



FORT ORD REUSE AUTHORITY

REGULAR MEETING FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS

Friday, July 8, 2016 at 2:00 p.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

REVISED AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON JULY 7, 2016.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE
5. CONSENT AGENDA

CONSENT AGENDA consists of routine items accompanied by staff recommendation.

- | | |
|--|--------------------|
| a. Approve June 10, 2016 Board Meeting Minutes (p. 1) | ACTION |
| b. Environmental Services Cooperative Agreement-Quarterly Report Update (p. 6) | INFORMATION |
| c. Fort Ord Reuse Authority Building Removal Program Update (p. 9) | INFORMATION |
| d. Prevailing Wage Update (p. 12) | INFORMATION/ACTION |
| e. Economic Development Quarterly Status Update (p. 15) | INFORMATION |
| f. Annual Report FY 2015-16 (p. 17) | INFORMATION |
| g. Habitat Conservation Plan Update (p. 18) | INFORMATION |
| h. Administrative Committee (p. 19) | INFORMATION |
| i. Post Reassessment Advisory Committee (p. 26) | INFORMATION/ACTION |
| j. Regional Urban Design Guidelines Task Force (p. 29) | INFORMATION |
| k. Veterans Issues Advisory Committee (p. 32) | INFORMATION |
| l. Water/Wastewater Oversight Committee (p. 36) | INFORMATION |
| m. Travel Report (p. 39) | INFORMATION |
| n. Public Correspondence to the Board (p. 41) | INFORMATION |

6. PUBLIC COMMENT PERIOD

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

7. BUSINESS ITEMS

- a. Consultant Determination Opinion Report (p. 42) ACTION
Categories I and II Post Reassessment Actions-2d Vote
- b. Adoption of FORA FY 2016/17 Capital Improvement Program-2d Vote (p. 76) ACTION
- c. University of California Monterey Bay Education Science and (p. 78) INFORMATION
Technology Center (UC MBEST) Quarterly Status Update
- d. Consider a Pipeline Financing Reimbursement Agreement (p. 80) ACTION
with Marina Coast Water District
- e. Consistency Determination: City of Marina (p. 92) INFORMATION/ACTION
Housing Element 2015-2023

8. CLOSED SESSION

(To be conducted at 4 p.m. or upon completion of Business Items- whichever is earlier)

- a. Public Employment, Gov. Code 54959.7(b) - Executive Officer
- b. Conference with Legal Counsel – Potential Litigation, Gov. Code 54956.9(d)(2)

9. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

10. ITEMS FROM MEMBERS

11. ADJOURNMENT

NEXT BOARD MEETING: August 12, 2016

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**FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS REGULAR MEETING MINUTES**

Friday, June 10, 2016 at 2:00 p.m.
910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

1. CALL TO ORDER

Participating via Teleconference: Councilmember Morton - Kula Botanical Gardens, 638 Kekaulike Avenue, Kula, Maui, Hawaii 96790, (808) 878-1715

Vice Chair Rubio called the meeting to order at 2:02 p.m.

2. PLEDGE OF ALLEGIANCE

COL Paul Fellingner led the pledge of allegiance.

3. ROLL CALL

Mayor Rubio (City of Seaside)	Supervisor Phillips (County of Monterey)
Mayor Pro-Tem Oglesby (City of Seaside)	Supervisor Parker (County of Monterey)
Mayor Pendergrass (City of Sand City)	Council member Haffa (City of Monterey)
Mayor Gunter (City of Salinas)	Council member Morton (City of Marina)
Mayor Edelen (City of Del Rey Oaks)	(via teleconference)
Mayor Kampe (City of Pacific Grove)	Councilmember Brown (City of Marina) AR

Ex-officio (Non-Voting) Board Members Present: Dr. Ochoa (CSUMB), Vickie Nakamura (MPC), Donna Blitzer (UCSC), COL Fellingner (USARMY), Bill Collins (Ft Ord BRAC Office); 20th Congressional District Ale Arago (for Sam Farr); 17th State District Senator Monning; 29th District Assembly member Mark Stone; PK Diffenbaugh (MPUSD) AR, Lisa Reinheimer (MST), Debbie Hale (TAMC) AR, Thomas Moore (MCWD).

Absent: Supervisor Potter (County of Monterey), Janet Reimers (City of Carmel), Hunter Harvath (MST).

4. CLOSED SESSION

Vice Chair Rubio introduced this item to Board before going to closed session. Vice-Chair Rubio asked for public comment. No public comment was received. The Board adjourned into closed session at 2:06 p.m.

- a. Public Employment, Gov. Code 54959.7(b) - Executive Officer
- b. Conference with Legal Counsel - Existing Litigation, Gov. Code 54956.9(a)
Keep Fort Ord Wild v. Fort Ord Reuse Authority (FORA), Case No.: M114961

5. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

The Board reconvened into open session at 2:30 p.m.

Authority Counsel, Jon Giffen, announced there was no reportable action taken by Board.

No public comment was received.

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Mr. Houlemard spoke of his participation at the National Security Seminar War College. He read a Resolution recognizing COL Paul Fellingner for his service and contributions to FORA, and the Peninsula communities at large.

a. Transition Task Force and Index of Documents on FORA webpage

Mr. Houlemard referenced an index of documents (approx. 80) available online on the Transition Task Force webpage.

b. Rick Cooper, Bureau of Land Management

Mr. Cooper thanked the FORA Board for attending the grand opening of the Central Coast office (next door neighbor to FORA). Pleased to be a part of Monterey Peninsula.

c. New Staff Introduction. Mr. Houlemard introduced Sheri Damon as the prevailing wage coordinator.

