO FIVE CATEGORIES

CATEGORIES

CONTENTS

TIMING

CATEGORY I

BRP Corrections
and Updates

- Strike through/
Underline text changes
- Notes on changes to BRP
figures

FORA Board action possible
early 2013

CATEGORY II

Prior Board Actions and
Regional Plan Consistency

- Background
- Description and key issues
- Potential options
- Synopsis of public
comments

FORA Board action possible
2013

CATEGORY III

Implementation of
Policies and Programs

- Text of incomplete
policies/programs
- Responsible agency
- Status

On-going FORA and
jurisdiction implementation

CATEGORY IV

Policy and Program
Modifications

- Background
- Description and key issues
- Potential options
- Synopsis of public
comments

FORA Board consideration in 2013 onward
as determined by the Board. May require
public hearing and CEQA review

CATEGORY V

FORA Procedures
and Operations

- Background
- Description and key issues
- Potential options
- Synopsis of public
comments

Attachment A to Item 9b
FORA Board Meeting, 4/11/14

Visual Key to Reassessment Report

Fort Ord Reuse Plan Reassessment Report





FORT ORD REUSE AUTH

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

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

Attachment B to Item 9b
FORA Board Meeting, 4/11/14

Interested Consultants

Distributed via email and posted online: 3/21/14

Re: Request for Qualifications (RFQ) to complete Regional Urban Design Guidelines (RUDG) on the former Fort Ord with a focus on Town & Village Centers, Regional Circulation Corridors, Trails and Gateways.

The Fort Ord Reuse Authority's (FORA's) mission is to prepare, adopt, finance, and implement a plan for the former Fort Ord, including land use, transportation systems, conservation of land/water, recreation and business operations. In order to meet these objectives, the Fort Ord Base Reuse Plan (BRP) was adopted in 1997. FORA adopted the BRP as the official local regional plan to enhance economic recovery, promote education and protect natural resources.

The BRP underwent a comprehensive reassessment process that concluded in December 2012. The reassessment process was a community-wide effort that identified a range of policy options for the FORA Board's subsequent consideration. The identified policy options are discussed in the final Reassessment Report (linked above).

While development of RUDG was initiated in 2005 with Board approval of the Highway 1 Corridor Design Guidelines, completion of guidelines for Town & Village Centers, Regional Circulation Corridors, Trails and Gateways was deferred. In February 2014, the FORA Board authorized completion of Regional Urban Design Guidelines as defined in Section 3.0 of the BRP. The urban design guidelines will establish standards for road design, setbacks, building height, landscaping, signage, and other matters of visual importance.

This RFQ invites you to submit relevant Statements of Qualification (SOQ) for completion of the RUDG on the former Fort Ord to focus on Town & Village Centers, Regional Circulation Corridors, Trails and Gateways. The ideal design partner will be skilled in developing form-based tools and solutions that integrate required BRP regulations with forward thinking and application in land use design and planning. Responses from leading design and planning firms are welcome, but integrated design, planning, finance, and development teams are encouraged.

The consultant selection will consist of a 2 stage process. The first stage is represented in this RFQ, where potential consultants will be evaluated to identify a set of 3 finalists who will be invited to advance to a competitive selection process. The process provides for in-depth review of each team's approach and proposed methodology, with the aim of finding the best fit to complete the work in a timely and context sensitive manner. Both phases will encourage extensive interaction between the consultants and the FORA staff, Board, and community as necessary to achieve the highest standards in the SOQs, competitive proposals, and final products.

The selected team will be awarded the RUDG contract, and the other participants will be paid a fee for work submitted. All materials/proposals will become property of FORA.

SOQ submittals will be evaluated on the following factors and should be structured to address the skills, experience, and abilities needed to complete the RUDG, as generally described in the attached Scope of Work:

- 1) Demonstrated ability to competently and efficiently complete RUDG in complex multi-jurisdictional settings
- 2) Experience and knowledge about working with complex entitled projects and form-based tools and delivering innovative and integrated yet realistic solutions
- 3) Demonstrated practical ability to successfully facilitate charettes and public meetings
- 4) Knowledge of public policy matters affecting the Monterey Bay region, and/or experience in military base reuse in the local area or elsewhere (desirable but not mandatory)
- 5) Demonstrated experience producing real estate products tailored to specific market segments and contexts supported by market and economic analysis

Questions related to this RFQ should be emailed attn: Josh Metz: josh@fora.org. **All questions received in writing by 5:00pm on Tuesday April 1** will be responded to **and sent to all interested submitters by 5:00pm Friday April 4**. Submitting consultants must provide SOQs to FORA as specifically described herein by **5:00 PM on Tuesday, April 15, 2014**. Please submit your proposal, with a cover letter, via email to FORA, attn: Josh Metz: josh@fora.org

The FORA Executive Officer/consultant selection panel will select one or more of the respondents to participate further in the selection process, if such is deemed necessary, and make the final selection of a consultant. FORA reserves the right to reject any and all SOQs.

