



Fort Ord Reuse Authority

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

ADMINISTRATIVE COMMITTEE MEETING

8:15 A.M. WEDNESDAY, May 16, 2012

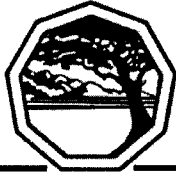
910 2nd Avenue, Marina CA 93933 (on the former Fort Ord)

AGENDA

1. **CALL TO ORDER AT 8:15 AM**
2. **PLEDGE OF ALLEGIANCE**
3. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE**
 - a. Base Reuse Reassessment Public Workshop Schedule
4. **PUBLIC COMMENT PERIOD:** Members of the audience wishing to address the Fort Ord Reuse Authority (FORA) Administrative Committee on matters within the jurisdiction of FORA, but not on this agenda, may do so during the Public Comment Period. Public comments are limited to a maximum of three minutes. Public comments on specific agenda items will be heard at the time the matter is under Committee consideration.
5. **APPROVAL OF MEETING MINUTES – May 2, 2012** ACTION
6. **FOLLOW-UP FROM MAY 11, 2012 FORA BOARD MEETING** INFORMATION/ACTION
7. **OLD BUSINESS**
 - a. Habitat Conservation Plan Update INFORMATION
 - b. Tax Increment INFORMATION
 - i. History of FORA Tax Increment Dedication INFORMATION
 - ii. Future Allocation INFORMATION/ACTION
 - c. Department of Toxic Substances Control Annual Reports on Land Use Covenants INFORMATION
 - d. Capital Improvement Program – Formulaic approach to developer fees INFORMATION/ACTION
8. **NEW BUSINESS**
 - a. Master Resolution/Settlement Agreement Compliance INFORMATION/ACTION
 - i. Deed Notices Required by Section 8.01.010 (j) and (k) of the FORA Master Resolution and Section 2 (a) of the FORA-jurisdiction Implementation Agreements
 - ii. Proposed Appeal Fee Amendment to Section 8.01.050 (a) of the FORA Master Resolution
9. **ADJOURNMENT TO JOINT ADMINISTRATIVE/CAPITAL IMPROVEMENT PROGRAM COMMITTEE**

NEXT SCHEDULED MEETING: May 30, 2012

*Information about items on this agenda or persons requesting disability related modifications and/or accommodations can contact the Deputy Clerk at: 831-883-3672 * 920 2nd Avenue, Suite A, Marina, CA 93933 by 5:00 p.m. one business day prior to the meeting. Agendas can also be found on the FORA website: www.fora.org.*



FORT ORD REUSE AUTHORITY

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REUSE OF THE FORMER FORT ORD

Come to a Base Reuse Plan Study Workshop!

The Fort Ord Reuse Authority (FORA) is reassessing the 1997 Fort Ord Base Reuse Plan. Public participation in the reassessment is welcomed. Please consider coming to any of the workshops listed below to learn more about the Plan and share your views on the reassessment study.

Date: Monday, May 21

Time: 6:30 – 9 p.m.

Location: Salinas Community Center
940 North Main Street, Salinas

Co-host: Monterey County

Date: Tuesday, May 22

Time: 6:30 – 9 p.m.

Location: Carpenter's Hall
910 2nd Ave. (off Imjin Parkway), Marina

Co-host: City of Marina

Date: Tuesday, May 29

Time: 6:30 – 9 p.m.

Location: Monterey Conference Center –
Ferrante Room
1 Portola Plaza, Monterey

Co hosts: Cities of Del Rey Oaks and Monterey

Date: Wednesday, May 30

Time: 6:30 – 9 p.m.

Location: Oldemeyer Multi-Use Center
986 Hilby Avenue, Seaside

Co-host: City of Seaside

Date: Saturday, June 2

Time: 9:30 a.m. – noon

Location: Carpenter's Hall
910 2nd Avenue (off Imjin Parkway), Marina

Co-Host: Sierra Club Ventana Chapter

Background Information: The former Fort Ord was an active military base from 1917 to 1994. Over 35,000 people and 18,000 jobs left the Monterey Bay region due to the base's closure. After considerable input from the entire region, the Plan was adopted in 1997 to guide conversion of the base's 27,800 acres from military to civilian use. The Plan's three primary goals are Economic Development, Education, and Environmental Protection.

Economic Development: Existing and future development areas for job-creating retail/commercial and light industrial businesses, and housing for future employees and other regional needs, are limited to 10,000 of the former base's 27,800 acres. The Plan was structured for development to be long-term and gradually paced. Dependent upon having adequate water supply, the Plan currently caps housing development at 6,160 new units and 1,813 existing units to be replaced. Within the existing resource constraints, the plan anticipates a replacement population of 37,370 persons and generation of 18,340 jobs to replace the military's economic engine on the former base.

Education: Six higher-educational and research institutions (California State University – Monterey Bay, the University of California, Monterey College of Law, Monterey Institute of Research Astronomy, Monterey Peninsula College, Chapman College) now have locations on the former Fort Ord, and will continue to expand services over time. Marshall Elementary, Chartwell, Marina High School, and Central Coast High School are also located on the former base.

Environment: About two-thirds of the former base is being set aside for open space, recreational trails, habitat conservation, and protection of the natural environment. The Fort Ord National Monument, designated in April 2012 by President Obama, preserves more than 14,600 acres as permanent open space. The base's beachfront is now the 979-acre Fort Ord Dunes State Park. More than 2,000 additional acres of habitat, recreational, and open space land uses have been designated throughout the former base. A 78-acre Veterans Cemetery is also planned.

To Submit Comments: Come to any of the meetings; email: plan@fora.org; FAX: 831-883-3675; or send U.S. mail to: FORA, 920 2nd Avenue, Suite A, Marina CA 93933

For More Information: Visit the FORA website at www.fora.org or contact Darren McBain at FORA, 831-883-3672.

Si necesita informacion o traduccion en espanol, favor de llamar a Jonathan Garcia o Darren McBain al 831-883-3672.





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ADMINISTRATIVE COMMITTEE MEETING

8:15 A.M. WEDNESDAY, MAY 2, 2012

910 2nd Avenue, Marina CA 93933 (on the former Fort Ord)

MINUTES

1. CALL TO ORDER

Administrative Committee Chair Daniel Dawson called the meeting to order at 8:18 a.m. noting a quorum of voting members. The following people, as indicated by signatures on the roll sheet, were present:

Daniel Dawson, City of Del Rey Oaks*

Elizabeth Caraker, City of Monterey*

Carl Holm, County of Monterey*

John Dunn, City of Seaside*

Debby Platt, City of Marina*

Greg Nakanishi, CCVC

Patrick Breen, MCWD

Diana Ingersoll, City of Seaside

Lisa Brinton, City of Seaside

Tim O'Halloran, City of Seaside

Nick Nichols, County of Monterey

Graham Bice, UCSC

Carl Niizawa, MCWD

Ron Sisseem, EMC Planning Group

Paul Greenway, County of Monterey DPW

Vicki Nakamura, MPC

Bob Rench, CSUMB

Bob Schaffer, MCP

Kathleen Lee, Sup Potter's Office

Beth Palmer, Monterey Downs

Chuck Lande, Marina Heights

Kelly Cadiente, MCWD

Michael Houlemard, FORA

Steve Endsley, FORA

Jonathan Garcia, FORA

Jim Arnold, FORA

Darren McBain, FORA

Crissy Maras, FORA

Robert Norris, FORA

Lena Spilman, FORA

* Voting Members

2. PLEDGE OF ALLEGIANCE

Carl Holm led the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Graham Bice announced that he needed to leave early in order to attend an Economic Development meeting at CSUMB.

4. PUBLIC COMMENT PERIOD

No comments were received.

5. APPROVAL OF APRIL 4, 2012 MEETING MINUTES

Deputy Clerk Lena Spilman explained that revised minutes had been distributed, which clarified the motion to agendaize discussion of tax increment.

MOTION: Debby Platt moved, seconded by Graham Bice, and the motion passed unanimously to approve the revised minutes.

6. MAY 11, 2012 FORA BOARD MEETING AGENDA REVIEW

Senior Planner Jonathan Garcia reviewed the items to be presented at the May 11, 2012 Board meeting. He stated that Graham Bice had provided a draft of the UCMBEST Visioning Principles Letter, copies of which were available at the meeting. Mr. Bice explained that the UC MBEST Visioning Stakeholders had reviewed the document and appeared ready to sign. Mr. Garcia announced that AB 1842 would be heard by the Senate Governance and Finance Committee at a future date unknown. He discussed the National Monument designation, noting that a date had not yet been confirmed for the formal designation ceremony. Mr. Houlemard indicated that the ceremony would likely take place later in the month. Mr. Garcia noted that staff would present the FY 2012-13 Preliminary Budget as an informational item at the May meeting, but that the item would return in June for Board action. Mr. Houlemard explained that staff planned to recommend the addition of two bills to the FORA Legislative Agenda under the Executive Officer's report on the Legislative Committee.