7. 2016 ANNUAL LEGISLATIVE SESSION

a. Report from Congressman Sam Farr -20th Congressional District

Alec Arago gave a brief report on Congressman Sam Farr's legislative work. Bill funding for military boosted an extra 25% for BRAC cleanup such as FORA's. He said FORA did cleanup process at a faster rate than other facilities in the country. He said a bill was introduced to speed up the cleanup process and obtain completion. Future BRAC – might be happening again. The VA clinic at Fort Ord will have 120,000 SF and is the first in the nation to have a joint clinic with Department of Defense and Veterans Administration and a 20,000 SF for a pediatric clinic. The opening ceremony is scheduled for October 14th and projected opening in spring 2017.

The Board received comments from public.

b. Report from State Senator Bill Monning -17th State Senate District

Mr. Houlemard introduced Senator Monning. Senator Monning thanked FORA for their leadership and construction of the Veterans Cemetery. 700 applications have been received to date for burial sites. This cemetery serves the Tri County and central coast region. Transition Task Force work was given to furthering critical discussions and evaluations of this process. Senator Monning said he is ready to work with FORA as to future options in its transition that continue the vision of FORA. He added that California Public Utilities Commission (PUC) has delayed an Environmental Impact Review process for State Water board and that his office has weighed in with this Board and PUC advocates for the State Water Board and continues to monitor and is a priority for his office. He added there agreement on the State FY 16-17 f Budget and a vote will be taken on Wednesday and expects support for a balanced budget.

Vice Chair asked if members had questions for Senator Monning. Mr. Houlemard asked 17th Senate District encompasses 4 counties and 17 municipalities.

There were no comments from members or public.

c. Report from Assembly member Mark Stone -29th State Assembly District
Vice Chair introduced Assembly member Mark Stone. Assembly member Stone gave a brief summary of his work on areas of education (K12), affordable housing and other initiatives (broad band) and inequities in rural communities; increased resources for active duty services; mental health services and increases to reserve funds to address long-term debt and more stability in case of an economic downturn. Mr. Stone said he appreciates FORA's work and thanked COL Fellingner for his service.
Vice Chair opening comments from members.
The Board received comments from its members.
Vice Chair thanks ever representative for their presentations
There was no public comment.

8. CONSENT AGENDA

a. Approve May 13, 2016 Board Meeting Minutes
MOTION: Mayor Gunter moved, seconded by Councilmember Oglesby to approve the May 13, 2016 Minutes.
MOTION PASSED UNANIMOUSLY.
Vice Chair Rubio asked for public comment. No public comment was received.

b. Adopt Resolution Acknowledging COL Paul Fellingner
MOTION: Mayor Edelen moved, seconded by Councilmember Lucius to approve Resolution acknowledging COL Paul Fellingner as presented
MOTION PASSED UNANIMOUSLY. (Abstention: Brown)
Vice Chair Rubio asked for public comment. No public comment was received.

9. BUSINESS ITEMS

a. Consider Adoption of Regional Urban Design Guidelines (RUDG)

Mr. Houlemard introduced this item to Board. Josh Metz gave a brief power point presentation and referenced the link to the RUDG document posted on FORA's website. Mr. Metz said comments were received and were added as applicable to the RUDG. A slide with policy application was presented for required and advisory BRP consistency determinations. He asked Board for consideration and approval of the final Regional Urban Design Guidelines.
Mr. Houlemard added that this document represents work of Board members along with 30+ meetings over the span of 2 years along with California State University, Monterey Peninsula College, Bureau of Land Management, developers and community. He added that aside from Consultants work, FORA's Staff compiled the last document.
Vice Chair asked for comments from members.

The Board received comments from its members.
MOTION: Mayor Edelen moved, seconded by Supervisor Phillips to receive and accept both items as submitted by Staff.

Roll Call was taken:

AYES: BROWN, EDELEN, GUNTER, HAFFA, LUCIUS, MORTON (via phone),
OGLESBY, PARKER, PENDERGRASS, PHILLIPS, RUBIO

NOES: NONE

ABSENT: POTTER, REIMERS

ABSTENTIONS: NONE

MOTION PASSED UNANIMOUSLY

b. Consider Adoption of FORA FY 2016/17 Capital Improvement Program (CIP)

Mr. Houlemard introduced this item. Jonathan Brinkmann gave a brief summary report. He said FORA staff annually provides a CIP overview, including updates made through revenue and expenditure reprogramming and text edits. Peter Said reviewed the CIP index tables that include building removal of Seaside Surplus II and obligations that have increased to cover cost of construction. There are 20 transportation projects (included on Appendix A). Transportation Agency of Monterey County (TAMC) fee reallocation of \$123M to 20 different road projects will be completed in three months. Mr. Said asked for Board to adopt CIP as is and that Staff will bring back adjustments after the fee studies are completed. He added that the recommendation from Administrative Committee was to continue with existing FY15-16 budget and bring back to Board the FY16-17 later as soon as the studies are completed.

Vice Chair Rubio asked for comments from members and public.

The Board received comments from its members. There was no public comment.

Councilmember Lucius left at 4:40 p.m.

MOTION: Mayor Edelen moved, seconded by Mayor Gunter to support staff's recommendation and approve the new FY16-17 CIP budget and to incorporate the EPS additional items and fee study back for additional Board approval.