General Scope of Work

The FORA Board has authorized the completion of the Regional Urban Design Guidelines (RUDG) on the former Fort Ord with a focus on Town & Village Centers, Regional Circulation Corridors, Trails and Gateways. The urban design guidelines will establish standards for road design, setbacks, building height, landscaping, signage, and other matters of visual importance.

Desirable Qualifications:

- Current knowledge of planning, landscape and urban design best practices
- Familiarity with regional planning; Fort Ord Planning (Base Reuse Plan) and policy context
- Expertise in real estate marketing, development and associated infrastructure; economic analysis; development financing
- Familiarity with environmental justice; public outreach; and working with diverse communities
- Proven ability to navigate complex multi-jurisdictional planning environments and deliver realistic and appropriate solutions
- Demonstrated experience facilitating public meetings and design charettes
- Demonstrated ability to gather information from public meetings and provide summaries
- Demonstrated ability to produce graphics, diagrams and renderings to convey design guidelines
- Ability to produce form-based planning documents that integrate existing regulations
- Ability to appear in person for meetings and presentations
- Redevelopment experience including planning in blighted communities
- Demonstrated experience in the economic development of large land tracts

Phase 2 Deliverables:

- Former Fort Ord RUDG with a focus on Town & Village Centers, Regional Circulation Corridors, Trails and Gateways
- **Gateways** will focus on the areas surrounding the intersections of:
 - Lightfighter Drive and General Jim Moore Blvd
 - Highway 218 and General Jim Boulevard
 - Imjin Parkway and 2nd Avenue
- **Town & Village Centers** will be limited to two areas:
 - South of Colonel Durham Road and North of Gigling Road (Seaside Surplus II) and
 - 2nd Avenue corridor between Lightfighter Drive and Imjin Parkway
- **Circulation Corridors** will address three areas:
 - Imjin Parkway to Reservation Road to Blanco Road
 - Lightfighter Drive to General Jim Moore Blvd. to Intergarrison Road to Reservation Road
 - Highway 218 to General Jim Moore Blvd to South Boundary Road
- **Trails** will address two areas:
 - Fort Ord Dunes State Park to 8th Street bridge to 9th Street to 5th Avenue to Intergarrison Road to Jerry Smith Trail to Fort Ord National Monument
 - Fort Ord Dunes State Park to Lightfighter Drive to General Jim Moore Blvd. to Gigling Road to Fort Ord National Monument
- **Presentations – FORA/RUDG Taskforce Meetings**
 - Orientation Workshop
 - 30% Complete Progress Report
 - 60% Complete Progress Report
 - Final Draft
 - Approve Recommendations
 - Others As Necessary
- Organize & facilitate public meetings & charrettes
- Graphics, Charts, Maps, Posters, PowerPoints
- Form-based documentation, integrating current land regulations
- Video documentation of charrettes

Applicable Resources for Consultants to review before submitting qualifications:

- www.Fora.org
- www.FortOrdCleanup.com
- [Base Reuse Plan](#)
- [Reassessment Report](#)
- [Fort Ord Colloquium](#)
- [City of Marina](#)
- [City of Seaside](#)
- [County of Monterey](#)
- [City of Del Rey Oaks](#)
- [City of Monterey](#)
- [Sand City](#)

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Outstanding Receivables

Meeting Date: April 11, 2014

Agenda Number: 11a

INFORMATION

RECOMMENDATIONS:

Receive a Fort Ord Reuse Authority (FORA) outstanding receivables update for March 2014.

BACKGROUND/DISCUSSION:

Development Fee/Preston Park: In 1997, the U.S. Army and FORA entered into an interim lease for Preston Park. Preston Park consisted of 354 units of former Army housing within the jurisdiction of the City of Marina (Marina). Marina became FORA's Agent in managing the property. Marina and FORA selected Mid-Peninsula Housing Coalition to manage the property and lease it to tenants. In 1998, Mid-Peninsula completed rehabilitating Preston Park units and began leasing the property to the public. After repayment of the rehab loan, Marina and FORA have by state law each shared 50% of the net operating income from Preston Park.

