



FORT ORD REUSE AUTHORITY (FORA)

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

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

SPECIAL LEGISLATIVE COMMITTEE MEETING

4:00 p.m. (or immediately following adjournment of the Executive Committee)

Wednesday, March 2, 2016

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

AGENDA

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

4. PUBLIC COMMENT PERIOD

Individuals wishing to address Board jurisdiction matters not on this agenda, may do so during this period for up to three minutes. Specific agenda item comments are heard under that item.

5. APPROVAL OF MEETING MINUTES

a. December 2, 2015 Legislative Committee Minutes ACTION

6. BUSINESS ITEMS

a. Sacramento Legislative Mission update INFORMATION/ACTION

b. D.C. Legislative Items update INFORMATION

c. 2016 Annual Fort Ord Reuse Authority Legislative Agenda-Update ACTION

d. FORA Board Legislative Session Items/Date INFORMATION/ACTION

e. Fort Ord Reuse Authority 2020 Sunset & Transition Plan INFORMATION/ACTION

7. ITEMS FROM MEMBERS

8. ADJOURNMENT

Next Meeting Date: TBD

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**FORT ORD REUSE AUTHORITY
LEGISLATIVE COMMITTEE MEETING MINUTES**

4:00 p.m., Wednesday, December 2, 2015 FORA Executive Officer's Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER

Mayor Pro-Tem O'Connell chaired the meeting until Chair Potter arrived. He declared a quorum and called the meeting to order at 4:20 p.m.

Voting Members Present:

Chair, Supervisor Potter (Monterey County)AR
Mayor Rubio (City of Seaside)
Mayor Edelen (City of Del Rey Oaks)
Mayor Pendergrass (City of Sand City)
Mayor Pro-Tem O'Connell (City of Marina)
Supervisor Parker (County of Monterey)

Others Present:

Erica Parker (29th Assembly Dist.)
John Arriaga
Christina Watson, TAMC (via telephone)
Michael Houlemard
Steve Endsley
Robert Norris
Maria Buell

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was led by Mayor Pro-Tem O'Connell.

3. ACKNOWLEDGMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

None.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MEETING MINUTES

a. November 3, 2015 Legislative Committee Minutes

MOTION: Mayor Edelen moved, seconded by Mayor Rubio, to approve the November 3, 2015 minutes, as presented.

Abstain: Mayor Pro-Tem O'Connell and Mayor Pendergrass.

MOTION PASSED

6. NEW BUSINESS

a. 2016 Annual Fort Ord Reuse Authority Legislative Agenda

Mr. Houlemard said the 2016 Legislative Agenda list included in packet was revised to add members' recommendations, as outlined on November meeting minutes. He said the Habitat Preservation Plan is an important issue and the revised 2016 Legislative agenda includes it. He added that when a new congressman is elected, he/she needs to be oriented so that continuity can be preserved for all FORA work.

Supervisor Potter arrived at 4:24 p.m. and resumed meeting as Chair.

Christina Watson said her agency, Transportation Agency for Monterey County, does not have a coordinated meeting on legislative items yet, but coordinating efforts with staff would begin so that issues of transportation can be addressed.

There was no public comment.

MOTION: Mayor Rubio moved, seconded by Mayor Edelen, to recommend Board approval of the 2016 Fort Ord Reuse Authority Legislative Agenda.

MOTION PASSED UNANIMOUSLY

7. ITEMS FROM MEMBERS

None.

8. ADJOURNMENT

Chair Potter adjourned the meeting at 4:28 p.m.

DRAFT



Fort Ord Reuse Authority
Agenda Item 6c
2016 LEGISLATIVE AGENDA

The purpose of this report is to outline 2016 Fort Ord Reuse Authority (FORA) legislative tasks. The FORA 2016 Report 's Legislative Agenda defines Board policy, sets legislative, regulatory or federal/state resource allocation positions, and supports the 1997 Base Reuse Plan's (BRP) defined programs and the 2012 BRP Reassessment report's for replacing the former Fort Ord military regional economic contributions with comparable level civilian activity/programs. The Legislative Agenda is meant to assist state and federal agencies/legislative offices regarding property transfer, economic development, environmental remediation, habitat management/conservation, and infrastructure and mitigation funding. The order in which the tasks are presented herein does not imply rank or priority. Each item is considered a "priority" in achieving FORA's objectives.

A. HABITAT CONSERVATION PLAN (HCP). Continue/enhance ongoing coordination with federal and state legislative representatives to secure approval of the HCP.

Issue:

HCP approval remains critical to former Fort Ord reuse. Alternatives to a base wide HCP are costly and time consuming and do not effectively serve the goal of managing or protecting endangered species.

Benefits:

HCP approval is essential to protecting habitat and to effectively develop jobs and housing.

Challenges:

Processing the HCP over the past fifteen years was difficult and costly. Insufficient federal/state agency resources and overlapping regulatory barriers have thwarted the HCP process.

