



FORT ORD REUSE AUTHORITY

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) EXECUTIVE COMMITTEE

Wednesday, October 3, 2018 at 3:30 p.m.

920 2nd Avenue, Suite A, Marina CA 93933 (Executive Officer's Conference Room)

AGENDA

1. CALL TO ORDER/ESTABLISHMENT OF QUORUM
2. PLEDGE OF ALLEGIANCE
3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE
4. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Committee on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.

5. APPROVAL OF MEETING MINUTES **ACTION**
 - a. September 5, 2018 Meeting Minutes
6. OCTOBER 12, 2018 DRAFT BOARD MEETING AGENDA REVIEW **INFORMATION/ACTION**
 - a. Marina Coast Water District Annexation Application Status
7. ITEMS FROM MEMBERS **INFORMATION**

Receive communication from Committee members as it pertains to future agenda items.
8. ADJOURNMENT

NEXT MEETING: Wednesday, October 31, 2018 at 3:30 p.m.



FORT ORD REUSE AUTHORITY
EXECUTIVE COMMITTEE REGULAR MEETING MINUTES
3:30 p.m., Wednesday, September 5, 2018 | Executive Officer's Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER/ESTABLISHMENT OF QUORUM

The meeting was called to order at 3:30 p.m.

The following members were present:

Mayor Ralph Rubio (City of Seaside)

Mayor Jerry Edelen (City of Del Rey Oaks)

Mayor Joe Gunter (City of Salinas)

Dr. Eduardo Ochoa (California State University Monterey Bay)

Mr. Andre Lewis (California State University Monterey Bay)

2. PLEDGE OF ALLEGIANCE led by City of Salinas Mayor Joe Gunter.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

4. CLOSED SESSION

a. Conference with Real Property Negotiators Gov. Code §54956.8

Property: Environmental Services Cooperative Agreement (ESCA)

Agency Negotiators: Michael A. Houlemard, Jr. (FORA) and Barry Steinberg (U.S. Army)

Negotiating Parties: Fort Ord Reuse Authority and United States Army

Under Negotiation: Terms for ESCA Amendment Negotiation

b. Conference with Legal Counsel – Potential Litigation, Gov. Code §54956.9(d)(4)

5. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Authority Counsel Jon Giffen announced there was no action to report.

6. PUBLIC COMMENT PERIOD

Members of the public wishing to address the Executive Committee on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes.

There were no public comments received.

7. APPROVAL OF MEETING MINUTES

a. **August 1, 2018 Meeting Minutes**

b. **August 14, 2018 Special Meeting Minutes**

MOTION: On motion by Committee member Gunter and second by Committee member Edelen and carried by the following vote, the Executive Committee moved to approve the meeting minutes of August 1 and 14, 2018.

MOTION PASSED UNANIMOUSLY

8. BUSINESS ITEMS

a. Preliminary review of September 28, 2018 Draft Board Meeting Agenda

Executive Officer Michael Houlemard reviewed the preliminary draft of the September 28, 2018 Board meeting agenda and responded to questions and comments from the Committee.

MOTION: On motion by Committee member Gunter and second by Committee member Edelen and carried by the following vote, the Executive Committee moved to approve the preliminary draft of the September 28, 2018 Board meeting agenda with the proposed changes.

MOTION PASSED UNANIMOUSLY

b. Discuss Habitat Conservation Plan (HCP) Workshop

Mr. Houlemard advised the Committee that there was an outstanding request for an update on the HCP and that staff has been working diligently to review and document changes that have been submitted by outside agencies. It was recommended that a workshop be held prior to the next Board meeting on September 28, 2018. Staff was directed to poll members and attempt to schedule a workshop prior to the next Board meeting.

c. Transition Planning Update

- i. Fort Ord Committee
- ii. City of Monterey
- iii. LAFCO

Risk Manager Sheri Damon provided updates regarding upcoming meetings, study sessions and workshops that jurisdictions are holding regarding FORA Transition Planning and related issues.

Information item only – no vote was taken

9. ITEMS FROM MEMBERS

There were no items from members.