The FORA Board enacted a base-wide Development Fee Schedule in 1999. Preston Park is subject to FORA's Development Fee Schedule overlay. In March 2009, the FORA Board approved the MOU between FORA and Marina whereby a portion of the Preston Park Development Fee was paid by the project. In 2009, Marina transferred \$321,285 from Preston Park, making an initial Development Fee payment for the project. The remaining balance is outstanding and is the subject of current litigation.

FISCAL IMPACT:

All former Fort Ord projects are subject to either the developer fee overlay or the Community Facilities District fees to pay fair share of the California Environmental Quality Act required mitigation measures. In addition, the outstanding balance is a component of the Basewide Mitigation Measures and Basewide Costs described in Section 6 of the FORA Implementation Agreements. If any projects fail to pay their fair share it adds a financial burden to other reoccupied or development projects to compensate.

COORDINATION:

Executive Committee

Prepared by

Ivana Bednarik

Approved by

Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT		
EXECUTIVE OFFICER'S REPORT		
Subject:	Habitat Conservation Plan Update	
Meeting Date:	April 11, 2014	INFORMATION
Agenda Number:	11b	

RECOMMENDATION(S):

Receive a Habitat Conservation Plan (HCP) and State of California 2081 Incidental Take Permit (2081 permit) preparation process status report.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority (FORA), with the support of its member jurisdictions and ICF International (formerly Jones & Stokes), FORA's HCP consultant, is on a path to receive approval of a completed basewide HCP and 2081 permit in 2015, concluding with US Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) (formerly known as California Department of Fish and Game) issuing federal and state permits.

Most recently, FORA received comments on the Administrative Draft HCP from USFWS in July 2012 and CDFW staff in August 2012, and held recent in-person meetings on April 10, June 19, and November 19, 2013 to discuss outstanding issues; however, a legal review by these wildlife agencies is not yet complete and several policy-level issues must be resolved between CDFW and BLM, CDFW and State Parks/UC. After meeting with CDFW Chief Deputy Director Kevin Hunting on January 30, 2013, FORA was told that CDFW and BLM issues require a Memorandum of Understanding (MOU) between CDFW and BLM, outlining certain assurances between the parties, resulting in additional time. Also, according to CDFW, final approval of an endowment holder no longer rests with CDFW (due to passage of SB 1094 [Kehoe]), which delineates specified rules for wildlife endowments. However, CDFW must review the funding structure and anticipated payout rate of the HCP endowment holder to verify if the assumptions are feasible. CDFW has outlined a process for FORA and the other permit applicants to expedite compliance with endowment funding requirements. FORA has engaged Economic and Planning Systems (EPS) to help in this process. Other policy issues and completion of the screen check draft HCP should be completed in the next few months. If the current schedule is maintained, FORA staff expects a Public Draft HCP available for public review by August 2014.

Update: On March 25, 2014, FORA representatives met with CDFW Chief Deputy Director Kevin Hunting, University of California and State Parks representatives to address outstanding State to Fed and State to State policy issues. A meeting summary is included under **Attachment A**. State Senator Bill Monning has agreed to assist FORA in working with CDFW and others to resolve these policy issues. A follow-up meeting is being scheduled in late April.

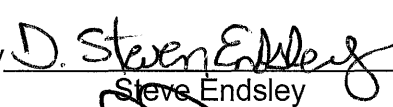
FISCAL IMPACT:

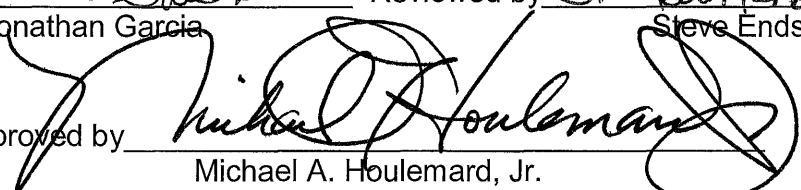
Reviewed by FORA Controller 

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

COORDINATION:

Administrative Committee, Executive Committee, ICF, Denise Duffy and Associates

Prepared by  Jonathan Garcia Reviewed by  Steve Endsley

Approved by  Michael A. Houlemard, Jr.