Proposed Position:

- Support legislative and regulatory coordination, state and federal resources, and strong advocacy to enable speedy reviews and processing.
- Coordinate with Department of Interior/ Bureau of Land Management (BLM), California Department of Fish and Wildlife (CDFW), the 20th Congressional District, the 17th State Senate District and the 29th State Assembly District to finalize a Memorandum Of Understanding between BLM and CDFW regarding habitat management on BLM's Fort Ord National Monument, a required milestone to completing the HCP.

B. NATIONAL MONUMENT. Assist in implementing the federal National Landscape Conservation System (Fort Ord National Monument) designation for the former Fort Ord Bureau of Land Management (BLM) Natural Resource Management Area through increased trail access, completion of munitions and explosives removal, and continued advancement of the Fort Ord Habitat Conservation Plan (HCP).

Issue:

HCP approval and implementation are essential to former Fort Ord reuse and will support the National Monument. Advancing access connects the National Monument to other Monterey Bay venues. State and national funding and further recognition are critical.

Benefits:

National attention to the unique flora, fauna, and recreational resources found on the Fort Ord National Monument supports Fort Ord Habitat Management Plan and HCP preservation efforts. The National Monument designation emphasizes the national significance of the BLM's former Fort Ord property to potential donors and other funding sources. As an advocate for the designation, FORA supports BLM's mission and former Fort Ord recreation/tourism, helping improve resource competitiveness.

Challenges:

Each year, the local BLM office competes nationally to receive public and private grants and federal appropriations that support its mission.

Proposed Position:

- Continue to support and work with the 20th Congressional District to introduce/sponsor funding for former Fort Ord conservation, trails, etc.

C. ECONOMIC RECOVERY SUPPORT. Support statewide and regional efforts to create local jurisdiction economic recovery base reuse financing.

Issue:

The loss of "redevelopment financing" and other refinancing tools to assist in implementing base closure recovery programs was a heavy blow to FORA's member jurisdictions. Jurisdictional funding has dropped and substitute financial tools to support economic reuse/recovery initiatives are needed.

Benefits:

Sufficient funding resources for the reuse and recovery from former Fort Ord closure and other military bases. Funding support for economic development programs, habitat management protection, building removal, or other infrastructure demands associated with the reuse programs.

Challenges:

1. Obtaining agreement to use tax or special district funds to create special financing districts to support, targeted economic recovery, affordable housing and/or infrastructure in the climate of limited resources.
2. State funding sources remain unclear.

Proposed Position:

Support legislation, activating local agency processes for economic development.

- Support establishment of Military Base Reuse "Recovery Zones."
- Support legislation for incentive based mechanisms to strengthen jurisdictions ability to implement base closure recovery programs.

D. VETERANS CEMETERY. Continue support for the California Central Coast Veterans Cemetery (CCCVC) development on the former Fort Ord.

Issue:

Burial space for California Central Coast veterans is inadequate. The former Fort Ord is both ideally suited and centrally located. A site was set aside/designated in 1990s for a veterans cemetery and the FORA Board of Directors supported through multiple previous actions the establishment of the California Central Coast Veterans Cemetery (CCCVC). In 2011, the Legislature amended Military and Veterans Code section 1450.1 directing California Department of Veteran Affairs (CDVA), in cooperation with the City of Seaside, County of Monterey, FORA, and surrounding local agencies, to design, develop, and construct the Veterans Cemetery on the former Fort Ord. In January 2013, the FORA Board authorized transfer of the land designated for the CCCVC to CDVA. In August, CDVA submitted an application to the U.S. Department of Veteran Affairs (DVA) for approximately \$6.8 million in grant funding to establish the CCCVC. Senator Bill Monning authored legislation reducing the approximate \$2.6 million funding gap between the federal grant and estimated project costs by \$1 million dollars. Additional State funding efforts reduced the funding gap by another \$1 million. The David and Lucile Packard Foundation provided a \$350,000 loan and \$150,000 in grant funding. Local fundraising efforts produced the remaining portion, allowing State to accept the U.S. Department of Veterans Affairs (USDVA) grant funding on October 15, 2013. The federal funds were disbursed to State on September 2014, and construction began in early 2015. Current funding supports CCCVC design, planning, and environmental review and incorporate above ground columbaria, administration and maintenance buildings, a committal shelter, minimal landscaping, and all necessary infrastructure for initial operation. Future expansion requires additional design, planning, and review and includes in-ground gravesites and additional columbaria, as well as other potential ancillary uses.

Benefits:

The CCCVC offers final resting places for the region's 50,000 (approx.) veterans.

Challenges:

Completion of the cemetery construction will require significant coordination between FORA, the CCCVC Foundation, California Department of General Services (DGS), California Department of Veterans Affairs, US Dept. Of Veterans Affairs, the City of Seaside, the County of Monterey, and other state/federal agencies.

Proposed Position:

- Support DGS and CDVA construction efforts.
- Support efforts to sustain priority standing for the CCCVC with CDVA and USDVA.
- Promote continued vigilance and cooperation among the regulatory agencies.
- Coordinate with federal agencies, the City of Seaside, the County of Monterey, the 20th Congressional District, the 17th State Senate District, and the 29th State Assembly District to sustain efforts to generate federal funding and/or status for future CCCVC expansion.