Roll Call was taken:

AYES: EDELEN, GUNTER, HAFFA, OGLESBY, PARKER, PENDERGRASS,
PHILLIPS, RUBIO

NOES: MORTON (via phone), BROWN

ABSENT: LUCIUS, POTTER, REIMERS

ABSTENTIONS: NONE

MOTION FAILED: Returns for a 2nd Vote at next meeting.

Vice Chair Rubio noted the time being 5:00 p.m. and that Quorum was lost. He requested a Motion to extend meeting time to 5:30 p.m.

MOTION: Supervisor Parker moved, seconded by Mayor Edelen, to continue the meeting to 5:30 p.m.

MOTION PASSED UNANIMOUSLY

Vice Chair opened for public comment on items not on agenda

c. Consultant Determination Opinion Report Categories I and II Post Reassessment Actions – 2d Vote

Item was not heard due to lost of quorum (6 members remained at Board meeting). This Item will be reviewed at next Board meeting.

10. PUBLIC COMMENT PERIOD

The Board did not receive public comment.

11. EXECUTIVE OFFICER'S REPORT

Mr. Houlemard said Item 11g on the Agenda was received from City of Marina and since there was no request for hearing received today, this Item is now deemed Consistent pursuant to FORA's staff review on this Item.

Vice Chair Rubio asked for public comment. There was no public comment.

- a. Habitat Conservation Plan Update
- b. Administrative Committee
- c. Post Reassessment Advisory Committee
- d. Regional Urban Design Guidelines Task Force
- e. Veterans Issues Advisory Committee
- f. Water/Wastewater Oversight Committee
- g. **Administrative Consistency Determination for Entitlement City of Marina's Bridge House Project**
- h. Travel Report
- i. Public Correspondence to the Board

12. ITEMS FROM MEMBERS

None.

13. ADJOURNMENT

The meeting adjourned at 5:06 p.m.

DRAFT

FORT ORD REUSE AUTHORITY BOARD REPORT	
CONSENT AGENDA	
Subject:	Environmental Services Cooperative Agreement-Quarterly Report Update
Meeting Date:	July 8, 2016
Agenda Number:	5b
INFORMATION	

RECOMMENDATION:

Receive an Environmental Services Cooperative Agreement (ESCA) quarterly update:

- i. ESCA activities update; and,
- ii. Land Use Control Implementation Plan Operations and Maintenance Plan (LUCIP OMP).

BACKGROUND:

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

In order to complete the AOC defined obligations, FORA entered into a Remediation Services Agreement (RSA) with the competitively selected LFR Inc. (now ARCADIS) to provide MEC remediation services and executed a cost-cap insurance policy for this remediation work through American International Group (AIG) to assure financial resources to complete the work and to offer other protections for FORA and its underlying jurisdictions.

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

DISCUSSION:

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

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

the ESCA grant contract. As part of the RSA between FORA and ARCADIS, insurance coverage was secured from AIG for which FORA paid \$82.1 million up front from grant funds. The AIG policy provides a commutation account which holds the funds that AIG uses to pay ARCADIS for the work performed. The AIG coverage also provides for up to \$128 million to address additional work for both known and unknown site conditions, if needed. That assures extra funds are in place to complete the scope of work to the satisfaction of the Regulators. Based on the Army ESCA grant contract, the EPA AOC requirements and AIG insurance coverage provisions, AIG controls the ARCADIS/AIG \$82.1 million commutation account. The full amount was provided to AIG in 2008 as payment for a cost-cap insurance policy where AIG reviews ARCADIS' work performed and makes payments directly to ARCADIS. FORA oversees the work to comply with grant and AOC requirements.

Current status follows:

Item	Revised Allocations	Accrued through March 2016
FORA Self-Insurance or Policy	\$ 916,056	\$ 916,056
Reimburse Regulators & Quality Assurance	3,280,655	2,759,832
State of California Surplus Lines Tax, Risk Transfer, Mobilization	6,100,000	6,100,000
Contractor's Pollution Liability Insurance	477,344	477,344
Work Performed ARCADIS/AIG Commutation Account	82,117,553	74,469,736
FORA Administrative Fees	4,837,001	3,691,597
Total	\$ 97,728,609	\$ 88,414,565
	ESCA Remainder	\$ 9,314,044

Data collected during the ESCA investigation stage remains under regulatory review to determine if remediation is complete. The review and documentation process is dependent on Army and regulatory agency responses and decisions. They will issue written confirmation that CERCLA MEC remediation work is complete (known as regulatory site closure).

On November 25, 2014, EPA signed the Record of Decision (ROD) for the ESCA Group 3 properties located in County of Monterey (at Laguna Seca); City of Monterey (south of South Boundary Road); Del Rey Oaks (south of South Boundary Road); and, Monterey Peninsula College (MPC) Military Operations in Urban Terrain property. On February 26, 2015, the Regulators signed the ROD for the ESCA Group 2 California State University Monterey Bay property (south of Inter-Garrison Road). The ROD records the EPA, DTSC and Army's decision on the cleanup of these properties and what controls are required to continue to protect public health and safety.

ii. The process for implementing, operating and maintaining the ROD controls is prescribed under a Land Use Control Implementation, Operation and Maintenance Plan (LUCIP OMP) document. Each ROD will have a corresponding LUCIP OMP developed based on site conditions and historic MEC use. The ESCA team and Regulatory agencies are working directly with the

jurisdiction representatives, through the FORA Administrative Committee, to help them understand and develop their comments to the Group 2 and Group 3 LUCIP OMP documents. LUCIP OMP Workshops were provided for Administrative Committee member questions and document comment preparation in May, June and July 2015. The ESCA RP team provided another LUCIP OMP Workshop to the FORA Administrative Committee on June 15, 2016 to support the latest Group 2 and Group 3 LUCIP OMP document review. LUCIP OMP documents are approved by the Regulators prior to issuing regulatory site closure.