Fort Ord Habitat Conservation Plan (HCP) Meeting Summary

Meeting Date:

March 25, 2014

Participants:

Kevin Hunting, Department of Fish and Wildlife (DFW) Chief Deputy Director
Sandra Morey, DFW Deputy Director
Jeff Single, DFW Region 4 Manager
Julie Vance, DFW Region 4 Program Manager
Kevin Takei, DFW Counsel (on conference phone)
Jerry Edelen, Chair at Fort Ord Reuse Authority (FORA)
Michael Houlemard, Jr., Executive Officer at FORA
Robert Norris, Principal Analyst at FORA
Jonathan Garcia, Senior Planner at FORA
John Arriaga, Legislative Consultant to FORA
Jerry Bowden, Special Legal Counsel to FORA
Michael Kisgen, Legal and Policy Coordinator at UC Natural Reserve System
Gage Dayton, Ph.D., Administrative Director of UCSC Natural Reserve System
Kathryn Tobias, Department of Parks and Recreation (on conference phone)

Meeting Summary:

1) Conservation easement vs. deed restriction (State to State Issues).

DFW requires conservation easements by statute on habitat mitigation lands. California Department of Parks and Recreation (State Parks) and University of California (UC) each hold habitat mitigation lands on former Fort Ord. State Parks' position is that easements and other encumbrances devalue property, which is unacceptable to them. UC's concern is that Conservation Easements may prevent them from using their property to further some of their objectives, including research and public education.

Meeting outcome #1: *State Parks and DFW agreed to explore alternatives to a Conservation Easement. One alternative would be that State Parks and DFW agree to recording the HCP's associated 2081 permit language or a reference to this permit to State Parks' deed instead of a Conservation Easement. FORA will also evaluate using the National Fish and Wildlife Foundation (NFWF) as the endowment holder for the*

HCP Joint Powers Authority's (JPA's) Implementation Assurances Fund (State Parks assurances portion) portion of the JPA endowment, which would meet the requirements of SB 1094 necessitating that the endowment holder have a real property interest unless it is held by NFWF.

Meeting outcome #2: *Similarly, UC and DFW agreed to explore alternatives to a Conservation Easement and to explore if the Conservation Easement could be written in an acceptable manner.*

2) Mitigation on federal lands (State to Federal Issues).

The majority of HCP habitat mitigation lands are on the Bureau of Land Management's (BLM's) Fort Ord National Monument. DFW requires assurances that BLM will meet HCP management requirements. In January 2013, DFW recognized that an MOU negotiated between DFW and BLM would provide the needed assurances. DFW said that such an MOU would take a year to complete. It is now over a year later and negotiations between DFW and BLM are still ongoing.

Meeting outcome #3: *DFW reported that it completed a draft DFW-BLM MOU and sent it to BLM's solicitor for review.*

Next Steps: *FORA will follow up with DFW within one week to check on progress. As necessary, FORA will also report progress to State Senator Bill Monning and schedule follow up meetings until these policy issues are resolved.*

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Administrative Committee

Meeting Date: April 11, 2014

Agenda Number: 11c

INFORMATION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The approved March 5, 2014 Administrative Committee minutes are included for Board review (**Attachment A**). The Committee met jointly with the Capital Improvement Program (CIP) Committee to conduct a special CIP workshop on March 27, 2014. Once approved, the minutes from that meeting will be included in a subsequent Board packet.

FISCAL IMPACT:

Reviewed by the FORA Controller 

Staff time for the Administrative Committee is included in the approved annual budget.

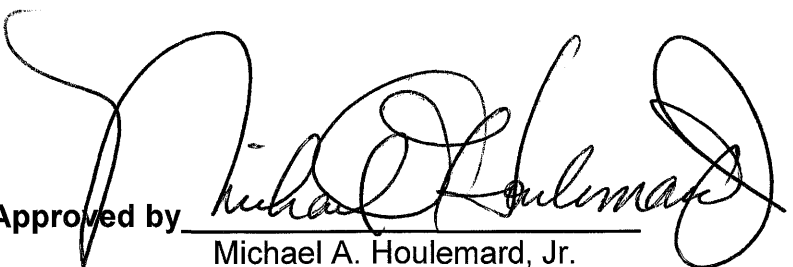
COORDINATION:

Administrative Committee

Prepared by


Lena Spilman

Approved by


Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY

ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES

8:15 a.m., Wednesday, March 5, 2014 | 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 8:17 a.m. The following were present:

Dan Dawson, City of Del Rey Oaks*
Carl Holm, County of Monterey*
Elizabeth Caraker, City of Monterey*
John Dunn, City of Seaside*
Layne Long, City of Marina*
Vicki Nakamura, MPC
Diana Ingersoll, City of Seaside
Tim O'Halloran, City of Seaside
Rick Medina, City of Seaside
Mike Lerch, CSUMB

Graham Bice, UC MBEST
Anya Spear, CSUMB
Patrick Breen, MCWD
Kathleen Lee, Sup. Potter's Office
Bob Schaffer
Wendy Elliot, MCP
Chuck Lande, Marina Heights
Doug Yount, ADE
Don Hofer, Shea Homes

FORA Staff:
Michael Houlemard
Steve Endsley
Jim Arnold
Lena Spilman
Crissy Maras
Jonathan Garcia
Josh Metz

* Voting Members

2. PLEDGE OF ALLEGIANCE

Diana Ingersoll led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

None.

4. APPROVAL OF MEETING MINUTES

- a. February 5, 2014 Administrative Committee minutes
- b. February 19, 2014 Administrative Committee minutes

MOTION: Carl Holm moved, seconded by John Dunn, to approve the minutes, as presented.

MOTION PASSED: unanimous

5. PUBLIC COMMENT

None.

6. MARCH 14, 2014 BOARD MEETING FOLLOW UP

Assistant Executive Officer Steve Endsley reviewed the items on the March 14, 2014 Board agenda.

7. OLD BUSINESS

a. Capital Improvement Program (CIP) Development Forecasts

- i. Jurisdiction Updates
- ii. Project Identification - Entitled vs. Planned.

Senior Planner Jonathan Garcia stated that FORA had received forecasts from all jurisdictions and was still working with the City of Marina to incorporate their changes. He distributed revised CIP tables, which included the status of planned/entitled projects. The Committee discussed the CIP methodology.

8. NEW BUSINESS

a. Review Consistency Determination: Request for Certification of Seaside Zoning Code Text Amendments and Use Permit for a Youth Hostel, Located at 4420 Sixth Avenue, Seaside, CA, as Consistent with the 1997 Base Reuse Plan

Associate Planner Josh Metz led discussion of the item, noting that staff was working with the City of Seaside to resolve several questions prior to the Board meeting. Diana Ingersoll, Seaside Deputy City Manager, provided a summary of Seaside's consistency determination and the City's permitting process. Rick Medina, Seaside Senior Planner, distributed a site plan and reviewed project details.

MOTION: Layne Long moved, seconded by Graham Bice, to recommend the Board certify the Seaside Zoning Code Text Amendments and Use permit as consistent with the 1997 Base Reuse Plan.

MOTION PASSED: unanimous.

The Committee took the following items out of agenda order.

c. Base Reuse Plan Implementation - Regional Urban Design Guidelines

i. Consultant Solicitation

ii. Process/Schedule

Mr. Metz discussed the soon to be released Request for Qualifications. Executive Officer Michael Houlemard explained that the Board had tasked the Administrative Committee with the development of Regional Urban Design Guidelines. In order for progress to continue, staff required input regarding the consultant selection process.

The Committee discussed potential formation of a Regional Urban Design Guidelines Task Force, to be comprised of 4 Administrative committee members and 3 Board members, with no less than 2 members from land use jurisdictions. John Dunn, Elizabeth Caraker, and Layne Long expressed interest in participating.

b. Receive Report on 2014 Annual FORA Federal Legislative Mission

Mr. Houlemard discussed the upcoming Legislative Mission to Washington, DC, noting that the military missions in the Monterey Bay region could be threatened in the coming year. He stated that ongoing support for the military presence would be one of several important topics discussed with federal government representatives.

9. ITEMS FROM MEMBERS

None.

10. ADJOURNMENT

Co-Chair Dawson adjourned the meeting at 9:48 a.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Veterans Issues Advisory Committee

Meeting Date: April 11, 2014

Agenda Number: 11d

INFORMATION

RECOMMENDATION:

Receive a status report on Veterans Issues Advisory Committee (VIAC) activities.