E. AUGMENTED WATER SUPPLY. Work with local and regional agencies to secure State and Federal funding to augment FORA's water supply capital needs.**Issue:**

The FORA Capital Improvement Program includes approximately \$24M to fund a Regional Water Augmentation necessary to implement the Base Reuse Plan. Securing outside funds to assist this requirement could help the timely implementation of recycled water and/or desalination water facilities and smooth out upfront costs of infrastructure.

Benefits:

Development projected under the Base Reuse Plan depends on an augmented water supply. Additional grant funding could reduce FORA and Marina Coast Water District (MCWD) cost to secure water resources and reduce the required hefty capital charges.

Challenges:

Scarce funding and competing water projects throughout the region and state. No current federal/state program exists for this funding.

Proposed Position:

- Continue to work with MCWD to ensure that they fulfill their contractual obligation to FORA for water resource augmentation.
- Support and coordinate efforts with MCWD, Monterey County Water Resources Agency, Monterey Regional Water Pollution Control Agency, other agencies, and FORA jurisdictions to secure funding and/or support other funding mechanisms proposed for this purpose.
- Coordinate potential water bond funding for Monterey Bay region and FORA augmentation needs.

F. TRANSPORTATION IMPROVEMENTS. Work with Transportation Agency for Monterey County (TAMC) and local jurisdictions to secure transportation funds.

Issue:

The FORA Capital Improvement Program requires capital and monetary mitigations of approximately \$121 million for transportation infrastructure on and proximate to the former Fort Ord. Some of this funding requires a local, or other, match from the appropriate regional or state transportation body to bring individual projects to completion. Roadway infrastructure proximate to the former Fort Ord impacts traffic mitigation measures on the former Fort Ord.

Benefits:

The timely installation of required on-site, off-site, and regional roadway improvements supports mitigating development impacts and maintaining and improving levels of service vital to the regional economy.

Challenges:

Applying scarce transportation funds to the appropriate projects to optimize transportation system network enhancements. Remaining federal and state programs offering grants or low cost resources are dwindling and increasingly competitive. An adopted HCP is an application requirement for most federal and state transportation grant programs.

- Support and coordinate with TAMC, FORA jurisdictions, and others for state infrastructure bonds, federal authorization or other grant/loan/low cost resources.
- Restart efforts to request amendment to Monterey County Local Coastal Plan (LCP) for safety improvements to Moss Landing/Castroville section of Highway 1.
- Advocate for approved regional improvements to maintain traffic flow and funding for transit improvements and active transportation.
- Continue/enhance ongoing coordination with congressional and state legislative representatives to secure HCP approval.

G. PUBLIC SAFETY OFFICER TRAINING. Work with County of Monterey to assist Monterey Peninsula College (MPC) obtain capital and program funding for its former Fort Ord Public Safety Officer Training Programs.

Issue:

FORA/County agreed to assist MPC in securing program funds in 2003.

Benefits:

The Public Safety Officer Training Program is an important component of MPC's Fort Ord reuse efforts and will enhance public safety training at the regional and state levels. Adequate funding is critical.

Challenges:

Funds available through the Office of Homeland Security, the Office of Emergency Services, or other sources may be restricted. MPC has yet to accept the property for the former Fort Ord projects.

Proposed Position:

- Pursue legislative or other actions to support MPC efforts to secure funding sources.

H. LEGISLATIVE COOPERATION. Coordinate efforts with other Monterey Bay agency legislative issues.

Issue:

Monterey-Salinas Transit, Transportation Agency for Monterey County, and the County of Monterey have adopted legislative programs, some of which will have Fort Ord reuse impacts.

Benefits:

Collaborative funding efforts by agencies involved in the same or interdependent projects will increase the chances to obtain critical funding and also be enhanced by partnering matching funds.

Challenges:

State and federal funding is limited and competition for available funds will be keen.

Proposed Position:

- Coordinate and support other legislative programs in the Monterey Bay area when they interface with former Fort Ord reuse programs.

I. ASSURING LONG TERM STEWARDSHIP OF MUNITIONS CLEANUP AREAS.

Coordinate with Federal, State and local agencies on post-cleanup stewardship of munitions and explosives ordnance issues/areas.

Issue:

FORA sunsets in June 30, 2020. There will be significant post FORA property management and post-remediation issues that will need to be managed. Those issues require resources, coordination and cooperation which are still being defined.

Benefits:

Collaborative resources efforts by agencies involved in the same or interdependent projects will increase the chances to obtain critical funding and also be enhanced by partnering.

Challenges:

State and federal funding resources are limited. Federal and State agencies have not funded long term stewardship. In addition local jurisdictions have limited funding for long-term stewardship.

Proposed Position:

- Seek federal and state cooperation to assure responsiveness and long-term stewardship for munitions response areas.

J. LEGISLATIVE COORDINATION REGARDING FORA TRANSITION ISSUES.

Issue:

FORA's sunset in 2020 calls for coordination of many items. Specifically a report to State Legislature must be filed in 2018. Working with local agencies such as LAFCO is crucial. Coordination will be beneficial /essential in traversing the long list of issues and reporting requirements.

Benefits:

Collaborative efforts will assure effective transition prior to the 2020 sunset.