7. OLD BUSINESS

a. Capital Improvement Program (CIP)

i. Development Forecasts/Updates

Mr. Garcia explained that the item would be discussed during the Joint Administrative/CIP Committee meeting.

ii. Presentation to FORA Board

Mr. Houlemard stated the CIP was the central document that defined how FORA would meet their future infrastructure obligations. Due to some Board member turn over in the previous two years, staff felt it was time to provide a formal presentation on the history and purpose of the FORA CIP. The presentation would occur at the May Board meeting.

iii. Formulaic Approach to Developer Fees

Mr. Houlemard explained that staff had worked with various jurisdictions/developers to consider a revised approach to setting developer fees within the existing policy. Assistant Executive Officer Steve Endsley discussed a study completed by Economic and Planning Systems (EPS) the previous year regarding FORA developer fees. At that time, the Board had accepted the EPS recommendation to reduce developer fees and had approved a phase II EPS Study to determine whether further reductions could be made. Mr. Garcia explained that the draft agreement would require the fees to be recalculated on an annual basis, according to a mutually agreed upon formula. He added that adoption of this approach could eliminate the need for a formal phase II study. Mr. Endsley stated that the formulaic approach would not allow FORA to raise the rates beyond previously established levels, and provide increased predictability for developers.

b. Habitat Conservation Plan (HCP)

Mr. Garcia stated that the HCP was currently undergoing review by several wildlife agencies. The review period would close at the end of June.

c. Base Reuse Plan (BRP) Reassessment Update

Associate Planner Darren McBain distributed a revised scope of work from EMC Planning to present it for additional Board review at the May Board meeting. Mr. Endsley discussed the likelihood that staff would need additional funds in the next fiscal year to support requests received from the community and Board members for additional community workshops, an increased number of televised meetings, translation services, and a more exhaustive economic analysis.

Mr. Houlemard asked that the Committee suspend consideration of Item 7d until after consideration of Item 8. The Committee concurred.

8. NEW BUSINESS

a. Inter-Garrison Road Connection at Reservation Road

Paul Greenway, Monterey County Public Works, provided background regarding the Inter-Garrison Road connection at Reservation Road, noting that the infrastructure necessary for construction would likely be completed in June. Senior Project Manager Jim Arnold stated that FORA was coordinating with the county to determine the best means of managing the flow of traffic at the intersection. A representative from CSUMB expressed concern regarding the management of traffic through the campus. It was pointed out that the CIP Transportation Program was designed to minimize the traffic flowing directly through the campus.

7. OLD BUSINESS (CONTINUED FROM ABOVE)

d. Status of Current State Legislation Affecting FORA

i. Proposed FORA Extension Legislation (AB 1614)

Mr. Houlemard stated that the item had been discussed under review of the Board Agenda.

ii. Proposed Veterans Cemetery Legislation (AB 1842)

Mr. Houlemard announced that he had testified in support of the bill at the Assembly Veterans Affairs Committee hearing on April 24, 2012. The bill had been approved by the Veterans Affairs Committee and referred to the Senate Governance and Finance Committee.

iii. Proposed HCP Endowment Legislation (SB 1094)

Mr. Houlemard provided an overview of SB 1094, stating he had testified in support of the bill at the Senate Local Government Committee hearing the previous week. Although the bill was not currently listed on the FORA Legislative Agenda, Staff planned to recommend its addition at the May 11, 2012 Board meeting.

iv. California Military Base Reuse and Preservation Act (AB 1644, AB 1827, etc.)

Mr. Houlemard discussed AB 1827, noting that staff was also recommending its inclusion in the FORA Legislative Agenda. At present, there was no movement on AB 1644. He recommended the Committee members familiarize themselves with AB 1827, AB 1828, and AB 2144.

Debby Platt asked when the previously approved tax increment item would appear on the agenda. Mr. Houlemard stated that it would be placed on the next Administrative Committee Agenda for discussion in coordination with the CIP.

9. ADJOURNMENT

Chair Dawson adjourned the meeting at 9:40 a.m.

Minutes Prepared by Lena Spilman, Deputy Clerk

Approved by:

Michael A. Houlemard, Jr., Executive Officer



Fort Ord Reuse Authority

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Attachment A to Item 7C
FORA Administrative Committee

MEMORANDUM

Date: April 11, 2012

To: Fort Ord Reuse Authority ("FORA") Administrative Committee/Parties to the Land Use Covenants ("LUC") reporting agreement

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

From: Jonathan Garcia, Senior Planner

Re: Annual reporting on LUCs to the Department of Toxic Substances Control ("DTSC") for reporting period July 1, 2010 to June 30, 2011

The Parties to the DTSC LUC reporting agreement must submit annual reports describing compliance with each of the prohibited activities and uses listed in the LUCs (per section 2.3 of the agreement). Reporting surveys, maps of the LUC parcels, and an updated Table 3-1 have been attached to this memo for your reference. DTSC staff contacted FORA staff and requested annual reports for the former Fort Ord area for the reporting period of July 1, 2010 to June 30, 2011. In compliance with the agreement, FORA requests that each party of the MOA (Monterey County, MPC, CSUMB, UC MBEST, and Cities of Del Rey Oaks, Monterey, Seaside, and Marina) complete the attached reporting surveys for this reporting period and submit their reports to FORA by July 11, 2012. Please note that DTSC requests that jurisdictions perform visual inspections of the parcels as a required component of this reporting and provide documentation regarding U.S. Army, DTSC, and Regional Water Quality Control Board approvals of storm drainage facilities constructed on property with groundwater LUCs. You may contact me at 883-3672 or email jonathan@fora.org if you have any questions regarding the reporting surveys. Please inform me who will be your point of contact for submitting the annual reporting surveys to FORA. Once received, I will compile the reports and provide them to DTSC.

**Former Fort Ord
Land Use Covenant Report Outline**

**Annual Status Report for _____ (Jurisdiction) on Land Use Covenants
Covering July 1, 2009 to June 30, 2010.**

(See Parcel and LUC lists in Table 3-1)

**This form is to be submitted by each Jurisdiction to
Fort Ord Reuse Authority each year**

DATE OF REPORT: _____

**SUBMIT TO: Fort Ord Reuse Authority
Attn: Jonathan Garcia
100 12th Street, Bldg. 2880
Marina, CA 93933**

GENERAL:

Has jurisdiction staff previously provided a compliance summary in regards to the local digging and excavation ordinances, including the number of permits issued?

yes or no

Has jurisdiction staff provided an annual update of any changes to applicable digging and excavation ordinances?

yes or no

Has jurisdiction staff provided an annual update of any changes to the Monterey County Groundwater Ordinance No. 4011?

yes or no

PARCELS

Have any of the parcels with covenants in the jurisdiction split since the last annual report?

yes or no

If so, please reflect the split(s) in reporting on compliance with section 2.1.2 of the MOA in Table 3-1.

GROUND WATER COVENANTS:

Is a ground water covenant applicable in your jurisdiction? yes or no
(if no, skip questions 1 through 4)

1. Did jurisdiction staff visually inspect the parcels in your jurisdiction (see Table 3-1) with ground water covenants? Such visual inspection shall include observed groundwater wells, and any other activity that would interfere with or adversely affect the groundwater monitoring and remediation systems on the Property or result in the creation of a groundwater recharge area (e.g., unlined surface impoundments or disposal trenches).

yes or no

2. Did jurisdiction staff check with the applicable local building department (please list department name: _____) to ensure that no wells or recharge basins such as surface water infiltration ponds were built within your jurisdiction?

yes or no

3. Did jurisdiction staff check with the applicable local planning department (please list department name: _____) to ensure that no well permits were granted or recharge basins requested within your jurisdiction?

yes or no

4. Did jurisdiction staff review the County well permit applications pertaining to your jurisdiction to ensure that no wells have been dug or installed in violation of the ordinance or the ground water covenants?

yes or no

If you answered yes to any questions 1 through 4 above, please note and describe violations with USACE parcel numbers and street addresses (Use additional sheets if needed.)

LANDFILL BUFFER COVENANTS:

Is a landfill buffer covenant applicable in your jurisdiction? yes or no
(if no, skip questions 1 through 3)

1. Did jurisdiction staff visually inspect the parcels in your jurisdiction (see Table 3-1) with landfill buffer covenants? Such visual inspection shall include observation of any structures and any other activity that would interfere with the landfill monitoring and remediation systems on the Property.

yes or no

2.. Did jurisdiction staff check with the applicable local building department (please list department name: _____) to ensure that no sensitive uses such as residences, hospitals, day care or schools (not including post-secondary schools, as defined in Section 1.19

of the MOA) were built on the restricted parcels within your jurisdiction?

yes or no

3. Did jurisdiction staff check with the applicable local planning department (please list department name: _____) to ensure that no other structures were built without protection for vapors in accordance with the landfill buffer covenants.

yes or no

If you answered yes to any questions 1 through 3 above, please note and describe violations with street addresses. (Use additional sheets if needed.)