BACKGROUND/DISCUSSION:

The VIAC met on February 27, 2014. The approved minutes from that meeting are included as **Attachment A**.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

COORDINATION:

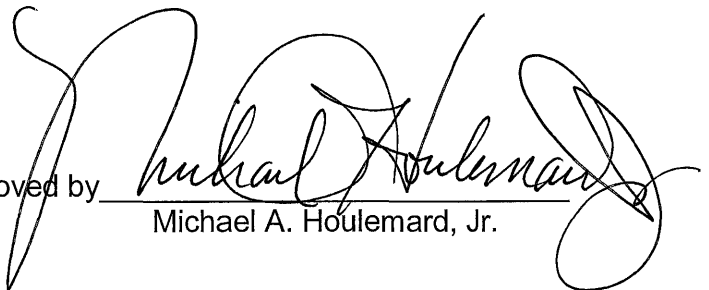
VIAC

Prepared by



Crissy Maras

Approved by



Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY

VETERANS ISSUES ADVISORY COMMITTEE REGULAR MEETING MINUTES

3:00 p.m., Thursday, February 27, 2013 | FORA Conference Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER AND ROLL CALL

Chair Edelen called the meeting to order at 3:00 p.m. The following were present, as indicated by signatures on the roll sheet:

VIAC Members:

Jerry Edelen, FORA Board
Sid Williams, Mo. Co. Military/Vets
Edith Johnsen, Vets Families/Fundraising
Jack Stewart, Cemetery Advisory Comm.
CSM Wynn, US Army POM
Wes Morrill, Mo. Co. Vets. Services

FORA Staff:

Michael Houlemard
Robert Norris
Crissy Maras

Others:

Erica Parker, ASM Stone
Richard Garza, CCVCF

2. PLEDGE OF ALLEGIANCE

Chair Edelen asked Sid Williams to lead the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Executive Officer Houlemard noted that the Packard loan repayment was made and the debt is now retired. A meeting between FORA, the Veterans Cemetery Foundation (VCF) and the Community Foundation for Monterey County will be scheduled to discuss VCF capacity building to increase their fundraising structure.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVE VIAC MEETING MINUTES: October 31, 2013

MOTION: Jack Stewart moved, seconded by Edith Johnsen, to accept the October 31, 2013 minutes as presented.

MOTION PASSED: Unanimous

6. OLD BUSINESS

a. Receive Revised Committee Charge

The committee received the revised charge which was previously sent to the FORA Board under their February Executive Officer's report.

b. California Central Coast Veterans Cemetery Status Report

A California Department of General Services/Veterans Affairs site visit occurred January 8th. The National Veterans Administration is satisfied with the 35% plan submittal. Finalizing the terms of the water rights transfer agreement was a main goal of the FORA legislative mission. Agreement amendments may need to be made to carry on those rights beyond FORA's life.

Chair Edelen noted that the cemetery groundbreaking would likely be scheduled for fall 2014. He asked the Committee, and Mr. Stewart especially, for help gathering names of the original Fort Ord cemetery group so their families could be invited and that those members' ashes could be the first interred. Mr. Stewart agreed to gather that information and report back to the Committee.

c. VA/DoD Veterans Clinic Status Report

The City of Marina reported to FORA that they expect to complete plan check this June. Once received from the City, FORA will distribute the deliverables schedule at an upcoming committee meeting. The clinic's water needs will be provided from the Dunes on Monterey Bay allocation. The existing clinic will be declared surplus to Federal needs when the new facility is operational. It is currently unknown whether that property would come to FORA or the University.

7. NEW BUSINESS

a. Monterey County Veterans Drop-In Clinic

The Monterey County site visit to FORA building 2900 proved that rehabilitation would not be feasible; they are currently looking for alternatives. The Committee will continue to receive updates on this item as they become available.

8. ITEMS FROM MEMBERS

Mr. Stewart announced an awards dinner to celebrate cemetery accomplishments over the last 3-4 years was attended by approximately 80 people and was well received by the veterans, their spouses, the business community and other patriots. The United Veterans Council hopes to make it an annual event. Chair Edelen added that the certificate citations were incredibly detailed and showed an unprecedented level of professionalism and attention to detail. He thanked Mr. Williams for his hard work crafting the certificates.

Ms. Johnsen announced the 5th annual Heroes' Open meeting scheduled for March 20th. The event is scheduled for November.

Command Sgt. Major Wynn noted that a memorial service for Chief Warrant Officer Edward Baldi would be held March 8th. Mr. Morrill added that letters, flowers, and resolutions by the Monterey County Board of Supervisors had been forwarded to the family.

Mr. Morrill additionally noted that the Assembly Chairman is trying to obtain pictures of each of the 58,000 names that are memorialized on the Moving Wall in Sacramento.

9. ADJOURNMENT

Chair Edelen adjourned the meeting at 3:22 p.m.