Challenges:

State law requirements contractual obligations, and inter-agency agreements will require intensive and unavoidable legislative multi-agency negotiations.

Proposed Position:

- Coordinate and seek support from State Legislature (17th State Senate District and 29th State Assembly District) to assure post-FORA funding for jurisdictions and reuse obligations.

K. PREVAILING WAGE COORDINATION.

Coordinate with 17th and 12th State Senate Districts and 27th State Assembly District to clarify the implementation of the FORA Prevailing Wage Policy and the enforcement provisions of SB-854 with the State Department of Industrial Relations.

Issue:

Ongoing confusion continues with various interpretations of how the FORA Prevailing Wage Policy interfaces with the registration, reporting and enforcement provisions of SB-854.

Benefits

FORA has a \$180 million dollar in Capital Improvement Program with a Prevailing Wage Policy. FORA provides statewide monitoring of prevailing wages and has authority to sanction violators.

Challenges:

SB 854 is in the first year of implementation and there is little experience within DIR of working Base Reuse Programs.

Proposed Position:

Support legislative and regulatory coordination, state and federal resources, and strong advocacy to enable speedy reviews, compliance, enforcement and coordinated decisions.



FORT ORD REUSE AUTHORITY

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MEMORANDUM

TO: Fort Ord Reuse Authority Legislative Committee
FROM: Assistant Executive Officer Steve Endsley
RE: Agenda Item 6e. Fort Ord Reuse Authority 2020 Sunset and Transition Plan
DATE: February 25, 2016

In December of 1993, Senator Henry Mello (1924-2004) proposed legislation [Senate Bill (SB) 899] to create a Fort Ord Reuse Authority (FORA). SB 899 was approved unanimously by the State Assembly Ways and Means Committee in April 1994 and was signed into law by Governor Pete Wilson on May 10, 1994. SB 899, as amended, has been codified as Title 7.85 of the Government Code, sections 76750, et. seq., known as the “Fort Ord Reuse Authority Act.” Formally established as a corporation of the State of California on May 20, 1994, FORA’s purpose is to prepare, adopt, finance and implement a plan for the land formerly occupied by Fort Ord. FORA’s initial sunset was planned for June 30, 2014. In 2012, California State Senator Bill Monning proposed Assembly Bill (AB) 1614, which submitted a ten year extension of FORA. AB 1614 also required FORA’s Board of Directors to approve and submit a transition plan to the Monterey County Local Agency Formation Commission (LAFCO) eighteen months before the inoperability date.

The transition plan assigns assets and liabilities, designates responsible successor agencies, and provides a schedule of remaining obligations. Through the LAFCO process, the obligations and responsibilities of FORA would be allocated among FORA’s constituent membership and/or successor agency. Also, the bill required a progress report to be delivered to the State Legislature. Although FORA was granted six additional years rather than ten, the other requirements were adopted. Chapter 7. Dissolution of the FORA Act, effective January 1, 2013, states that FORA “shall become inoperative when the board determines that 80 percent of the territory of Fort Ord that is designated for development or reuse in the plan . . . has been developed or reused in a manner consistent with the plan adopted or revised pursuant to Section 67675, or June 30, 2020, whichever occurs first.” To meet these requirements, several issues warrant discussion of FORA’s dissolution.

This memorandum explores presently identified options to extend the June 30, 2020 dissolution date or create a successor agency or agencies to provide for completing the original FORA mission of converting the former Fort Ord from military to civilian land uses. This memorandum also identifies FORA’s surviving post-2020 obligations, describes proposed or existing institutional and policy mechanisms to address them, and evaluates their relative merits. This document will discuss several approaches to addressing the FORA transition and includes specific recommendations.

This memorandum is organized in the following manner:

- I. FORA Obligations that Survive 2020
- II. Assets and Revenues
- III. Post-2020 Organizational Structure Considerations
- IV. Issues Posed by Extending FORA

I. FORA Obligations That Survive 2020

FORA has three broad categories of obligations that survive the FORA scheduled sunset: A. Capital Improvement Program (CIP) /Base Reuse Plan (BRP) California Environmental Quality Act (CEQA) mitigations, B. Board-determined base-wide obligations, and C. Organizational closure obligations. The following outline describes these obligations and their relative completion timeframes.

A. CIP/BRP CEQA mitigations

1. Transportation/Transit

- Description: FORA must fund specific amounts for Transit as well as Regional, Off-site, and On-site roadways. FORA must complete specific on-site roadways for which it is lead agency: South Boundary Road, Gigling Road, Intergarrison Road, and Eastside Parkway (formerly known as Eastside Road).
- Estimated cost: \$120.9 million
- On-site project completion schedule: 2025
- Entire completion schedule: 2035
- This is a CEQA requirement included in the BRP EIR.

2. Water Augmentation

- Description: FORA must fund a Fort Ord water augmentation project to provide 2,400 acre-feet per year (AFY). FORA has contracted Marina Coast Water District (MCWD) to do this project. MCWD's Regional Urban Water Augmentation Project has identified a 1,427 AFY recycled water project. MCWD and FORA have not yet specifically identified a project that would produce the remaining 973 AFY of augmented water.
- Estimated cost: \$24 million (FORA's required mitigation only, project could exceed this cost).
- Completion schedule: 2018-2035, in phases.
- This is a CEQA requirement included in the BRP EIR, approved by the FORA Board June 13, 1997.