Future Actions:

Until regulatory review, concurrence and site closure is received, the ESCA property is not open to the public. Regulatory approval does not determine end use. When regulatory site closure is received, FORA will transfer land title to the appropriate jurisdiction for reuse programming. Underlying jurisdictions are authorized to impose or limit zoning, decide property density or make related land use decisions in compliance with the FORA Base Reuse Plan.

The EPA recently notified FORA of their selection of Ms. Maeve Clancy to replace Ms. Judy Huang as Project Coordinator, as defined by the Administrative Order on Consent (Paragraph 55, Section XV Project Coordinators, CERCLA Docket No. R9-2007-03), effective Monday, May 16, 2015. Ms. Clancy received a Fort Ord/ESCA properties orientation briefing and tour on May 26th.

FORA received regulatory site closure for the County North and Parker Flats Phase 1 ESCA properties. For these properties, ARCADIS commuted ESCA insurance coverage for related clean-up costs for coverage for unknown conditions. Per the existing FORA/Jurisdiction Implementation Agreements (2001) and Memorandum of Agreement (2007) regarding property ownership and responsibilities during the period of environmental services, deeds and access control for these properties has been transferred to the new land owner.

The ESCA team continues to actively monitor biological resources and track restoration activities on ESCA properties. To date, the ESCA RP has provided the environmental stewardship for 3,340 ESCA acres. During the week of April 6, 2016, FORA Staff will be meeting to discuss the full range of ESCA issues and the 2020 FORA Transition with U. S. Army and regulator representatives.

FISCAL IMPACT:

Reviewed by FORA Controller 

The funds for this review and report are part of the existing FORA ESCA funds. Potential grant adjustments may be forthcoming to address items reviewed in this report.

COORDINATION:

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

Prepared by 
Stan Cook

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: FORA Building Removal Program Update

Meeting Date: July 8, 2016

Agenda Number: 5c

INFORMATION

RECOMMENDATION(S):

Receive a Building Removal Program update:

- i. Surplus II Industrial Hygienist (IH) contract with Vista Environmental Engineering
- ii. Marina Stockade Removal Preparations

BACKGROUND/DISCUSSION:

The U.S. Army conveyed real property to the Fort Ord Reuse Authority (FORA) under an Economic Development Conveyance (EDC) Memorandum of Understanding (MOU) that outlines the terms and conditions of a local Base Realignment and Closure (BRAC) recovery program with the restriction that FORA and the Jurisdictions receive the property with the buildings "as-is, where-is." The FORA Board has specific building removal and clearance obligations under state law and Board policy. A summary of FORA's past building removal activities are attached (**Attachment A**).

Surplus II Industrial Hygienist (IH) contract with Vista Environmental Engineering

Seaside received the Surplus II area in 2005. The site has 27 large, multi-story concrete structures in close proximity to the California State University Monterey Bay (CSUMB) campus, occupied housing, office buildings, and schools. The buildings have become dilapidated, contain hazardous materials and are sites for vandalism and illegal dumping. FORA and Seaside staff identified the need to survey the Surplus II for hazardous materials as the first step in building removal. On October 18, 2016, FORA issued a Request for Proposals (RFP) for Industrial Hygienist (IH) hazardous material sampling and testing services. Three qualified IH firms submitted proposals. Vista Environmental Consulting scored the highest in the IH evaluation and interview process. On January 8, 2016, the Board gave the Executive Officer approval to execute a contract with Vista Environmental Consulting for Surplus II hazardous material sampling and testing, not to exceed \$175,000.

Since January, Vista has completed its Surplus II field surveys and is in the process of finalizing the reports, and preparing cost estimates for material removal, environmental monitoring, and post-deconstruction soil survey. In June, FORA staff and Vista meet with the Monterey Bay Unified Air Pollution Control District to review the preliminary Surplus II hazmat survey reports and determine appropriate assumptions for a hazmat removal estimate. FORA staff will bring this information back to Seaside and coordinate Seaside's preferred next steps for the Surplus II building removal process.

Marina Stockade Removal Preparations

FORA's Marina building removal obligation consisted of Marina's WWII wooden buildings and the former Fort Ord stockade building. In 2007, FORA completed its WWII wooden building removal obligation in Marina under the Memorandum of Agreement between FORA, the City of Marina and Marina Community Partners. FORA's remaining obligation in Marina is the former concrete stockade building. Early in 2016, FORA and Marina staff began stockade removal discussions.

The City of Marina owns the stockade property and leases the land around the building to Las Animas Concrete for a concrete batch plant facility and the Central Coast Builders Exchange as a storage yard. Marina staff and their leasees are coordinating to move operations away from the stockade building. FORA staff is developing an RFP for IH Services to survey the stockade for hazardous materials. FORA staff, with Marina's assistance, will be reaching out to Las Animas Concrete to secure stockade access.

FISCAL IMPACT:

Reviewed by FORA Controller 

Funding for these building removal efforts is included in the approved FY 15-16 Capital Improvement Program and FY 16-17 FORA Budget.

COORDINATION:

Authority Counsel, Administrative Committee, Seaside, Marina

Prepared by  Peter Said Reviewed by  Stan Cook

Approved by  Michael A. Houlemard, Jr.