SOIL COVENANTS:

Is a soil covenant applicable in your jurisdiction?
(if no, skip questions 1 through 4)

yes or no

1. Did jurisdiction staff visually inspect the parcels (see Table 3-1) in your jurisdiction with soil covenants to assure no sensitive uses such as residences, hospitals, day care or schools (not including post-secondary schools, as defined in Section 1.19 of the MOA) were constructed or are occurring on the restricted parcels in your jurisdiction?

yes or no

2. Did jurisdiction staff check with the applicable local building department to ensure that no soil was disturbed without an approved soil management plan in accordance with the excavation and digging Ordinance in your jurisdiction?

yes or no

3. Did jurisdiction staff check with the applicable local planning department for notification of MEC within your jurisdiction?

yes or no

4. Did jurisdiction staff review the 911 records of MEC observations and responses and provide a summary in annual report?

yes or no

If you answered yes to any questions 1 through 4 above, please provide the following information:
(Use additional sheets if needed.)

- a) date and time of the call,
- b) contact name,
- c) location of MEC finding,
- d) type of munitions, if available and
- e) response of jurisdiction law enforcement agency.

Jurisdiction's Representative Compiling this Report: _____

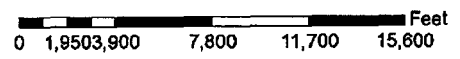
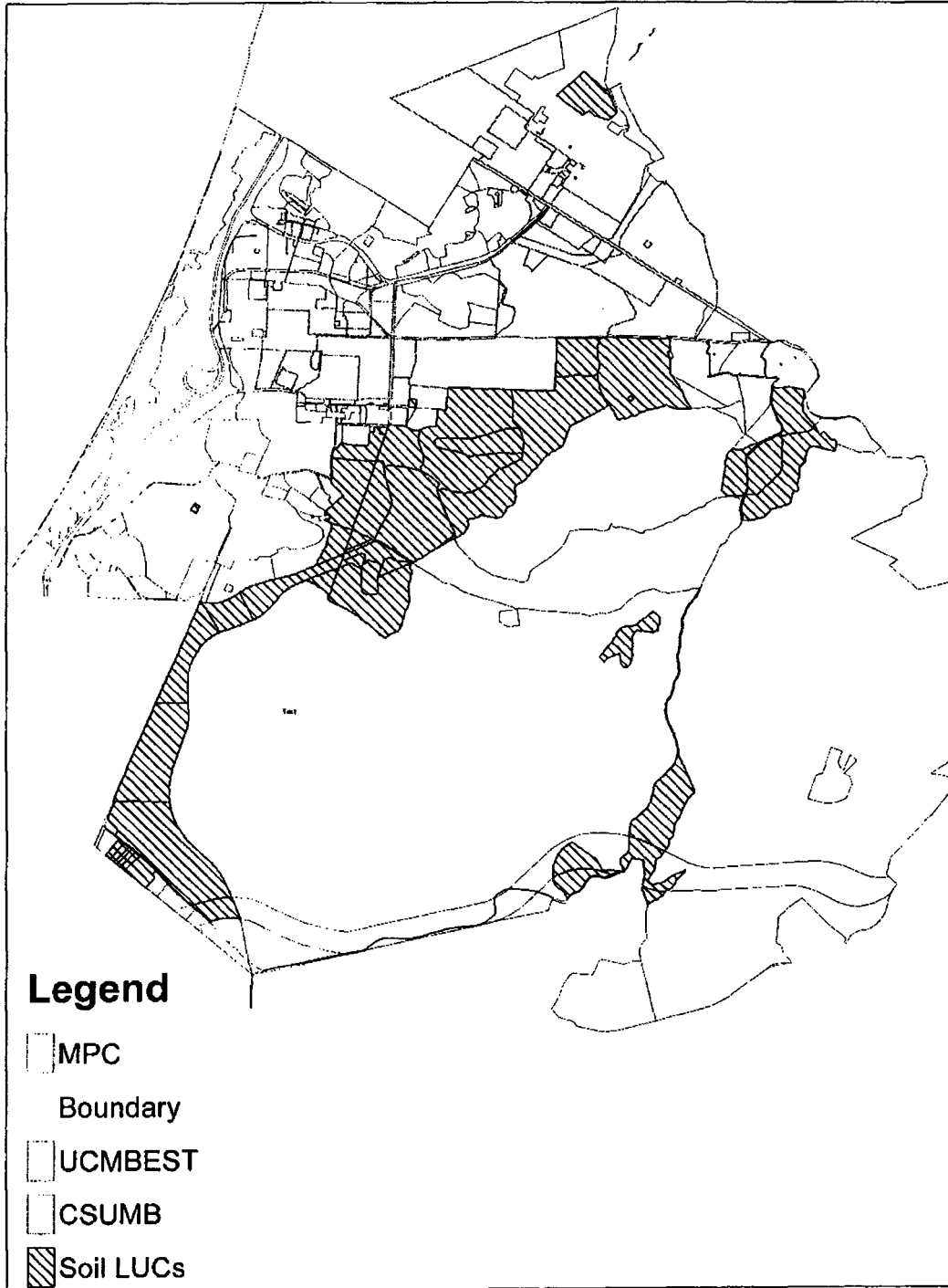
Contact Information: **Phone** _____
 Email _____

Signature of Preparer: _____

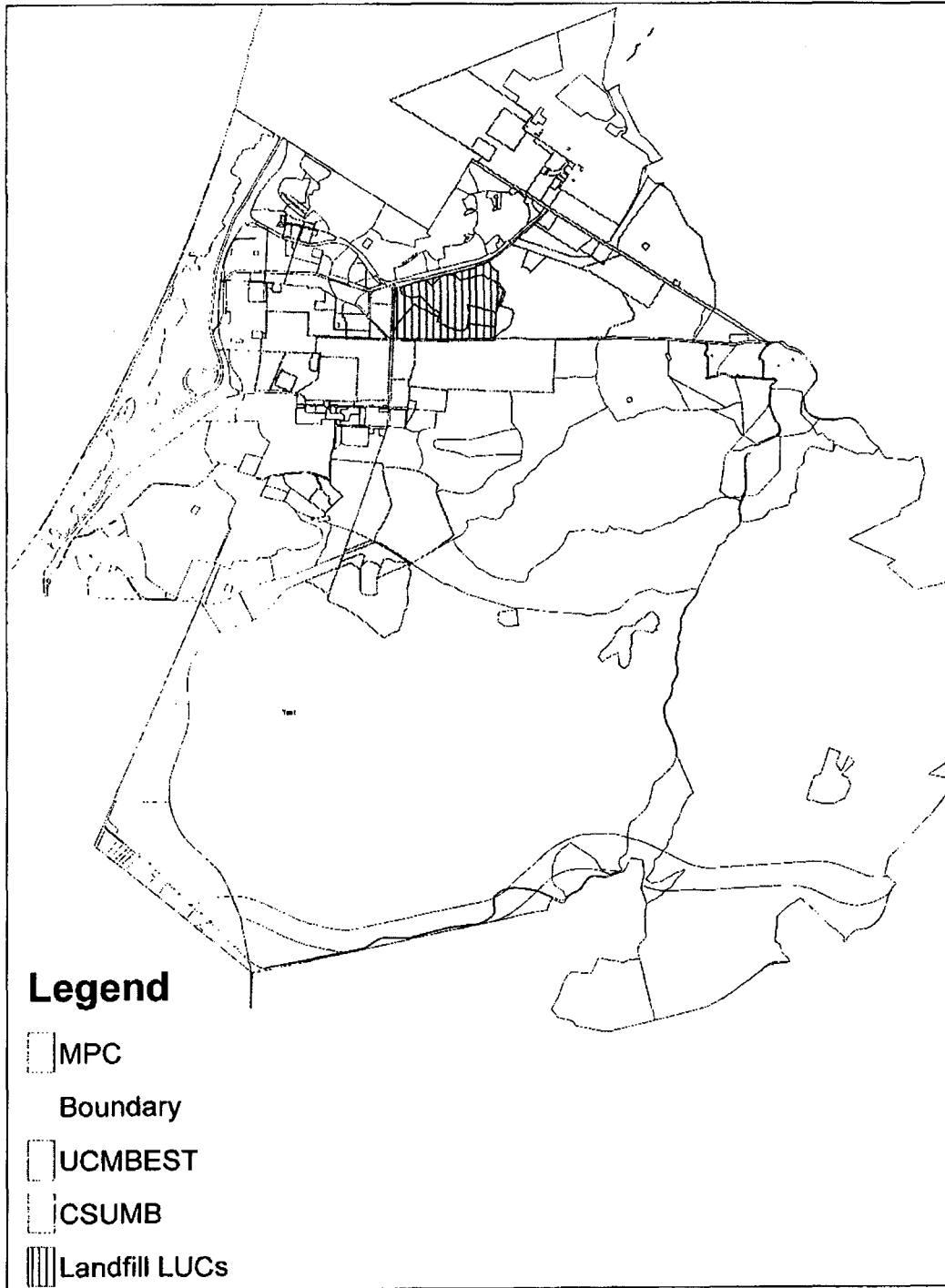
Suggested Attachments to Annual LUC Report