3. Habitat Management Plan/Habitat Conservation Plan (HCP)

- Description: the Army's 1997 Habitat Management Plan does not provide Fort Ord jurisdictions with "take" coverage necessary to implement required habitat conservation management on habitat reserves and development/reuse. The jurisdictions and FORA must implement an HCP to receive take coverage from Federal and State wildlife agencies.

- Estimated cost: \$43 million for HCP endowments
- Completion schedule: 2035
- This is a CEQA requirement included in the BRP Environmental Impact Report (EIR).

4. **FORA CIP funding replacement**

- Description: In 2002, FORA recorded a Special Tax lien on the majority of former Fort Ord property known as the FORA Community Facilities District (CFD) Special Tax. This Special Tax is the primary funding source for the FORA CIP, which includes HCP, Transit, Roads, and Water Augmentation. The Special Tax lien states that it shall not be levied after FORA's termination or later than calendar year 2051. Should FORA dissolve in 2020, entities assigned FORA's CIP mitigations must have a replacement funding mechanism.

B. Board-determined base-wide obligations

1. **FORA/US Army Environmental Services Cooperative Agreement (ESCA)**

- Description: In 2007, the FORA Board authorized execution of several ESCA agreements. The Administrative Order on Consent (AOC) agreement with United States Environmental Protection Agency (US EPA), California Department of Toxic Substances Control (DTSC) and Regional Water Quality Control Board (RWQCB) was the overarching agreement.
- Estimated cost: \$98 Million in grant funding.
- AOC completion schedule: AOC termination is tied to performance standards (completion of Munitions and Explosives of Concern [MEC] related remedial activities), not a fixed date. According to the AOC, EPA, DTSC and RWQCB must approve a successor to FORA's AOC obligations.
- ESCA completion schedule: Munitions/ explosives remediation regulatory acceptance is anticipated in 2019. Army 5-year review in 2017-18 and FORA Longer Term ESCA Obligations would continue to 2037.

2. **Base-wide building removal**

- Description: In 2001, the FORA Board approved inclusion of building removal costs as a FORA CIP obligation. FORA's remaining building removal obligations include Seaside Surplus II and the Marina Stockade areas. FORA is implementing plans that will evaluate overall Surplus II building removal costs. Based on current information, Surplus II building removal costs may exceed the underlying land value even after FORA's CIP obligation is met. FORA has met its financial obligations within the City of Marina Dunes on Monterey Bay project area. However, the Board has tasked staff with identifying means to expedite building removal in this project area.
- Estimated cost: \$54 Million funded through land sale proceeds.
- FORA is designated by US EPA as a Hazardous Waste Generator for World War II contaminated building debris. The City of Marina would have to take on this obligation at the potential cost of several hundred thousand dollars.
- Completion schedule: FORA's building removal financial obligations can be met by 2020. If the FORA Board modifies FORA's building removal obligation

or role in Surplus II and/or Dunes on Monterey Bay project areas, such actions may extend the obligation completion schedule.

C. Organizational closure obligations

FORA has been in operation since 1994 and has acquired a number of contractual and legislative responsibilities. Before FORA dissolves in 2020, a number of these obligations must be assigned to another entity or otherwise addressed.

1. **FORA-Marina Coast Water District (MCWD) Water/Waste Water Facilities Agreement (Facilities Agreement)**

Description: The Facilities Agreement provides for MCWD to annex the Ord Community Service area before FORA's dissolution. MCWD has not yet completed annexation of the Ord Community Service area. If MCWD annexation is not completed by June 30, 2020, FORA must assign its Facilities Agreement role and responsibilities to another entity.

2. **Fort Ord Water Allocations**

Description: The June 23, 2000 Memorandum of Agreement (MOA) between the US Army and FORA for Sale of Portions of the Former Fort Ord (Economic Development Conveyance Agreement)[EDC]) assigned the majority of US Army groundwater rights to FORA. FORA subsequently allocated groundwater to former Fort Ord jurisdictions and property owners. FORA must assign its EDC role and responsibilities to another entity before its dissolution.

3. **Pollution Legal Liability (PLL) Insurance**

Description: FORA and participating jurisdictions purchased base-wide PLL insurance coverage in 2014 that terminates in 2024. FORA has not as yet assigned its first named insured status to an entity after June 30, 2020 but is working with the County of Monterey as a potential first-insured.

4. **FORA's Powers and BRP Compliance**

Description: FORA's oversight, consistency, enforcement and financing powers described in the FORA Act are repealed on July 1, 2020. This includes FORA's financing role through the CFD Special Tax, Property Taxes, and land sales/lease proceeds. FORA's BRP compliance role of performing Consistency Determinations and, potentially, provisions that establish that "[the BRP] shall be the official local plan for the reuse of the base for all public purposes, including all discussions with the Army and other federal agencies, and for purposes of planning, design, and funding by all state agencies" would end as well unless modified by state legislation.