Minutes prepared by Crissy Maras, Grants and Contracts Coordinator

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Finance Committee

Meeting Date: April 11, 2014

Agenda Number: 11e

INFORMATION

RECOMMENDATION(S):

Receive a report from the Finance Committee.

BACKGROUND/DISCUSSION:

The Finance Committee is scheduled to meet on April 9 and April 23 to discuss the preliminary FY 14-15 FORA Budget. Minutes from these meetings will be included in the May Board packet.

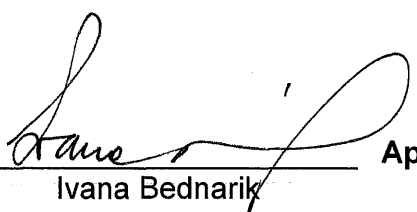
FISCAL IMPACT:

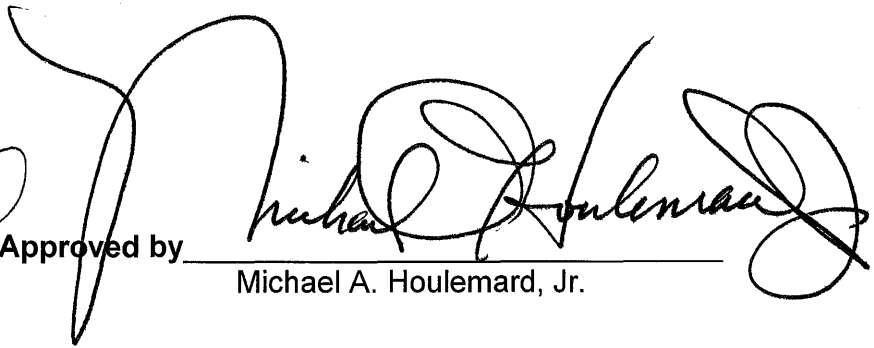
Reviewed by FORA Controller 

None

COORDINATION:

None

Prepared by 
Ivana Bednarik

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Water/Wastewater Oversight Committee

Meeting Date: April 11, 2014

Agenda Number: 11f

INFORMATION

RECOMMENDATION:

Receive a report from the Water/Wastewater Oversight Committee (WWOC).

BACKGROUND/DISCUSSION:

The WWOC met jointly with the Administrative Committee on March 5, 2014. The approved minutes from that meeting are included as **Attachment A**.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

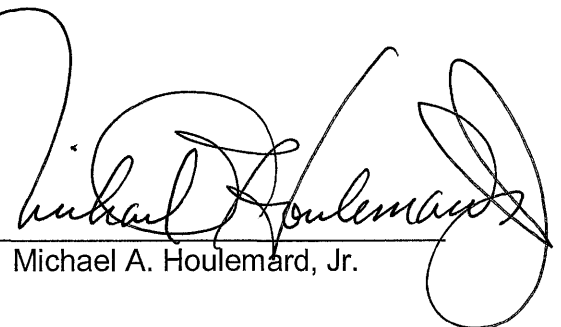
COORDINATION:

WWOC, Administrative Committee

Prepared by


Crissy Maras

Approved by


Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY
JOINT ADMINISTRATIVE AND WATER/WASTEWATER OVERSIGHT COMMITTEE
REGULAR MEETING MINUTES

Wednesday, March 5, 2014 | FORA Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER (immediately following Administrative Committee meeting)

Co-Chair Dawson called the meeting to order at 10:00 a.m. The following were present:

Daniel Dawson, City of DRO
Dirk Medema, County of Monterey*
Rick Reidl, City of Seaside*
Mike Lerch, CSUMB*
Vicki Nakamura, MPC

Brian Lee, MCWD
Patrick Breen, MCWD
Bob Schaffer
Wendy Elliot, MCP
Chuck Lande, Marina Heights
Lyle Shurtleff, BRAC
Talli Robinson, UCP
Don Hofer, MCP
Crisand Giles, MCP
Kelly Cadiente, MCWD

FORA Staff:
Steve Endsley
Jim Arnold
Crissy Maras
Jonathan Garcia

* Voting Members

2. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

None.

3. APPROVAL OF MEETING MINUTES

a. February 19, 2014 Joint Administrative/WWOC Meeting Minutes

The February 19, 2014 joint meeting minutes were approved as presented.

4. PUBLIC COMMENT PERIOD

None.