Building Removal Activity History



Activity	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	
FORA Deconstruction																						
FORA Asbestos																						
FORA Reuse Hierarchy																						
FORA Contractor Quals																						
FORA LBP																						
FORA Characterization																						
FORA Imjin																						
FORA 2nd Ave																						
FORA/CSUMB Recovery																						
FORA/Dunes																						
FORA East Garrison																						
FORA Imjin Office Park																						
FORA ESCARemoval																						
FORA 4470																						
FORA/CSUMB Grant App																						
FORA Grant App																						
Seaside Surplus II																						
Seaside Highlands																						
CSUMB Wood Blds																						
CSUMB Concrete Blds																						
Army RCI																						

Attachment A to Item 5c
FORA Board Meeting 7/8/16

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Prevailing Wage Status Report	
Meeting Date:	July 8, 2016	INFORMATION/ACTION
Agenda Number:	5d	

RECOMMENDATION(S):

Accept Prevailing Wage Status Report

BACKGROUND:

Since early 2015, the Fort Ord Reuse Authority (“FORA”) Board has been wrestling with both application and enforcement of the Master Resolution prevailing wage requirements. One of the key reasons the prevailing wage requirements were added to the Master Resolution, certain deeds and implementation agreements was to help promote the local workforce to enable workers to secure employment on Fort Ord. FORA’s Prevailing Wage requirements were adopted as “local” prevailing wage requirements and have different provisions and definitions than those currently found in the state labor code with the passage of Senate Bill 854. Over the past year, the Board has heard complaints from individual workers, labor unions, and contractors about the prevailing wage program, allegations of abuses, and lack of consistent enforcement. Multiple lawsuits have been filed including Monterey/Santa Cruz ETC. Trades Council v. Cypress Marina Heights LP (2011) 191 Cal. App. 4th 1500; Monterey/Santa Cruz BCTC, et al. v. MCP, Shea Properties, et al. Monterey Superior Court M81343 (2008) [Settlement Agreement]. Additionally, there are a number of lawsuits pending between individual employees and contractors.

FORA staff and Authority Counsel met with the Department of Industrial Relations Deputy Commissioner to seek clarification of SB 854 and other recent changes in California Labor Laws as it may pertain to FORA. With the Department of Industrial Relations letter to Jane Haines of March 16, 2016, the DIR has begun to review information and prior decisions about the applicability of state public works laws to projects being built on Fort Ord. With this new interpretation by DIR that Fort Ord projects are considered a public work regulated by the state, a whole new set of obligations and issues will arise for jurisdictions (awarding agencies), developers, contractors, and subcontractors. In order to assist the jurisdictions, the FORA Board elected to enhance its prevailing wage program by hiring a Prevailing Wage Coordinator. The focus of the new position is to provide support and assistance to the jurisdictions. In this regard, the Prevailing Wage Coordinator (PWC) began work on May 16, 2016.

DISCUSSION:

1. Coordination with Jurisdictions and Stakeholders

Since beginning work in May, the PWC has met with multiple stakeholders to compile information and background so as to best provide support and craft a program to monitor and assist in meeting prevailing wage requirements on Fort Ord. She has met with representatives from the County of Monterey, City of Del Rey Oaks and City of Monterey. She is meeting with the City of Marina at the end of June and has not yet confirmed a meeting with the City of Seaside. As a part of the background and outreach, she has also made contact with labor representatives, representatives from the development community and labor compliance monitors. Some of the issues articulated include lack of clarity in applying and complying with the state public works rules, prevailing wage rules, lack of residential prevailing rates for many

of the trades, lack of access to certified payroll records, lack of staff to handle complaints, abuse of the workers (wage underpayment, worker misclassification), insufficient local workforce, lack of timely records access, apprentice training fee payments, and the changing regulatory environment. An additional issue is that there is a lack of consistency across the former Fort Ord jurisdictions for collecting and reporting data to ascertain and forecast demand for various trades used in the different types of construction occurring at Fort Ord.

2. Monitoring Assistance

Complaint Protocol: The County has established a program whereby it is handling its local prevailing wage and state prevailing wage obligations. They requested that any complaints that are received by FORA be communicated back to them for response or action. FORA has received some complaints on projects in other jurisdictions and has now implemented an email transmission system to the underlying jurisdiction and/or the developer.

RFQ for Labor Compliance training: Educational outreach will be developed. FORA is in the process of issuing a Request for Qualifications for a consultant for state prevailing wage training/orientation services, including production of training webinars.

Software: One of the big issues that confronts each jurisdiction is what rules must be applied and when and how to meet their ongoing duties to comply with local, state and federal public works and prevailing wage issues. Also of interest is a mechanism to compile information about the use of local workforce. This Board approved the acquisition and use of software at the March 2016 meeting. Accordingly, your PWC has made outreach to a computer software provider regarding a program which could be utilized by FORA, its member jurisdictions and Labor Compliance monitors which would provide for compliance with local (FORA MR), state (Labor Code) and Federal (Davis Bacon) laws as necessary as well as providing a uniform platform to collect and track statistical information. The program allows tracking of the frequency of the monitor's visits to project sites, flags issues with rates and provides a vehicle for tracking local workforce. Once the data has been compiled the program report information is also capable to assisting in future forecasts for local labor. FORA staff are in the process of obtaining a quote for the software which allows FORA and the member jurisdictions to have a uniform platform to access and compile information within their jurisdictions.

RFQ for Labor Compliance Monitors: The Board might recall that in October 2015, it authorized the use of a prequalified list of Labor Compliance Monitors which had been previously vetted through a public process by the County. It is proposed that a new qualified list be sought by FORA which requires among other items, the use of a minimum set of Best Management Practices along with the use of the standardized software. A jurisdiction or developer using a FORA prequalified Labor Compliance Monitor could expand the scope of compliance services, but could not change the minimum Best Management Practice requirements. This promotes uniformity in how projects are monitored, data is collected and seeks to minimize non-compliance issues at the earliest possible time.