5. **Miscellaneous Contract Obligations**

Description: FORA has entered into a number of contracts with state, federal, and local agencies since 1994. These contracts must be reviewed and, if FORA's obligations continue past 2020, FORA must assign its obligations to another entity. For example, FORA entered into an agreement with Monterey Peninsula College, Bureau of Land Management (BLM), and County of Monterey in 2002. FORA agreed to assume MPC's habitat management responsibilities for its habitat reserve parcels

after MPC makes a specific mitigation payment to FORA. FORA would need to assign these responsibilities to another entity before 2020.

6. Post-FORA Employee Retirement/Health Provisions

FORA participates in the CalPERS retirement program. Public Agencies participating in CalPERS programs are typically on-going entities, such as a City government or Special District such as a water district. FORA staff have communicated with CalPERS, who has estimated that FORA would need to pay CalPERS a lump sum payment of approximately \$5 million or transfer its long-term CalPERS obligations to another entity.

II. Assets and Revenues

FORA's assets and revenues will be affected by its 2020 dissolution. These changes will affect the financial resources available for Fort Ord Base Reuse. The following section describes each asset or revenue source and its future post 2020.

A. Land sale and lease proceeds

Under State law, FORA currently shares land sale and lease proceeds 50/50 with the underlying jurisdictions. Post 2020, barring legislative action otherwise, jurisdictions would receive 100 percent of sale or lease proceeds paid to them by end-users of the property.

B. Property Taxes

By a special formula included in the State Health and Safety Code, FORA currently receives a portion of property taxes generated from former Fort Ord, approximately \$1.5 million in FY 14/15. Post 2020, and assuming no legislative action otherwise, this revenue source would be reallocated to the State of California, Educational institutions, special districts, and County of Monterey.

C. FORA CFD Special Tax

The Special Tax lien establishing the FORA CFD does not provide for special tax collection after FORA's dissolution. This revenue source would end on June 30, 2020 unless the State legislature and/or LAFCO expressly act to continue it, or a jurisdiction acts to create a new one.

D. Membership dues

The FORA Act provides for membership dues to help fund FORA operations. This revenue source would end on June 30, 2020.

E. MCWD Franchise Fee

FORA receives an MCWD Franchise Fee of \$15,000 annually in accordance with the Facilities Agreement. If FORA assigns its Facilities Agreement roles and responsibilities to another entity, this revenue source would continue past 2020. If MCWD annexes the Ord Community service area before June 30, 2020, this revenue source would end before June 30, 2020.

F. MCWD Revenues

FORA receives a percentage of MCWD's Ord Community revenues annually in accordance with the Facilities Agreement. If FORA assigns its Facilities Agreement roles and responsibilities to another entity, this revenue source would continue past 2020. If MCWD annexes the Ord Community service area before June 30, 2020, this revenue source would end before June 30, 2020.

G. ESCA grant funds

FORA will likely have sums remaining in ESCA funding in 2020. If FORA assigns its ESCA responsibilities to another entity or entities, this funding would continue past 2020.

III. Post-2020 Organizational Structure Considerations

There are several ways to discharge the above-listed duties. These alternatives raise policy choices. It will take substantial discussion to reach consensus. For this reason, staff urges the Board to initiate this discussion in 2016.

Several suggestions have been made to either assign FORA's functions or to extend FORA in its current form. The following section analyzes options by exploring their advantages and disadvantages.

Options analyzed:

- A. Extend FORA with existing authority for a fixed term.
- B. Assign FORA responsibilities to an existing entity.
- C. Assign responsibilities to FORA's member agencies and regional and state agencies.
- D. Create a Joint Powers Agency (JPA), modify an existing JPA, or create a Community Services Area (CSA) governed by the Board of Supervisors.
- E. Turn the current FORA into a JPA or multiple JPA's.
- F. A la carte program (Any combination of the above.)

A. Extend FORA for a fixed term.

Advantages:

This option has a number of advantages including: efficiency and economy of scale, sustaining current working relationships with external agencies, does not require the cost and time of creating a new entity, and retains FORA staff's institutional memory, expertise and continuity of success. Since many elements of the BRP are not yet complete, such an extension would retain important procedures/practices for financing, mitigation, compliance, and implementation. At the same time, this is the least disruptive to activities known to survive the scheduled sunset date and extends existing grant and other funding accomplishments. For example, in terms of base-wide PLL insurance, FORA has a favorable claims history with PLL carriers and may be the logical entity to negotiate and manage the future policy, including cross boundary coverage.

The AOC requires a close relationship with the State and Federal environmental regulatory community, which FORA has fostered. Introduction of a new structure and

or new players from the FORA side risks sacrificing the relationships, trust and confidence FORA has built with these agencies over the last 20 years.

The US Army would not need to amend its FORA property transfer and remediation contracts to substitute another agency. FORA's positive relationship with regulatory agencies would be effectively sustained and the ground water/reclaimed water allocations would continue uninterrupted. The FORA CFD fee, land sales/lease revenue, and property tax would continue to fund FORA obligations without changing FORA's funding strategy. Environmental regulatory oversight and relationships would not be disrupted.