1. Table summarizing inspections, parcels, restrictions and any deficiencies in the LUCs.
Inspection Notes for each parcel.
2. Inspection Photos for each parcel.
3. County and jurisdiction well records, permit reports.
4. Building department permit records.
5. Planning department permit records.
6. MEC findings (911 call records).
7. GPS coordinates for parcels

Fort Ord LUCs - Soil

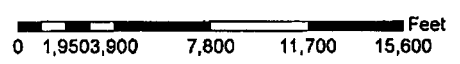
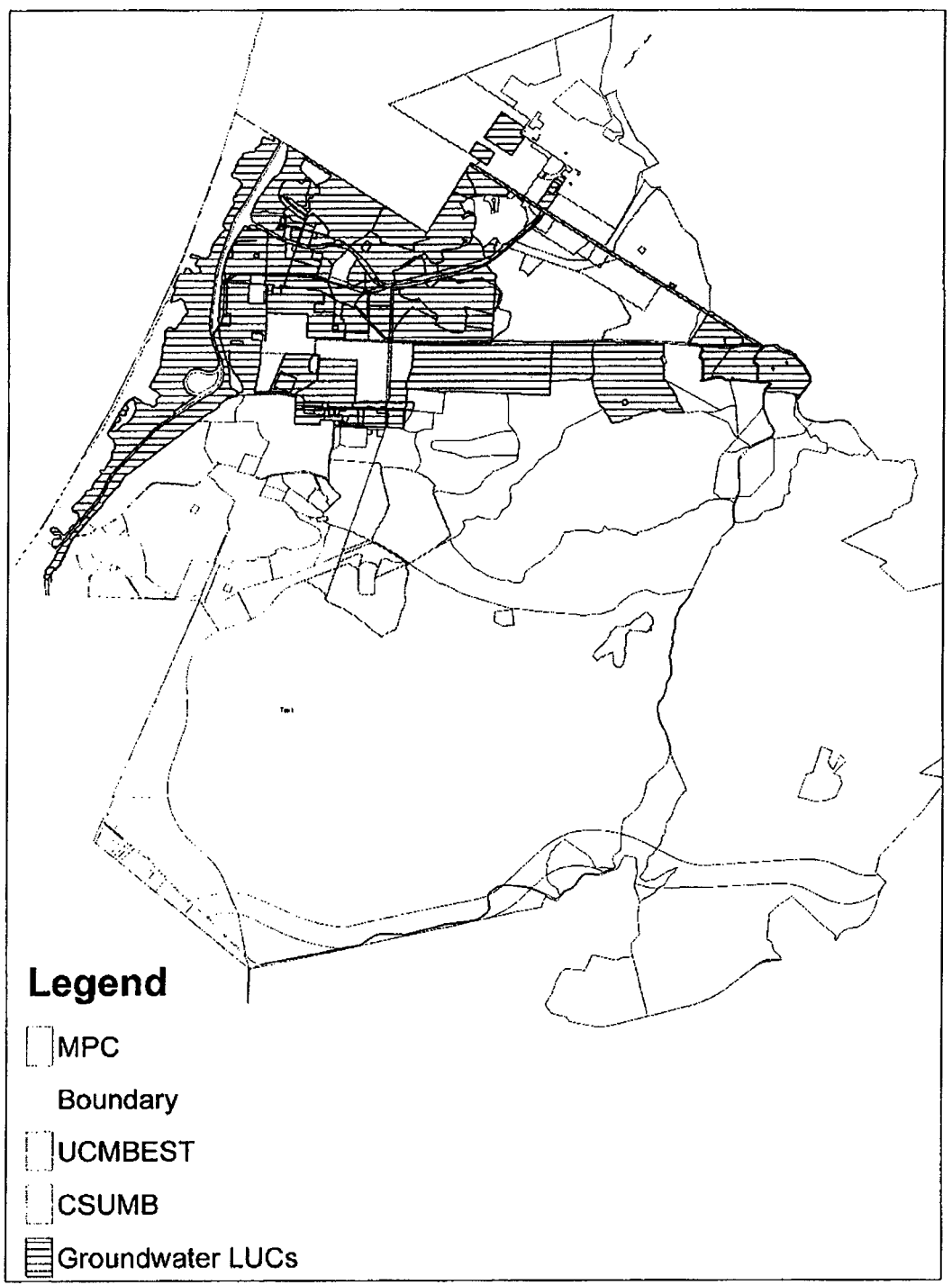


Fort Ord LUCs - Landfill



0 1,950,390 7,800 11,700 15,600 Feet

Fort Ord LUCs - Groundwater



**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
Del Rey Oaks	12/28/05	Soil 3	E29a	031-191-011000	Del Rey Oaks Redevelopment Agency (DRDA)		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Notification of MEC 4. Access rights
			E29b.1	031-191-011000	DRDA		
			E31.b	031-191-012000	Fort Ord Reuse Authority (FORA)		
			E31a	031-191-012000	FORA		
			E31c	031-191-012000	FORA		
				E36	031-191-012000	FORA	
	In Review	Soil 4	L20.13.1.2	031-191-014000	FORA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Notification of MEC 4. Access rights
			L20.13.3.1	031-191-011000	DRDA		
			L6.2	031-191-014000	FORA		

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions		
Marina	10/12/01	Soil 1	L5.1.1	031-111-035000 031-111-036000 031-111-037000	Marina Redevelopment Agency (MRDA), City of Marina (COM), COM		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Access rights		
	05/22/02	Groundwater 1a	E17	031-251-012000	MRDA		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.		
			E4.1.1	031-201-005000	MRDA				
			E4.2	031-201-032000	Cypress Marina Heights LP (CMH)				
			E4.3.1.1	031-201-029000 031-271-009000	CMH, MRDA				
	09/17/03	Groundwater 1	L2.1	031-221-005000	Monterey-Salinas Transit (MST)		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.		
			L2.2.1	031-201-012000	MST				
			L35.1	031-251-013000	Marina Coast Water District (MCWD)				
	09/22/03	Groundwater 2	E2B.1.1.1		031-251-025000 031-251-027000 031-251-018000 031-251-037000 031-251-038000 031-251-039000 031-251-040000	Fort Ord Reuse Authority (FORA), MRDA, MRDA, Carpenters Local 605, FORA, Builder Exchange of the Central Coast (BXCC), Association of Monterey Bay Area Governments		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
				E2B.1.1.2	031-282-004000	Target Corp.			
				E2B.1.2	Not listed - ROW	Imjin	COM		
				E2B.1.3	031-251-028000 031-251-020000	Marina Community Partners, LLC (MCP), MRDA			
				E2B.1.4	031-251-029000	MCP			
				E2B.1.5	031-251-030000 031-251-031000	MCP, MRDA			
				E2B.2.1		031-282-001000 031-282-002000 031-282-003000 031-282-004000 031-282-005000 031-282-006000 031-282-007000 031-282-008000 031-282-009000 031-282-010000 031-282-011000 031-282-012000 031-282-013000 031-282-014000 031-221-004000 031-221-014000 031-221-007000	Shea Marina Village, LLC (SMV), SMV, SMV, Target Corp., MCP, SMV, SMV, SMV, Koh's D. Store, SMV, SMV, MCP, MCP, MCP, Transportation Agency for Monterey County (TAMC), TAMC, COM		
			E2B.2.2		Not listed - ROW	Imjin	COM		
			E2B.2.3		031-282-012000 031-282-013000	MCP			
			E2B.2.4		031-282-012000 031-282-013000 031-282-015000	MCP			
			E2B.2.5		031-282-017000 031-282-018000	MRDA, MCP			
			E2B.3.1.1		031-221-015000	MRDA			
			E2B.3.2		031-282-013000	MCP			
			E2C.1		031-251-018000	MRDA			
			E2C.2		031-251-016000	MRDA			
			E2C.3.1			031-251-018000 031-251-016000 031-251-015000 031-201-005000	MRDA		
					E2C.3.2	031-201-005000 & Not listed Imjin ROW	MRDA, COM		
			E2C.3.3		031-251-035000 031-251-032000	MRDA, MCP			
			E2C.4.1.1		Not listed Imjin ROW	COM			
			E2C.4.2.1	031-201-016000	MRDA				