10. ADJOURNMENT at 4:01 p.m.

Minutes Prepared by:
Dominique L. Davis
Deputy Clerk

- START -

**DRAFT
BOARD PACKET**



FORT ORD REUSE AUTHORITY

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS

Friday, October 12, 2018 at 2:00 p.m. | 910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON OCTOBER 11, 2018.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE *(If able, please stand)*

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

4. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Keep Fort Ord Wild v. Fort Ord Reuse Authority. Monterey County Superior Court Case No.: 17CV004540, Pending Litigation.
- b. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Marina Community Partners, LLC v. Fort Ord Reuse Authority, Monterey County Superior Court Case No.: 18CV000871, Pending Litigation.
- c. Conference with Legal Counsel - Potential Litigation, Gov. Code §54956.9(d)(4)

5. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

6. ROLL CALL

FORA is governed by 13 voting members: (a) 1 member appointed by the City of Carmel; (b) 1 member appointed by the City of Del Rey Oaks; (c) 2 members appointed by the City of Marina; (d) 1 member appointed by Sand City; (e) 1 member appointed by the City of Monterey; (f) 1 member appointed by the City of Pacific Grove; (g) 1 member appointed by the City of Salinas; (h) 2 members appointed by the City of Seaside; and (i) 3 members appointed by Monterey County. The Board also includes 12 ex-officio non-voting members.

7. CONSENT AGENDA

INFORMATION/ACTION

CONSENT AGENDA consists of routine information or action items accompanied by staff recommendation. Information has been provided to the FORA Board on all Consent Agenda matters. The Consent Agenda items are normally approved by one motion unless a Board member or the public request discussion or a separate vote. Prior to a motion, any member of the public or the Board may ask a question or make comment about an agenda item and staff will provide a response. If discussion is requested, that item will be removed from the Consent Agenda and be considered separately at the end of the Consent Agenda.

- a. Approve September 28, 2018 Meeting Minutes
Recommendation: Approve September 28, 2018 meeting minutes.
- b. Administrative Committee
Recommendation: Receive a report from the Administrative Committee.
- c. Veterans Issues Advisory
Recommendation: Receive an update from the Veterans Issues Advisory Committee.
- d. Environmental Services Cooperative Agreement Quarterly Report
Recommendation: Receive an Environmental Services Quarterly Report.
- e. Building Removal Quarterly Update
Recommendation: Receive a Building Removal Quarterly Update.
- g. Public Correspondence to the Board
Recommendation: Receive Public Correspondence to the Board.

8. BUSINESS ITEMS

INFORMATION/ACTION

*BUSINESS ITEMS are for Board discussion, debate, direction to staff, and/or action. Comments from the public are **not to exceed 3 minutes** or as otherwise determined by the Chair.*

a. Transition Planning Process Update

Recommendation: [This information will be provided in the final packet]

b. Habitat Conservation Plan Update

Recommendation:

- i. Receive a Fort Ord Multi-Species Habitat Conservation Plan (HCP) report regarding United States Fish and Wildlife Service (USFWS) HCP and State of California Department of Fish and Wildlife (CDFW) 2081 Incidental Take Permit (ITP) developments.
- ii. Consider directing staff to work with the jurisdictions on formation of a Joint Powers Authority (JPA) to implement base-wide habitat management activities required by the 1997 Fort Ord Habitat Management Plan (HMP).

9. PUBLIC COMMENT PERIOD

INFORMATION

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10. ITEMS FROM MEMBERS

INFORMATION

Receive communication from Board members as it pertains to future agenda items.

11. ADJOURNMENT

NEXT REGULAR MEETING: November 9, 2018 AT 2:00 P.M.

Placeholder for Item 7a

September 28, 2018

Meeting Minutes

This attachment will be included in the final Board packet.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Administrative Committee

Meeting Date: October 12, 2018

Agenda Number: 7b

INFORMATION/ACTION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The Administrative Committee held a meeting on August 15 and September 19, 2018. The approved minutes for these meetings are provided as **Attachment A** and **B**.