5. NEW BUSINESS

a. FY 2014/15 Marina Coast Water District - Ord Community Water/Wastewater Draft Budget

Marina Coast Water District Interim General Manager Brian Lee reviewed the draft budget, cautioning that the MCWD Board of Directors would be holding a budget workshop on March 17th and that edits may be forthcoming. He noted that MCWD consultant, Carollo Engineers, had re-reviewed some information which resulted in a lowered recommended capacity charge.

Committee members and members of the public asked questions and requested that MCWD study keeping the capacity charge lower and keeping the monthly residential surcharge in the budget versus including a higher upfront fee. The next joint meeting will be held following the April 2nd Administrative Committee meeting and the results from the budget workshop and work during this meeting will be included in the revised draft budget.

6. ADJOURNMENT

Co-Chair Dawson adjourned the meeting at 10:55 a.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Travel Report

Meeting Date: April 11, 2014

Agenda Number: 11g

INFORMATION

RECOMMENDATION(S):

Receive an informational travel report from the Executive Officer.

BACKGROUND/DISCUSSION:

The Executive Officer regularly submits reports to the Executive Committee providing details of his travel requests, including those by the Fort Ord Reuse Authority ("FORA") staff and Board members. Travel expenses may be paid or reimbursed by FORA, outside agencies/ jurisdictions/ organizations, or a combination of these sources. The Executive Committee reviews and approves these requests, and the travel information is reported to the Board as an informational item.

Completed Travel

Fort Ord Habitat Conservation Plan (HCP) Coordination

Destination: Sacramento, CA

Date: March 25-26, 2014

Travelers: Jerry Edelen, Michael Houlemard, Jonathan Garcia, Jerry Bowden, Robert Norris

The 2013 federal government shut-down delayed review of the draft HCP by the wildlife agencies and negatively impacted the document's progress. In order to keep the momentum, staff has participated in numerous conference calls with the various agencies to resolve outstanding issues. FORA representatives met with the CA Department of Fish and Wildlife on policy-level issues. While in Sacramento, FORA representatives also used the opportunity to meet with the CA Department of Veterans Affairs of veterans cemetery items.

Upcoming Travel

Follow-up HCP Coordination Meetings

Destination: Sacramento, CA

Date: TBD

Travelers: Michael Houlemard, Jonathan Garcia, a Legislative Committee member

Follow-up coordination with the California Department of Fish and Wildlife will be necessary in order to maintain the current HCP schedule. Senator Monning has offered to assist in those efforts. Meetings have not yet been scheduled, but staff expects them to take place in late April.

ADC National Summit

Destination: Washington, DC

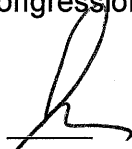
Date: June 3-6, 2014

Travelers: Michael Houlemard, Steve Endsley, an Executive Committee member

This year's National Summit will focus on base redevelopment. Sessions will explore long-term federal budget forecasts, federal policy trends impacting base redevelopment, potential future BRAC rounds, the state of economic development conveyances, and changes in environmental risk management. Executive Officer Houlemard has been asked to lead a session regarding how communities can best use their limited time with state & federal policy makers to advance

their goals. FORA representatives will also attend the ADC Leadership Reception with Department of Defense and Congressional officials and the 2014 Congressional Breakfast.

FISCAL IMPACT:

Reviewed by FORA Controller 

Staff time for this item was included in the approved annual budget. Travel expenses are reimbursed according to the FORA Travel Policy.

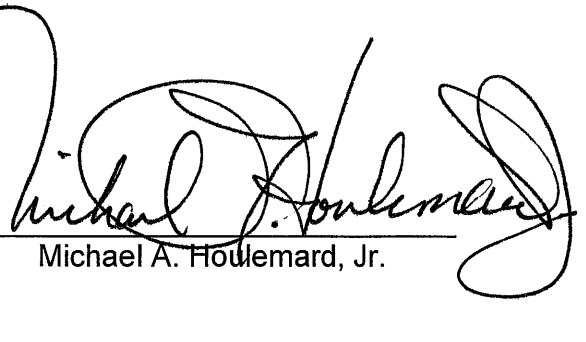
COORDINATION:

Legislative/Executive Committee

Prepared by


Lena Spilman

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Public Correspondence to the Board

Meeting Date: April 11, 2014

Agenda Number: 11h

INFORMATION

Public correspondence submitted to the Board is posted to FORA's website on a monthly basis and is available to view at <http://www.fora.org/board.html>.

Correspondence may be submitted to the Board via email to board@fora.org or mailed to the address below:

FORA Board of Directors
920 2nd Avenue, Suite A
Marina, CA 93933