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
			E2D.1	031-251-035000 031-251-033000	MRDA, MCP		
			E2D.2	031-251-035000 031-251-034000	MRDA, MCP		
			E2E.1	031-101-049000	MRDA		
			E4.5	APN not listed	Water Treatment Facility, Owner TBD		
			L12.2.2	031-251-037000 031-251-039000	Carpenters Local 605, BXCC		
			L12.2.3	031-251-039000	BXCC		
			L12.3	031-282-012000	MCP		
			L20.16.1	031-221-003000	TAMC		
			L20.16.2	031-221-014000 031-282-013000 031-282-018000 031-282-017000 031-282-005000 031-282-009000 031-282-008000 031-282-004000	TAMC, MCP, MCP, MRDA, MCP, Koh's D. Store, SMV, Target Corp.		
			L20.16.3	031-221-004000	TAMC	tamc	
			L20.17.1	031-101-051000	MRDA	ca marina redev.	
			L5.9.1	031-101-038000	MRDA		
			L5.9.2	031-101-052000	MRDA		
			S4.1.4	031-221-001000	CalTrans		
09/28/04		Groundwater 3	S4.1.3	Not listed - Hwy 1 ROW	CalTrans		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area.
			S4.1.5	Not listed - Hwy 1 ROW	CalTrans		3. Notify damages to remedy and monitoring systems. 4. Access rights.
03/13/06		Groundwater 4	E2a	031-021-049000 031-021-050000	MRDA		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			E4.1.2.1	031-021-050000	MRDA		
			E4.1.2.2	031-021-050000	MRDA		
			E4.1.2.3	031-021-050000	MRDA		
			E4.3.1.2	031-201-029000	CMH		
			E4.3.2.1	031-271-009000	MRDA		
			E4.6.1	031-271-009000 & Not listed - Imjin ROW	MRDA, COM		
			L5.6.1	031-271-009000	MRDA		
			L5.6.2	031-201-030000 031-271-009000	CMH, MRDA		
03/21/06		Groundwater 5	E2d.3.1	031-101-054000	MRDA		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area.
			E5a.2	031-201-031000	CMH		3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L5.10.2	Not listed - Reservation Road ROW	COM		
In Review		Groundwater 8	E4.3.2.2	031-081-013000 031-081-024000 031-081-025000 031-081-026000	FORA		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			E4.7.1	Not listed - ROW Imjin	FORA		
			E5a.1	031-081-023000	FORA		
			L5.10.1	Not listed - Reservation Road ROW	FORA		
In Review		Groundwater TBA	E2c.4.1.2	Not listed - ROW Imjin	US Army		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area.
			E2c.4.2.2	031-101-055000	US Army		3. Notify damages to remedy and monitoring systems. 4. Access rights.
			E2c.4.3	031-101-055000	US Army		
			E2c.4.4	031-101-055000	US Army		
			E2d.3.2	031-101-055000	US Army		
			L5.9.2	031-101-055000	US Army		
			L20.17.2	031-101-050000	US Army		
In Review		Groundwater TBA	L2.2.2	031-201-013000	US Army		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
City of Monterey	In Review	Soil 5	E29.1	031-191-001000	FORA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
	05/22/02	Groundwater 1a	L2.4.2	031-151-025000	Monterey-Salinas Transit (MST)		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L2.4.3.2	031-151-024000	MST		
	09/17/03	Groundwater 1	L35.3	031-161-003000	East Garrison Partners, LLC (EGP)		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L35.6	031-161-004000	EGP		
			L35.7	031-161-005000	EGP		
			L35.8	031-161-016000 031-161-017000	Monterey County Redevelopment Agency (MCRDA), EGP		
9/28/04 and TBD	Groundwater 3 and Landfill 1	E8a.1.2	031-101-039000	MCRDA		1. No construction of wells. 2. No disturbance or creation of recharge area. 3. No sensitive uses. 4. Notify damages to remedy and monitoring system. 5. Access rights. 6. No structures unless protective for LFG per Title 27	
		E8a.1.3	031-101-040000	MCRDA			
		E8a.1.4	031-101-041000	MCRDA			
		E8a.1.5	031-101-042000	MCRDA			
09/28/04	Groundwater 3	E11B.1	031-161-024000	EGP		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems.	
		E11B.2	031-162-001000 through 031-162-129000 and 031-163-001000 through 031-163-280000 (except those APN's identified as pertaining to E11b.3 and E11b.4) and 031-164-077000 through 031-164-082000 and 031-164-088000 through 031-164-095000	EGP			
		E11B.3	031-163-111000 through 031-163-135000 and 031-163-153000 031-163-158000 and 031-164-001000 through 031-164-006000 and 031-164-101000	EGP			
		E11B.4	031-163-159000	EGP			
		E2E.2	031-101-059000	Monterey County (MOCO)			
		L20.10.1.1	Not listed - Reservation Road ROW	MOCO			
		L20.10.1.2	Not listed - Reservation Road ROW	MOCO			

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
Monterey County			L20.10.2	Not listed - Reservation Road ROW	MOCO		systems. 4. Access rights.
			L20.14.1.2	031-163-159000 031-164-101000 031-164-103000	EGP		
			L20.19.2	031-011-022000	EGP		
			L20.20	Not Listed - West Camp St. ROW	MOCO		
			L20.21.1	Not listed - Watkins Gate Road ROW	MOCO		
			L20.21.2	Not listed - Watkins Gate Road ROW	MOCO		
			L20.22	031-161-024000 031-164-103000 031-164-110000	EGP		
			L23.3.1	031-161-024000	EGP		
			L23.3.2.1	031-161-025000	EGP, EGP, MCRDA, MCRDA, MCRDA, EGP, EGP, EGP, EGP		
				031-161-026000			
				031-161-021000			
031-161-022000							
L32.4.2	031-151-036000	MOCO					
S4.1.2.2	Not listed - Hwy 1 ROW	CalTrans					
06/26/06	Groundwater 6	E4.6.2	031-101-058000	MCRDA		1. No construction of wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
6/26/2006 and TBD	Groundwater 6 and Landfill 2	E8a.1.1.2	031-101-056000	MCRDA		1. No construction of wells. 2. No disturbance of systems or cap. 3. No sensitive uses. 4. No disturbance or creation of recharge area. 5. Notify damages to remedy and monitoring systems. 6. Access rights 7. No structures unless protective for LFG per Title 27	
10/18/06	Groundwater 7	S3.1.1	031-021-001000 031-021-003000 031-031-001000 031-031-004000 031-041-006000 031-051-001000	California Department of Parks and Recreation		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
In Review	Groundwater 9	E4.7.2	Not listed - Imjin ROW	MOCO		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.	
		L5.7	031-101-026000	FORA			
		L20.2.1	031-161-008000	FORA			
		L32.1	031-011-022000	FORA			

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
			E4.7.2	Not listed - Imjin ROW	MOCO		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			L5.7	031-101-026000	FORA		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights. 5. No sensitive uses. 6. No soil disturbance or violation of ordinance without soil management plan 7. Notification of MEC
			L20.2.1	031-161-030000 031-161-031000	FORA		
			L32.1	031-011-042000 031-011-043000 031-011-054000	FORA		
			E11b.6.1	031-011-056000 031-161-033000 031-011-058000	FORA		
			E11b.7.1.1	031-011-039000	FORA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Notification of MEC 4. Access rights
			E11b.8	031-011-039000	FORA		
			E18.1.2	031-011-044000 031-011-046000 031-011-047000 031-011-048000 031-011-050000 031-011-051000	FORA		
			E19a.1	031-071-022000 031-071-008000	FORA		
			E19a.2	031-011-039000 031-011-022000	FORA		
			E19a.3	031-011-039000 031-011-022000	FORA		
			E19a.4	031-011-039000 031-011-022000	FORA		
			E19a.5	031-011-005000 031-011-022000	FORA		
			E21b.3	031-011-005000	FORA		
			L20.3.1	031-011-020000	FORA		
			L20.3.2	031-011-020000	FORA		
			L20.5.1	031-131-008000	FORA		
			L20.5.2	031-131-008000 031-131-009000 031-131-010000 031-131-011000	FORA		
			L20.5.3	031-131-011000	FORA		
			L20.5.4	031-131-010000	FORA		
			L20.8	031-131-004000	FORA		
			L20.18	031-011-005000	FORA		
			L20.19.1.1	031-011-039000	FORA		
	In Review	Soil TBD/GW 9					

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
	TBD	Landfill 3 and Groundwater 11	E8a.2	APN not listed	US Army		1. No construction of wells. 2. No disturbance of systems or cap. 3. No sensitive uses. 4. No disturbance or creation of recharge area. 5. Notify damages to remedy and monitoring systems. 6. Access rights 7. No structures unless protective for LFG per Title 27
			E8a.1.1.1	031-101-057000	US Army Corps of Engineers		
	TBD	Soil TBD	L23.3.2.2	031-161-019000	US Army		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without soil management plan 3. Access rights