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_____ **Approved by**_____
Dominique L. Davis Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Veterans Issues Advisory Committee

Meeting Date: October 12, 2018

Agenda Number: 7c

INFORMATION/ACTION

RECOMMENDATION:

Receive a report from the Veterans Issues Advisory Committee (VIAC).

BACKGROUND/DISCUSSION:

The Veterans Issues Advisory Committee met on July 26, 2018. The approved minutes for this meeting are provided as **Attachment A**.

FISCAL IMPACT:

Reviewed by FORA Controller _____

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

COORDINATION:

VIAC

Prepared by _____
Heidi L. Lizarbe

Approved by _____
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Environmental Services Cooperative Agreement Quarterly Report	
Meeting Date:	October 12, 2018	INFORMATION/ACTION
Agenda Number:	7e	

RECOMMENDATION:

Receive an Environmental Services Cooperative Agreement (ESCA) Quarterly Report.

BACKGROUND:

In Spring 2005, the U.S. Army (Army) and the Fort Ord Reuse Authority (FORA) entered negotiations toward an Army-funded Environmental Services Cooperative Agreement (ESCA) for removal of remnant Munitions and Explosives of Concern (MEC) on 3,340 acres of the former Fort Ord. FORA and the Army signed the ESCA agreement in early 2007. Under the ESCA terms, the Army awarded FORA approximately \$98 million to perform the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) MEC cleanup on those parcels. FORA also entered the Administrative Order on Consent (AOC) with U.S. Environmental Protection Agency (EPA) and California Department of Toxic Substance Control (DTSC) (collectively referred to as Regulators) defining FORA's contractual conditions to complete the Army remediation obligations for the "ESCA parcels." FORA received the ESCA parcels after EPA approval and gubernatorial concurrence under a Finding of Suitability for Early Transfer (FOSET), May 8, 2009.

To complete the ESCA and AOC obligations, FORA entered a Remediation Services Agreement (RSA) in 2007 by competitively selecting LFR Inc. (now ARCADIS) to provide MEC remediation services. ARCADIS remediation services are executed under a cost-cap insurance policy through American International Group (AIG) assuring financial resources to complete the work and offer other protections for FORA and the jurisdictions.

DISCUSSION:

The ESCA requires FORA, acting as the Army's contractor, to address safety issues resulting from historic Fort Ord munitions training operations. Through the ESCA, FORA and the ESCA Remediation Program (RP) team have successfully addressed three historic concerns: 1) yearly federal appropriation funding fulgurations that delayed Army cleanup and necessitated costly mobilization and demobilization expenses; 2) Regulator questions about protectiveness of previous actions for sensitive uses; and 3) the local jurisdiction, community and FORA's desire to reduce MEC property access risks.

Of the \$98 million of ESCA FORA received, FORA paid \$82.1 million upfront, to secure an AIG "cost-cap" insurance policy. AIG controlled the \$82.1 million in a "commutation" account and paid ARCADIS directly as work was performed. AIG provides up to \$128 million assuring additional work (known and unknown) is completed to the Regulators satisfaction (see table below). Under these agreements, AIG pays ARCADIS directly while FORA oversee ARCADIS compliance with the ESCA and AOC requirements. On January 25, 2017, ARCADIS notified FORA that the ESCA commutation account was exhausted and that future ARCADIS work would be paid under the terms of the AIG "cost-cap" insurance policy until March 30, 2019. At that time, AIG's responsibility to pay for ESCA work will terminate. ARCADIS will continue to provide FORA with quarterly AIG cost-cap insurance invoicing estimates, which FORA staff will continue to report in the ESCA Quarterly Board Report.