Challenges:

Several jurisdictions have expressed the need to alter FORA membership to more closely reflect former Fort Ord on-base obligations. Several others have indicated they would like out. CA State Legislature expressed little interest in another extension.

Disadvantages:

Extension would require amendment of the FORA Act, which may require local and statewide political support. Non-jurisdiction members would continue to pay membership fees although non-landholding members could be allowed (by statute) to opt out of participation, thereby avoiding the payment of membership fees.

B. Assign FORA responsibilities to an existing entity or entities.

Advantages:

This option would reduce the number of governmental agencies. Some would argue that the net result is positive and maintains certain economies of scale. Consideration should be given by any replacement entity to the provision for stipulated penalties to be paid in the event of noncompliance with the AOC.

Challenges:

Some of FORA's obligations (HCP implementation, ESCA/MEC long-term stewardship) require specialized skill that is not currently in other existing entities. It is unclear whether the staff retirement health benefits and FORA CFD would/could be assigned to the existing entity.

Disadvantages:

This option can work only if an existing regional entity (e.g. County, TAMC, etc.) has the statutory authority to perform FORA's functions and is willing to assume them. It is not clear whether any existing entity has the full range of financial, planning, and oversight authority that has been established in State Law for FORA. If an entity (or entities) were identified, there could be significant debate and action by individual FORA members to define the terms of the transition. Also, the identified agency would be subject to the contractual (i.e. ESCA) rights requiring approval by external agencies and may not carry the benefit of existing staff expertise/experience.

C. Assign responsibilities to FORA's member agencies and regional and state agencies.

Advantages:

This would result in local planning and development decision making, as each jurisdiction would perform independent financial, physical and reporting obligations. This option addresses the previous concern about external regional involvement in local decisions.

Challenges:

To complete the financial obligations included in the BRP and the related environmental mitigations, there would be individual budget implications to address these obligations, including: staffing and reporting, agency reimbursements, construction, monitoring, regulatory interface, conservation, and project management. It is unclear whether the staff retirement health benefits and FORA CFD would be assigned to multiple agencies.

Disadvantages:

Each jurisdiction would need to re-create taxing districts to fund post-FORA obligations or otherwise support the FORA activities out of general revenue. This approach would result in duplicative efforts to address what are now common/shared tasks. This would also require each agency to be subject to the contractual and regulatory obligations (i.e. ESCA, AOC, CFD) for approval by external agencies if the requirements were not yet complete, and might not retain the benefit of existing staff expertise/experience.

D. Create a Joint Powers Authority (JPA), modify an existing JPA, create a County Service Area (CSA) governed by the Board of Supervisors, or restructure FORA's membership/legislative authority and extend for a fixed term.

Advantages:

A JPA could be an efficient replacement for FORA due to economies of scale and limited duplication. The JPA would be solely focused on a set of reduced obligations post-2020 and would be much more locally controlled – not requiring state legislative approval. (While planning obligations may decrease, the development, financial and environmental obligations may not.)

Challenges:

It is unclear if the staff retirement health benefits and FORA CFD would be assigned to the JPA. For the JPA or CSA to retain existing FORA revenue sources (CFD special tax, land sale proceeds, and property taxes), legislative action would be required.

Disadvantages:

Establishing a JPA requires time, produces political issues, creates expense, and requires that revenue be identified to support financing operations, staffing, projects, field management, and overhead. This also would require that the JPA be subject to the contractual and regulatory (i.e. ESCA, AOC) obligations for approval by external agencies if the requirements were not complete, and might not retain the benefit of existing staff expertise/experience.

E. Turn the current FORA into a JPA.

Advantages:

The advantages are the same as listed under previous option (D). In addition, this option would provide a familiar structure and track record of operations. Sometimes referred to as 'FORA lite' or 'FORA shell,' it could be structured so that FORA retains its state authorized revenue streams while reducing overall scope and size. This would require State legislative action.

Challenges:

The challenges are the same as listed under previous option (D).

Disadvantages:

The disadvantages are the same as listed under previous option (D).

F. Establish an “a la carte” program with recommendations by function.

This option utilizes the strengths from options 1-5 and incorporates them into a customized program. The recommended approach would be to extend FORA by 5 years and, during those five years, assign FORA's remaining obligations to existing entities and/or a JPA. The reason for a five-year extension is to coincide with the expected completion of on-site transportation projects.