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
Seaside	05/22/02	Groundwater 1a	L2.4.3.1	031-151-024000	Monterey-Salinas Transit (MST)		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L32.4.1.2	031-151-029000	Seaside Redevelopment Agency (SRDA)		
			L37	031-151-018000	City of Seaside (COS)		
	09/17/03	Groundwater 1	L1.1	031-151-041000	Monterey College of Law		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
	09/22/03	Groundwater 2	E15.1	031-151-013000	SRDA		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L19.2	031-151-031000	SRDA		
			L19.3	031-151-032000	SRDA		
			L19.4	031-151-039000	SRDA		
	03/22/04	Soil 2	F2.7.2	031-051-032000	SRDA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Access rights
	09/28/04	Groundwater 3	L15.1	031-151-044000	Monterey County Housing Authority		1. No construction of wells. 2. no disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L32.4.1.1	031-151-040000	SRDA		
			L36	031-151-037000 031-151-038000	SRDA, US Army		
			L7.8	031-261-003000	SRDA		
			L7.9	031-261-004000	SRDA		
			S4.1.2.1	Not Listed - Hwy 1 ROW	CalTrans		
	In Review	Soil 6	E18.1.1	031-151-048000	FORA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights
			E18.1.3	031-151-048000	FORA		
			E18.4	031-151-048000	FORA		
			E20c.2.1	031-151-045000	SRDA		
E20c.2.2			031-151-047000	SRDA			
E23.1			031-151-048000	FORA			
E23.2			031-151-048000	FORA			
E24			031-211-001000	FORA			
E34	031-211-001000	FORA					

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
MPC (Marina)	09/28/04	Groundwater 3	L23.1.1	031-251-002000	Monterey Peninsula Community College District (MPC)		1. No construction of wells. 2. No disturbance or creation of recharge area 3. Notify damages to remedy and monitoring systems. 4. Access rights
			L23.1.2	031-251-004000	MPC		
			L23.1.3	031-251-001000	MPC		
			L23.1.4	031-251-003000	MPC		
			L23.1.5	031-251-005000	MPC		
			L23.4	031-101-048000	MPC		
MPC (Seaside)			L23.6	031-151-042000	MPC		
MPC (Monterey County)	In Review	Soil TBD	E19a.5	031-011-005000 031-011-022000	FORA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights
			E21b.3	031-011-005000	FORA		
			E39	031-011-005000 031-011-041000	FORA		
			E40	031-011-005000	FORA		
			E41	031-011-005000	FORA		
			E42	031-011-005000	FORA		
			F1.7.2	031-011-022000	FORA		
			L23.2	031-011-006000 031-011-036000	FORA		
MPC (Seaside)	In Review	Soil 6	E38	031-011-006000 031-011-036000	FORA		1. No sensitive uses. 2. No soil disturbance or violation of ordinance without a mangement plan 3. Notification of MEC 4. Access rights

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

When an above described LUC contains parcels belonging to more than one jurisdiction, shading is used to clarify the jurisdiction.

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
CSUMB (Seaside)	05/22/02	Groundwater 1a	S1.4	031-101-012000 031-101-035000	California State University Monterey Bay (CSUMB)		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
CSUMB (Marina)			S1.5.1.1	031-101-034000	CSUMB		
			S1.5.2	031-101-033000	CSUMB		
CSUMB (Monterey County)	09/17/03	Groundwater 1	L32.2.1	031-261-001000	CSUMB		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
			S1.3.3	Not Listed Interlamson Rd. ROW	CSUMB		
			L32.2.2	031-261-002000	CSUMB		
CSUMB (Seaside)			L32.3	031-151-035000	CSUMB		
			L33.1	031-101-044000	CSUMB		
			L33.2	031-101-045000	CSUMB		
CSUMB (Marina)		S1.5.1.2	031-101-036000	CSUMB			
CSUMB (Monterey County)	In Review	Groundwater 9	S1.3.2	031-101-022000 031-101-023000	FORA		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

When an above described LUC contains parcels belonging to more than one jurisdiction, shading is used to clarify the jurisdiction.

**TABLE 3-1
SUMMARY OF LUCS BY JURISDICTION**

Jurisdiction	Date LUC Recorded	DTSC LUC Tracking Number	Parcel	APN	Owner	GPS Coordinates	Restrictions
UCSC (Monterey County)	05/22/02	Groundwater 1a	S2.5.2.2	031-101-018000	Regents of the University of California (UC)		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
UCSC (Marina)			S2.1.3	031-111-010000	UC		
			S2.1.4.1	031-111-011000	UC		
			S2.5.1.1	031-101-018000	UC		
			S2.5.2.1	031-101-018000	UC		
UCSC (Monterey County)	09/17/03	Groundwater 1	F7.2	031-121-009000	US Army		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.
UCSC (Marina)			S2.1.4.2	031-111-011000	UC		
UCSC (Marina)	TBD FOST 11	Groundwater 10 (UCSC, OU1 GW)	S2.1.2	031-111-009000	US Army		1. No construction of groundwater wells. 2. No disturbance or creation of recharge area. 3. Notify damages to remedy and monitoring systems. 4. Access rights.

Explanations:

Soil = chemicals (such as metals) and Munitions and Explosives of Concern (MEC) are the primary concern in soil media

Groundwater = chemicals such as Volatile organic compounds (VOCs) are the primary concern in the groundwater media

Landfill = chemicals such as Volatile Organic Compounds (VOCs) are the primary concern in the landfill (soil) and landfill gas (vapor) media

When an above described LUC contains parcels belonging to more than one jurisdiction, shading is used to clarify the jurisdiction.

AGREEMENT AMONG THE FORT ORD REUSE AUTHORITY AND THE CITIES OF
DEL REY OAKS, MARINA, MONTEREY, SEASIDE AND THE COUNTY OF MONTEREY FOR
CALCULATING/IMPLEMENTING THE BASEWIDE DEVELOPER FEE POLICY AND COMMUNITY FACILITIES
DISTRICT

This Agreement is dated for reference on May 1, 2012. It is made by and among the Cities of Del Rey Oaks, Seaside, Marina and the County of Monterey.

I. Recitals

1.1 The Fort Ord Reuse Authority ("FORA") and its above-referenced members have twelve years of experience in implementing the Basewide Developer Fee Policy ("Policy") and the FORA Basewide Community Facilities District ("CFD" or "CFD Special Tax"), and

1.2 The Policy and CFD Special Tax pay the cost of basewide mitigation measures required by the Reuse Plan Environmental Impact Report (EIR), and

1.3 The purpose of this Agreement is to ensure that the Policy and CFD Special Tax will continue to be used to fund required EIR mitigation measures, and

1.4 FORA recognizes the importance of calibrating the Policy and CFD Special Tax by incorporating all available resources to fund CEQA mitigation measures, and

1.5 FORA and its members acknowledge the Policy and CFD Special Tax must be fair and equitable to all development projects and jurisdictions, and

1.6 FORA has 1) achieved cost efficiencies; 2) secured grants and other contributions to the basewide mitigation measures from federal and state sources; and 3) loaned monies to fund required projects that have reduced or deferred the demand for the original calculated fees and CFD Special Taxes, and

1.7 The Base Reuse Plan emphasized the importance of job-creation and development of a balanced mix of community uses to achieve a desired jobs-housing balance, and

1.8 FORA and its members seek refinement to the list of authorized facilities that shall be funded by proceeds from the Policy and CFD Special Tax, and

1.9 All stakeholders recognize, given inherent uncertainties prevalent in Base Reuse Projects, that appropriate cost contingencies are necessary and fiscally responsible, and

1.10 FORA and its members acknowledge the importance of adopting a formula for establishing the developer fee that accounts for all potential revenue sources.

II. AGREEMENT

Now therefore, FORA and the above-referenced jurisdictions hereby agree that:

2.1 Not later than _____, 2013, FORA will evaluate its ability to define the list of authorized facilities funded by CFD Special Taxes.

2.2 FORA will adopt a procedure to monitor and update the Policy and CFD Special Tax using the following considerations.

- 2.2.1 When established, the Policy and CFD Special Tax was calibrated to a particular set of CIP improvements serving the overall base and local jurisdictions based upon specific California Environmental Quality Act (CEQA) mitigation measures defined in the Base Reuse Plan EIR and the 1998 Settlement Agreement with the Ventana Chapter of the Sierra Club. This Agreement permits the parties to perform the CEQA mitigations required by the EIR.
- 2.2.2 Adjustments to the Policy and CFD Special Tax will be considered by the FORA Board after a review of potential costs and revenues. The cyclical process to consider adjustments will be predictable and transparent to all stakeholders. Adjustments to the Developer Fee Policy and CFD Special Tax should not place any undue financial risk to FORA or its member jurisdictions.
- 2.2.3 Within 90 days following execution of this agreement the FORA Board will consider its ability and, if permissible, consider refinements to the list of authorized facilities eligible to be funded by Developer Fee Policy and CFD Special Tax revenues.
- 2.2.4 Adjustments to the Policy and CFD Special Tax shall be made upon receipt by the FORA Board of satisfactory, factual documentation describing the basis for the adjustment.
- 2.2.5 To expedite the goals of this Agreement, adjustments to the CFD Special Tax must maintain the same proportionality among land uses as the maximum annual special taxes documented in the CFD.