3. Future Direction

Educational Outreach: A series of webinars, FAQ pages, and/or trainings would be developed to implement an educational outreach program on state prevailing wage requirements and the nuances presented by Fort Ord Reuse projects which do not fit neatly into prevailing wage. It is anticipated that FORA would utilize a Labor Compliance Monitor to offer the initial training. It is

also anticipated that either a posting or notice with contact information about how to informally resolve wage complaints will be made available in in English and Spanish. Future possibilities might include development of a “pre-training apprentice program” to assist with preparing individuals to qualify for certified training programs.

Legislative Outreach: Recently DIR’s lead attorney passed away; regulations and letters have started to go out to some of our local workforce contractors about compliance with state laws; and it is possible that changes may be occurring in the staffing at DIR. It is time for FORA to circle back and reestablish lines of communication with DIR leadership to assure correct interpretation of the message in the March 16, 2016 letter to Jane Haines. Military base reuse is not a project that easily fits into the state regulatory compliance rubric and there undoubtedly be issues that FORA and the jurisdictions have an interest in addressing.

Quarterly Reporting: Once the software program is up and going and participating jurisdictions have signed on to its use, it is anticipated that FORA would prepare a quarterly report on summary data produced. In particular, elements would include total number of workers on the projects within Fort Ord and how many of those are local workers and ultimately, a yearly forecast for future labor demand.

FISCAL IMPACT:

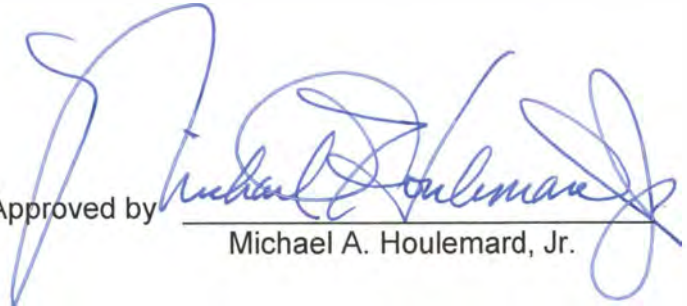
Reviewed by FORA Controller 

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

COORDINATION:

Authority Counsel, Administrative and Executive Committees

Prepared by 
Sheri Damon

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Economic Development Quarterly Status Update

Meeting Date: July 8, 2016

Agenda Number: 5e

INFORMATION

RECOMMENDATION(S):

Receive Economic Development (ED) Progress Report.

BACKGROUND/DISCUSSION:

The 2012 Reassessment Report identified economic recovery from base closure as a yet –to-be complete BRP obligation. Beginning in January 2015, the Board reviewed economic recovery strategies and acted to recruit and fund a new ED staff position. Following a successful recruitment process, Josh Metz was appointed as ED Coordinator in June 2015.

FORA's initial ED strategy, outlined during the ED Coordinator recruitment and again at the September 2015 Board meeting, includes the following key components:

- Build on Regional Economic Strengths.
- Engage Internal & External Stakeholders.
- Develop and Maintain Information Resources.
- Pursue New Business Opportunities.
- Engage with Regional/Partner Efforts.
- Report Success Metrics.

The following key activities have been the focus of Economic Development efforts since the last Quarterly Status Update provided at the April 8, 2016:

- **Business Recruitment.** FORA staff responded to numerous inquiries from businesses interested in relocation and reuse of former Fort Ord real estate. Working with the Monterey County Economic Development office, staff explored potential recruitment of: a new winery incubator project, winery relocation and development, greenhouse R&D, medical foods R&D, livestock conservation R&D, and tourism oriented businesses. Staff is working with relevant jurisdiction staff and elected officials to advance these opportunities.
- **Regional Urban Design Guidelines.** The Board adopted FORA Regional Urban Design Guidelines (RUDG) at the June 10 meeting. Mr. Metz fulfilled his role as RUDG project manager including taking the lead on creation of an interactive implementation website (<http://www.DesignFortOrd.org>). Completion of the RUDG will advance economic recovery by providing clear guidelines for jurisdictions and developers crafting new legislative land-use policies and development plans.
- **UCMBEST.** The vision for UCMBEST as a regional R&D tech innovation and regional employment center has yet to be realized. Even after 21 years of UC ownership only a small fraction of new venture and employment opportunities exist on the lands conveyed for that purpose. FORA has a critical interest in seeing progress made on the UCMBEST vision. To that end Executive Officer Michael A. Houlemard Jr. and Mr. Metz have taken active roles in convening relevant stakeholders to infuse the effort with new energy and craft a viable route forward. Advancing existing planning efforts to conclusion and entitlement for future sale,

lease or other transfer, as well as exploring a wide range of future ownership/management structures are key areas of staff/stakeholder focus. Vice Chancellor Scott Brandt provided a UCSC-UCMBEST Status Report at the March 11, 2016 meeting. Since then Mr. Metz has continued to represent FORA in bi-weekly status update calls with UC Santa Cruz and Monterey County representatives.