- **ESCA/AOC** – FORA would complete its 5-year review in FY 17/18 and have time to transition its role to its successor. This would allow transfer of institutional knowledge and relationships from FORA to its successor. After the 5 year period, ESCA/AOC functions would transition to a JPA specifically designed for that purpose.
- **Pollution Legal Liability (PLL) Insurance** – FORA's status as first-named insured under the \$50 million PLL insurance policy could potentially be assigned to County of Monterey from July 1, 2020 to December 31, 2024.
- **CIP/Basewide mitigations** – FORA would continue CFD Special Tax collection for 5 years and facilitate CFD collection (or replacement fee structure) after FORA's dissolution. This would help fund critical CIP programs and create a seamless fee structure application.
- **Transportation/Transit** – FORA would complete its lead agency on-site road projects and assign its off-site and regional road projects to other entities such as TAMC. On-site road network completion is a crucial step in the base reuse process. After the 5 year period, TAMC would assume responsibility for FORA transit and transportation projects and would incorporate the FORA CFD into its regional transportation fee.
- **Water/Augmentation** – FORA, MCWD and MRWPCA would identify a water augmentation project for the already allocated 1427 acre feet/year (AFY) and the remaining 973 AFY and navigate a project completion strategy. Securing an augmented water supply is necessary to achieve base reuse for all former Fort Ord

communities. This is similar to the program already contemplated. FORA's obligations and mitigation funding stream could be subsumed by MCWD/MRWPCA by State legislative action.

- **Habitat Management/HCP** – FORA would continue CFD Special Tax collection for 5 years. A JPA specifically tailored to this function would facilitate CFD collection (or replacement fee structure) after FORA's dissolution. This option would allow FORA to support the JPA's assumption of FORA's responsibilities and retain FORA's revenue stream for that purpose. (This model, already assumed in the program currently being reviewed by the US Fish and Wildlife Service and CA Fish and Wildlife, is recommended by them.)
- **Building Removal** – FORA would be able to complete its remaining building removal obligations in the Marina Stockade and Seaside Surplus II, and support City of Marina building removal efforts. FORA's role as the Hazardous Waste generator could be utilized with potential cost savings to the jurisdictions.
- **BRP/Consistency** – FORA's planning role would be maintained for 5 years allowing projects to come forward for consistency determinations allowing BRP and RUDG visions to be implemented.
- **Prevailing Wage** – FORA's prevailing wage policy ensures prevailing wages are paid for first-generation construction projects on the former Fort Ord. The FORA Board may need to assign FORA's prevailing wage role to another entity before its dissolution.
- **Employee/retiree benefits placement and assumption** – FORA could pay CalPERS a lump sum payment or transfer its long-term CalPERS obligations to another entity with the needed financial resources. FORA currently has 15 positions and a number of retirees. As obligations are completed or assigned to others, current levels of FORA staffing could be reduced.

Establishing an “a la carte” program would allow FORA to transition its functions over time to ensure an orderly dissolution without loss of service to critical base reuse programs. An example of transitioning FORA's form and function over time might look like the following:

- **FORA JPA successor** – Assumed functions: ESCA/AOC, on-site transportation projects, building removal program, BRP/Consistency, Prevailing Wage, Revenue Collection, and Employee/retiree obligations.
- **TAMC** – Assumed functions: Off-site and regional transportation project, Transit Programs, and TAMC Regional development impact fee incorporation of Fort Ord area.
- **MCWD/MRWPCA** – Assumed functions: MCWD/MRWPCA would assume FORA's water augmentation obligations and either receive funding through FORA JPA successor or develop a new funding mechanism to complete obligations.

- **Regional Habitat Cooperative JPA** – Assumed functions: Habitat management/HCP administration and manage HCP endowment established through FORA revenues.
- **County of Monterey** – Assumed function: PLL insurance first named insured role.

IV. Issues Posed by Extending FORA.

A. Choice of New FORA Termination Date

The following factors influence selection of a new FORA termination date:

1. Given current rates of development, the FORA Capital Improvement Program may not be fully funded for 15 years or more. That roughly reflects 80% of the BRP completion, which was an initial target date for FORA to end. Remaining Improvement Projects: South Boundary, Gigling Road and linkage of Eastside Parkway to Eucalyptus Road.
2. The crucial links in the on-base transportation network infrastructure program, including the Eastside Parkway road project, are currently expected to be completed by June 30, 2020.
3. Under the agreement with the US Army, US EPA, and CA DTSC, the five-year ESCA review will occur in 2018, but FORA's Long Term Obligations continue to 2037.
4. HCP endowment funding extends beyond 2020.
5. Fort Ord Water Augmentation funding extends beyond 2020.
6. Funding FORA or successor entity operations and office space past 2020; funding FORA retiree/health benefits past 2020.

Overriding all of these considerations is the inescapable nature of the project: The former Fort Ord is a regional asset, not confined to the jurisdictional boundaries of any one municipality or governmental unit. It is easy to forget why FORA was created. It evolved from the parochial views of disparate communities, each of which considered its own concerns in a vacuum. But as has been demonstrated repeatedly in the last 20 years, progress in the development of the former Fort Ord is best achieved when planning and implementation are addressed from a regional perspective. Protection of open space, job creation and economic development, emplacement of transportation infrastructure, allocation of scarce resources, environmental remediation, and priority setting are but a few of the activities that have been undertaken from a regional, as distinguished from a local perch. There will come a time when FORA will have outlived its usefulness. That time is not temporally driven. Rather, it would be wise to examine the functional, financial and performance requirements remaining and end FORA's role when its mission is assured.

Based on the foregoing presentations and discussion, it is recommended that FORA's life, powers, and revenue streams be extended as it is currently structured, for five years, and/or assigning of FORA functions, assets, and responsibilities in a precise, step-wise format (see option 6).