3.1 PERIODIC REVIEW. Annually **[OR DEFINE AN ALTERNATIVE TIME FRAME]**, FORA will update its CIP to ensure that its revenue sources, including the CFD Special Tax and Developer Fee revenues, are adequate to complete CEQA mitigation measures. The annual process will follow the following steps:

- 3.1.1 Quantify remaining CIP costs (including required contingencies).
- 3.1.2 Quantify existing sources of funds, including, without limitation: a) Existing fund balances; b) Federal, state or other grants; c) CSU Mitigation fees; d) Loan proceeds; e) Land sales revenues/proceeds and lease revenues (not required for other obligations);

and f) tax increment revenues (not required for other obligations). See the attached **Table 1** for uses of funding by source.

- 3.1.3 Subtract sources of funds from CIP costs to determine net cost to be funded by the Developer Fee and CFD Special Tax.
- 3.1.4 Calculate Maximum Developer Fee and CFD Special Tax revenue (briefly describe – dev. Forecast, absorption, max revenue at 100% of maximum special tax).
- 3.1.5 Compare 3.1.4 with 3.1.3 and determine whether to adjust one-time CFD Special Tax.

DRAFT



Fort Ord Reuse Authority

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

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Attachment A to Item 8ai
FORA Administrative Committee

MEMO

To: MICHAEL HOULEMARD, Executive Officer
From: JERRY BOWDEN, Authority Counsel
Subject: Sierra Club Settlement Agreement
Date: March 27, 2012

This memo outlines the legal and factual issues raised by the allegation made by Jane Haines that FORA has breached the Sierra Club Settlement Agreement by failing to record notices of restriction with deeds to the member jurisdictions. The Settlement Agreement says FORA will amend its Master Resolution in the form attached to the Agreement as Exhibit A. That amendment added two relevant sub-sections to Chapter 8 of the Master Resolution. They are in Section 8.01.010 (j) and (k). Those sections read as follows:

(j) The Authority shall record a notice on all property in the Fort Ord territory advising all current and future owners of property of the existence of the Reuse Plan and that development of such property shall be limited by the Reuse Plan, the policies and programs of the Authority, including the Master Resolution, and/or the constraints on development identified in the Reuse Plan, including lack of available water supply, wastewater and solid waste disposal capacity, and inadequate transportation and other services and infrastructure.

(k) In the event the Authority receives, purchases, or acquires, by any means, fee interest title to property in the Fort Ord territory, the Authority shall record a covenant running with the land advising all future owners of such property that development and use of property is subject to the Reuse Plan and that development of such property shall be limited by the Reuse Plan, the policies and programs of the Authority, including the Master Resolution, and/or the constraints on development identified in the Reuse Plan, including lack of available water supply, wastewater and solid waste disposal capacity, and inadequate transportation and other services and infrastructure.

To meet those terms FORA entered into a series of nearly identical Implementation Agreements with member jurisdictions that would receive land through FORA.

QUESTION 1: Implementation Agreement (IA)

Do the Implementation Agreements satisfy Settlement Agreement Section 8.01.010 (j) and (k)?

ANSWER: Yes

Section 8.01.010 (j) of the Sierra Club Settlement Agreement begins with these words: "The Authority shall record a notice on all property in the Fort Ord territory advising all current and future owners of property of the existence of the Reuse Plan..." Note that this obligation calls for the

recording of a single notice of restriction for “all property” on the former Fort Ord. The Implementation Agreement (IA) satisfies that obligation. First, it is recorded. Second, it restricts every FORA parcel. Third, it constitutes a restriction on use in accordance with the Sierra Club Settlement Agreement. Let me elaborate.

There is an IA for each member jurisdiction. Exhibit A to each of the IA’s describes FORA lands located in that jurisdiction’s designated portion of the former Fort Ord. Together these IA’s describe all FORA lands “in the Fort Ord territory.” The IA’s thus satisfy the requirement that the recorded notice apply to “all property in the Fort Ord territory.” The IA’s also provide notice of the Reuse Plan, Master Resolution and the Sierra Club Settlement Agreement. See IA sections 1(e), 1(l) and 2(a). Note that Section 8.01.010 (j) merely requires a single notice affecting all property. Unlike Section 8.01.010 (k), it does not require a “covenant running with the land...”

The final requirement of Section 8.01.010 (j) is that the notice “advise all current and future owners of property of the existence of the Reuse Plan...” The IA’s satisfy that requirement in sections 1(e), 1(l) and 2(a). Thus, the IA appears to satisfy each of the criteria required by Section 8.01.010 (j). Since the IAs collectively designate all FORA lands, they constitute a record notice of restrictions as to the lands designated in each IA. I would expect a preliminary title report to identify these recorded restrictions.

There is, however, a factual question whether individual notices of restriction have been recorded by the jurisdictions as required by Section 8.01.010 (k) of the Sierra Club Settlement Agreement. It is not clear, as of this writing, whether the jurisdictions recorded these notices in their deeds to developers.

QUESTION 2: Preston Park

Can FORA now record the notice of restriction on Preston Park?

ANSWER: Yes

FORA holds title to Preston Park, so the notice is recordable and valid against the world except as to interests that attached prior to the recording date.

QUESTION 3: RaboBank

If FORA records the notice of restriction against Preston Park, would it be effective against the bank?

ANSWER: No

The notice would be ineffective as against the Bank because the bank’s security interest accrued before the notice (was/will be) recorded. That answer, however, is misleading. Binding the bank is only relevant if the bank forecloses. The bank will not foreclose for three reasons. First, Preston Park is vastly under encumbered. There is substantial excess land value over the amount of the loan. The loan to value ratio means foreclosure is extremely unlikely. Second, the property produces more income than is needed to service the debt. Even if FORA were to default, FORA could still sell Preston Park in foreclosure and satisfy the debt. FORA’s buyer would be bound by the notice of restriction because the buyer would take title after the notice is recorded. Third, FORA will sell Preston Park in the next several months, so this issue will soon be moot.

Subsequently Acquired Property

Settlement Agreement Section 8.01.010 (k) deals with lands acquired by FORA after execution of the Settlement Agreement. As to these properties, FORA is required to:

1. Record a covenant running with the land,
2. advising future owners of such property that development and use of property is subject to the Reuse Plan, the Master Resolution, and
3. that there are constraints on development including possible limits on water supply, wastewater and solid waste disposal capacity, and inadequate transportation.

The Settlement Agreement contemplated that FORA would record individual notices along with each deed out to a jurisdiction. The form of those notices is attached to the Settlement Agreement as Exhibits B and C. Exhibit B to the Settlement Agreement is same as Exhibit F to the IA. FORA agreed to attach those notices to its "out" deeds. I do not know whether that was done, but it appears that the notices were not recorded with FORA's deeds to the jurisdictions.

Recording the IA is tantamount to recording the individual notices because the notices are part of the IA, and the IA describes every parcel FORA can convey. Despite that fact, the notice was supposed to be recorded with each individual deed. If FORA has not recorded individual notices, then we need to change that practice. FORA should record individual notices for each specific parcel conveyed to a jurisdiction or other third party.

For those parcels we have missed, we should ask the jurisdictions cure the problem when they convey to developers. Under the IA, Section 2-a, the jurisdictions are supposed to record the same Exhibit F with their deeds. I do not know whether they have done that, but I have my doubts that they did. We need to find out. If the jurisdictions are not recording the notices, then we need to be sure they do so I do not know what we can do about parcels that have slipped through without individual notices being recorded with the deed. It appears, however, that the recorded IA affords ample notice of the restrictions mentioned in the Sierra Club Settlement Agreement.

SUMMARY

In summary, my advice is to do the following:

1. Find out whether FORA has conveyed lands without recording specific notices of restriction referred to in Chapter 8 of the Master Resolution attached to the Settlement Agreement as Exhibit A. If so, which ones
2. From now on, record the notices along with each deed.
3. Record Notices of restriction for Preston Park and similar parcels.
4. Notify member jurisdictions who may have received title to former FORA lands without prior recorded notices of restriction and ensure that their (member jurisdiction's) conveyances include the Notice of Restrictions.
5. Identify parcels that were conveyed by FORA without the Notice, and determine which of these has been conveyed to developers.

Despite the foregoing analysis, FORA should record specific notices of restriction for FORA lands such as Preston Park. I need to know exactly what [has/has not] been recorded in deeds from FORA to the jurisdictions.