- **Start-up Challenge Monterey Bay.** FORA continues to support the growth and establishment of regional entrepreneurship through support of CSUMB and Start-up Challenge Monterey Bay. This multi-day competitive pitch event cultivates entrepreneurship skills and identifies promising start-up concepts. The 2016 Start-up Challenge grew 25% from 2015 with 89 participants. FORA hosted 2 pitch workshops in partnership with CSUMB faculty, which enabled approximately 50 participants to refine and practice pitch content. Mr. Metz is now working with CSUMB colleagues on strategic initiatives to expand the impact of the Startup Challenge through a shared workspace feasibility study, expansion of the Startup Challenge program/schedule, and exploring other means of continuing to support the regional innovation/entrepreneurship ecosystem.
- **Community Engagement:** FORA staff continue to work on increasing public knowledge about reuse activities and opportunities. To this end each of our committee and Board meetings are publically noticed via our growing 380+ person email list, posted to the FORA.org website, shared on all FORA social media outlets, and posted at the FORA offices. All FORA contracting and employment opportunities are also posted on the FORA website and shared via social media outlets. While these efforts resulted in participation in by members of the Fort Ord Environmental Justice Network (FOEJN), Seaside NAACP and LULAC in a variety of activities including the 2015 Regional Urban Design Guidelines (RUDG) charrette process, staff has also met on multiple occasions with the FOEJN to identify opportunities for collaboration and resolving community concerns. These community engagement and outreach efforts are core ongoing ED activities.
- **Success Metrics/Information Analytics:** Clear success metrics will provide the framework to evaluate economic development progress. The 2015 FORA Jobs Survey indicates there are a total of 3541 Full-time Equivalent (FTE) and 722 Part-time jobs on the former Fort Ord. In addition, we estimate there are in excess of 10,000 students (7122 at CSUMB). As FORA supported entrepreneurship efforts mature, grant funds are secured and information resources are developed and deployed, additional ED metrics will become available.
- **Remaining 2016 Conferences:**
 - Association of Defense Communities (ADC) 2016 Conference, June 20-22, Washington, DC
 - Forbes Agtech Summit, July 13-14, Salinas, CA
 - International Economic Development Council (IEDC) Conference, Sept 25-28 Cleveland, OH

FISCAL IMPACT:


Reviewed by FORA Controller 

Funding for staff time and ED program activities is included in the approved FORA budget.

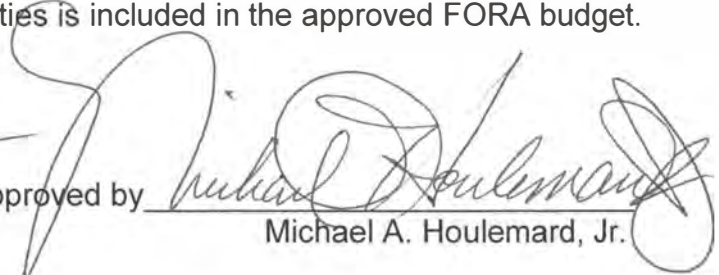
COORDINATION:

Administrative and Executive Committees

Prepared by


Josh Metz

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Annual Report FY 2015-16	
Meeting Date:	July 8, 2016	INFORMATION
Agenda Number:	5f	

RECOMMENDATION(S):

Receive the Fiscal Year 2015-16 Fort Ord Reuse Authority Annual Report.

BACKGROUND/DISCUSSION:

Fort Ord Reuse Authority (FORA) staff provides annual project and activity updates to the FORA Board of Directors, local and regional jurisdictions, legislative offices, community members and local business leadership regarding reuse progress. The full-length annual report is accessible from the FORA website at the link provided below:

<http://fora.org/Reports/AR/AnnualReport2016-Full.pdf>

FISCAL IMPACT:

Reviewed by FORA Controller 

Printing costs and staff time for this item is included in the approved annual budget.

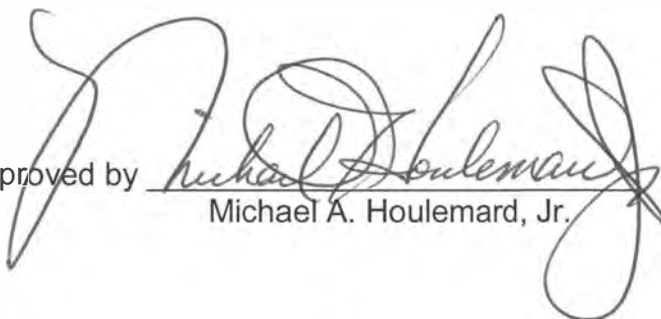
COORDINATION:

FORA Staff

Prepared by


Jen Simon

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT	
CONSENT AGENDA	
Subject:	Habitat Conservation Plan Update
Meeting Date:	July 8, 2016
Agenda Number:	5g
	INFORMATION

RECOMMENDATION(S):

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

BACKGROUND/DISCUSSION:

Item 10b from the January 8, 2016 Board meeting included additional background and is available at: <http://www.fora.org/Board/2016/Agenda/010816BrdAgenda.pdf>

For more than 19 years, the Fort Ord Reuse Authority (FORA) has worked towards completing a Fort Ord HCP that will satisfy U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) criteria for issuing federal and state Incidental Take Permits. Factors delaying progress, such as additional species in the plan area becoming listed as endangered, regulation changes, wildlife agency staff changes, changes to species impact analyses, and lack of wildlife agency resources to complete timely reviews, have all been addressed with the exception of one factor: USFWS's solicitor review of the Administrative Draft HCP and Environmental Impact Statement/ Environmental Impact Report (EIS/EIR). Most recently, USFWS and FORA staff held a meeting in mid-June to review and attempt to address solicitor comments. Based on the meeting, USFWS's solicitor comments appear significant and incongruent with previous direction and guidance. FORA staff have communicated our concerns with the Congressman Sam Farr's office and plan to schedule a meeting in the next few weeks to resolve the issue.