Post-ESCA Amendment ESCA fund status as of June 2018:

Item	2017 Amendment Allocations	Accrued through June 2018	Invoiced to AIG Cost Cap-Policy
Line Item 0001 Environmental Services			
FORA Self-Insurance or Policy			
State of California Surplus Lines Tax, Risk Transfer, Mobilization			
Contractor's Pollution Liability Insurance			
ARCADIS/AIG Commutation Account - <i>plus</i> - AIG insurance			
Original FORA Administrative Fees			
Line Item 001: Subtotal			
Line Item 0002 thru 31 Dec 2019: DTSC and EPA Technical Oversight Services			
Line Item 0003 thru 30 June 2020: FORA ESCA Administrative Funds			
Line Item 0004 thru 30 June 2028: Post-Closure MEC Find Assessments			
Line Item 0005 thru 30 June 2028: Long Term/LUC Management			
Total			
	ESCA Remainder		

ESCA Activity Status:

Data collected during the ESCA field investigations is under Regulator and Army review. The review and documentation process is dependent on Army and Regulator responses and decisions, who will issue written confirmation that CERCLA MEC remediation work is complete (known as Regulatory Site Closure).

The Record of Decision (ROD) records the Regulator and Army decision on the cleanup and what controls are required to continue to protect public health and safety. On November 25, 2014, the Regulators signed the ROD for the ESCA Group 3 properties located in Monterey County (at Laguna Seca); City of Monterey (south of South Boundary Road); Del Rey Oaks (south of South Boundary Road); and Monterey Peninsula College (MPC) Military Operations in Urban Terrain (MOUT) property. On February 26, 2015, the Regulators signed the ROD for the ESCA Group 2 California State University Monterey Bay (CSUMB) property (south of Inter-Garrison Road). The Regulators signed the ESCA Interim Action Ranges (IAR) ROD in December 2016. Currently, Draft Final ESCA Group 1 and 4 RODs are being signed and once signed, all ESCA properties will have RODs.

The Land Use Control Implementation Plan/Operation and Maintenance Plan (LUCIP/OMP) document prescribes implementing, operating and maintaining ROD controls tailored to individual site conditions and historic MEC use. The Regulators and Army approve LUCIP OMP documents before issuing regulatory site closure. Final ESCA Group 2, Group 3 and IAR LUCIP/OMP documents have recently received Army and Regulatory Approval. Draft ESCA Group 1 and 4 LUCIP/OMP are currently under review.

In 2018, Army BRAC Headquarters (HQ) in Washington D.C. changed their document review and approval process resulting in extended Army review of ESCA documents. On June 14, 2018, FORA advised the Army BRAC office that since the recent shift in Army HQ document review policy, Army document review has become more complicated. This has resulted in protracted Army HQ review times (Section 4.2 of the ESCA Agreement) and their inability to meet the comment time frames on the Group 1 and Group 4 RODs and IAR LUCIP/OMP documents (impacting the ESCA completion schedule) has created a breach of the ESCA contract terms. On August 10, 2018 in a closed session, the FORA Board authorized the FORA Executive Officer and FORA Special Counsel, under the direction of the FORA Executive Committee to enter into negotiations with the Army for additional funds to cover ESCA costs beyond the AIG cost-cap insurance policy expiration date. On August 14, 2018, FORA Special Counsel met with the FORA Executive Committee and briefed them on the situation and requested permission for the FORA Executive Officer to negotiate with the Army for additional funds to complete the ESCA.

ESCA Future Actions:

Until regulatory review, concurrence and site closure is received, the ESCA property is not open to the public. Regulatory approval does not determine end use. When regulatory site closure is received, FORA will transfer land title to the appropriate jurisdiction for reuse programming. Underlying jurisdictions are authorized 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 _____

COORDINATION:

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

Prepared by _____ Approved by _____
Stan Cook Michael A. Houlemard, Jr.

Placeholder for Item 7e

Building Removal Quarterly Update

This item will be included in the final Board packet.

FORT ORD REUSE AUTHORITY BOARD REPORT	
CONSENT AGENDA	
Subject:	Public Correspondence to the Board
Meeting Date:	October 12, 2018
Agenda Number:	7f
	INFORMATION/ACTION

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

DRAFT

Placeholder for Item 8a

Transition Planning Process Update

This item will be included in the final Board packet.

Placeholder for Item 8b

Habitat Conservation Plan Update

This item will be included in the final Board packet.

- END -

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