**FORT ORD REUSE AUTHORITY
OFFICIAL BUSINESS
REQUEST DOCUMENT TO BE RECORDED
AND EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE 6103**

**Recording requested by and
when recorded mail to:**

Stan Cook
Fort Ord Reuse Authority
920 2nd Avenue
Suite A
Marina. CA 93933

Space above this line Reserved for Recorder's Use

Documentary Transfer Tax \$0-government agency, exempt from DTT
___ Computed on full value of property conveyed
___ Computed on full value less liens and encumbrances
Remaining at time of sale

Signature of Declarant or agent – Firm name

DEED RESTRICTION AND COVENANTS

The Deed Restriction and Covenants is made this _____ day of _____, 20____, by the Fort Ord Reuse Authority (“Owner”), a governmental public entity organized under the laws of the State of California, with reference to the following facts and circumstances.

- A. Owner is the owner of the real properties described in Exhibit A to this Deed Restriction and Covenants (“the properties”), by virtue of a conveyance of the properties from the United States Government and/or the United States Department of the Army to Owner in accordance with state and federal law, the Fort Ord base Reuse Plan (“the Reuse Plan”), and the policies and programs of the Fort Ord Reuse Authority.
- B. Future development of the properties is governed under the provisions of the Reuse Plan and other applicable general plan and land use ordinances and regulations of the local governmental entity on which the properties is located consistent with the Reuse Plan.
- C. The Reuse Plan provides that the properties can only be used and developed in a manner consistent with the Reuse Plan.
- D. The Reuse Plan recognizes that development of all properties conveyed from FORA is constrained by limited water, sewer, transportation, and other infrastructure services and by other residual effects of a former military reservation, including unexploded ordinance.
- E. It is the desire and intention of Owner, concurrently with its acceptance of the conveyance of the properties, to recognize and acknowledge the existence of these development constraints on the properties and to give due notice of the same to the public and any future purchaser of the properties.
- F. It is the intention of the Owner that this Deed Restriction and Covenants is irrevocable and shall constitute enforceable restrictions on the properties.

NOW, THEREFORE, Owner hereby irrevocably covenants that the properties subject to this Deed Restriction and Covenants is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following restrictions and covenants on the use and enjoyment of the properties, to be attached to and become a part of the deed to the properties. The Owner, for itself and for its heirs, assigns, and successors in interest, covenants and agrees that:

1. Development of the properties is not guaranteed or warranted in any manner. Any development of the properties will be and is subject to the provisions of the Reuse Plan, the policies and programs of the Fort Ord Reuse Authority, including the Authority's Master Resolution, and other applicable general plan and land use ordinances and regulations of the local governmental entity on which the properties are located and compliance with CEQA.

2. Development of the properties will only be allowed to the extent such development is consistent with applicable local general plans which have been determined by the Authority to be consistent with the Reuse Plan, including restraints relating to water supplies, wastewater and solid waste disposal, road capacity, and the availability of infrastructure to supply these resources and services, and does not exceed the constraint limitations described in the Reuse Plan and the Final Program Environmental Impact Report on the Reuse Plan.

3. _____ (Left blank on purpose) _____

4. This Deed Restriction and Covenants shall remain in full force and effect immediately and shall be deemed to have such full force and effect upon the first conveyance of the properties from FORA, and is hereby deemed and agreed to be a covenant running with the land binding all of the Owner's assigns or successors in interest.

5. If any provision of this Deed Restriction and Covenants is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

6. Owner agrees to record this Deed Restriction and Covenants as soon as possible after the date of execution.

IN WITNESS WHEREOF, the foregoing instrument was subscribed on the day and year first above-written.

Owner, Fort Ord Reuse Authority

Michael Houlemard Jr.
Executive Officer

ACKNOWLEDGMENT

State of California)
) ss.
County of Monterey)

On _____, before me, _____, Notary Public, personally appeared

_____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/his/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

DRAFT

EXHIBIT A

PROPERTY DESCRIPTION

DRAFT

____ (Jurisdiction's Name Here) _____
**OFFICIAL BUSINESS
REQUEST DOCUMENT TO BE RECORDED
AND EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE 6103**

**Recording requested by and
when recorded mail to:**

-(Jurisdiction's representative here)-
-(Jurisdiction's address here)-

Space above this line Reserved for Recorder's Use

Documentary Transfer Tax \$0-government agency, exempt from DTT
____ Computed on full value of property conveyed
____ Computed on full value less liens and encumbrances
Remaining at time of sale

Signature of Declarant or agent – Firm name

DEED RESTRICTION AND COVENANTS

The Deed Restriction and Covenants is made this _____ day of _____, 20____, by the Fort Ord Reuse Authority ("Owner"), a governmental public entity organized under the laws of the State of California, with reference to the following facts and circumstances.

- A. Owner is the owner of the real properties described in Exhibit A to this Deed Restriction and Covenants ("the properties"), by virtue of a conveyance of the properties from the United States Government and/or the United States Department of the Army to Owner in accordance with state and federal law, the Fort Ord base Reuse Plan ("the Reuse Plan"), and the policies and programs of the Fort Ord Reuse Authority.
- B. Future development of the properties is governed under the provisions of the Reuse Plan and other applicable general plan and land use ordinances and regulations of the local governmental entity on which the properties is located consistent with the Reuse Plan.
- C. The Reuse Plan provides that the properties can only be used and developed in a manner consistent with the Reuse Plan.
- D. The Reuse Plan recognizes that development of all properties conveyed from Fort Ord Reuse Authority is constrained by limited water, sewer, transportation, and other infrastructure services and by other residual effects of a former military reservation, including unexploded ordinance.
- E. It is the desire and intention of Owner, concurrently with its acceptance of the conveyance of the properties, to recognize and acknowledge the existence of these development constraints on the properties and to give due notice of the same to the public and any future purchaser of the properties.
- F. It is the intention of the Owner that this Deed Restriction and Covenants is irrevocable and shall constitute enforceable restrictions on the properties.

NOW, THEREFORE, Owner hereby irrevocably covenants that the properties subject to this Deed Restriction and Covenants is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following restrictions and covenants on the use and enjoyment of the properties, to be attached to and become a part of the deed to the properties. The Owner, for itself and for its heirs, assigns, and successors in interest, covenants and agrees that:

1. Development of the properties is not guaranteed or warranted in any manner. Any development of the properties will be and is subject to the provisions of the Reuse Plan, the policies and programs of the Fort Ord Reuse Authority, including the Authority's Master Resolution, and other applicable general plan and land use ordinances and regulations of the local governmental entity on which the properties are located and compliance with CEQA.

2. Development of the properties will only be allowed to the extent such development is consistent with applicable local general plans which have been determined by the Authority to be consistent with the Reuse Plan, including restraints relating to water supplies, wastewater and solid waste disposal, road capacity, and the availability of infrastructure to supply these resources and services, and does not exceed the constraint limitations described in the Reuse Plan and the Final Program Environmental Impact Report on the Reuse Plan.

3. _____ (Left blank on purpose) _____

4. This Deed Restriction and Covenants shall remain in full force and effect immediately and shall be deemed to have such full force and effect upon the first conveyance of the properties from Fort Ord Reuse Authority, and is hereby deemed and agreed to be a covenant running with the land binding all of the Owner's assigns or successors in interest.

5. If any provision of this Deed Restriction and Covenants is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

6. Owner agrees to record this Deed Restriction and Covenants as soon as possible after the date of execution.

IN WITNESS WHEREOF, the foregoing instrument was subscribed on the day and year first above-written.

Owner, Fort Ord Reuse Authority

(City or County Representative)

(Title)

ACKNOWLEDGMENT

State of California)
) ss.
County of Monterey)

On _____, before me, _____, Notary Public, personally appeared

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/his/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

DRAFT

EXHIBIT A

PROPERTY DESCRIPTION

DRAFT

Proposed Appeal Fee Amendment to Section 8.01.050 (a) of the FORA Master Resolution

8.01.050

REVIEW OF DEVELOPMENT ENTITLEMENTS BY APPEAL TO AUTHORITY BOARD.

a. Within 10 days of a land use agency approving a development entitlement, any person aggrieved by that approval and who participated either orally or in writing, in that agency's hearing on the matter, may file a written appeal of such approval with the Executive Officer, specifically setting forth the grounds for the appeal, which shall be limited to issues raised at the hearing before the land use agency. The person filing the appeal shall pay a filing fee in an amount equal to the average of the planning decision appeal fees established by the nine member agencies of the Authority's Board omitting the highest and the lowest, not to exceed the Authority's reasonable cost to prepare the appeal. The appeal fee may be reimbursed not more than once yearly to an appellant who signs a declaration under penalty of perjury that s/he qualifies as "very low income" under low income eligibility standards set by the U.S. Department of Housing and Urban Development. The Authority Board must conduct a public hearing on the appeal within 60 days.

DRAFT