FISCAL IMPACT:

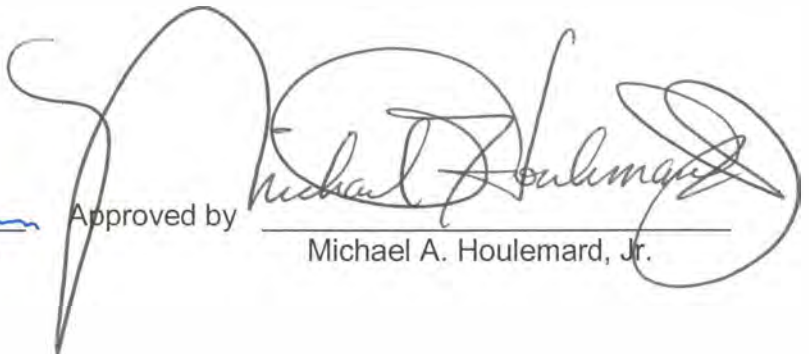
Reviewed by FORA Controller 

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

COORDINATION:

Authority Counsel, Administrative and Executive Committees, land use jurisdictions, CDFW, USFWS, HCP consultants.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT	
EXECUTIVE OFFICER'S REPORT	
Subject:	Administrative Committee
Meeting Date:	July 8, 2016
Agenda Number:	5h
INFORMATION	

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The Administrative Committee met on June 1 and June 15, 2016. The approved minutes from these meetings are attached (**Attachment A**).

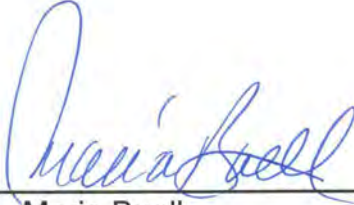
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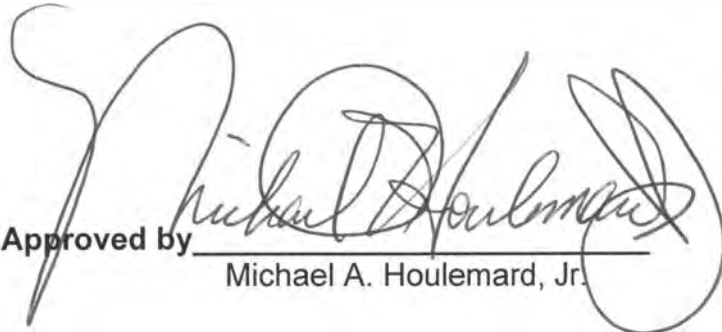
Reviewed by the FORA Controller 

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

COORDINATION:

Administrative Committee

Prepared by 
 Maria Buell

Approved by 
 Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES
8:30 a.m., Wednesday, June 1, 2016 | FORA Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER

Mr. Houlemard called the meeting to order at 8:30 a.m. The following were present:

**voting members, AR = arrived after call to order*

Layne Long (City of Marina) AR

Daniel Dawson (City of del Rey Oaks)

Craig Malin, City of Seaside*

Melanie Beretti, Monterey County*

Elizabeth Caraker, City of Monterey*

Anya Spear, CSUMB

Chris Placco, CSUMB

Vicki Nakamura, MPC

Lisa Reinheimer, MST

Mike Zeller, TAMC

Kristie Reimer, RAC

Wendy Elliott, MCP

Doug Yount

Don Hofer, Shea Homes

Bob Shaffer

FORA Staff:

Michael Houlemard Jr.

Steve Endsley

Jonathan Brinkmann

Ted Lopez, Peter Said

Stan Cook, Josh Metz

Mary Israel, Sheri Damon

Helen Rodriguez

Maria Buell

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was led by Mr. Houlemard.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Stan Cook announced a Workshop on the Environmental Services Conservation Agreement will be presented at the next Administrative Committee meeting on June 15. He added that comments on the draft LUCIP OMP document were answered and new Draft will be presented. Members recommended that beginning time for this workshop be not earlier than 9:00 a.m.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MEETING MINUTES (no minutes were approved)

a. May 18, 2016 Administrative Committee Minutes

MOTION: Chris Placco moved, seconded by Elizabeth Caraker to approve the May 18, 2016 Administrative Committee minutes as presented.

MOTION PASSED UNANIMOUSLY

The committee did not receive comments from members or public.

6. JUNE 10, 2016 BOARD MEETING AGENDA REVIEW

Mr. Houlemard reviewed the draft Board Agenda and he announced there is change of command at Presidio and COL Fellingner is leaving. Consequently, a resolution is being prepared acknowledging his contributions to FORA.

a. Special Legislative Session. Mr. Houlemard said both Assembly member Stone and Senator Monning will provide a full report on legislative issues such as a cleanup bill introduced that corrects Fort Ord representation and infrastructure type of bills. Other items appearing on business portion are the

TAMC fee and water; water augmentation with a Memorandum of Understanding; the Regional Urban Design Guidelines will be provided for approval of the final document. The comment period ended on May 31 and comments were received from one jurisdiction related to options to zoning and other codes, but not to the guidelines. Also, there is a second vote on consultant determination opinion. Under Executive Officers report, there is an Administrative consistency determination (entitlement) from City of Marina for the Interim Inc. housing project. Mr. Houlemard asked if there are any items to be added or missing on the Board agenda.

The Committee received comments from members.

7. BUSINESS ITEMS

a. Prevailing Wage Orientation Progress

Sheri Damon spoke of the outreach effort and setting meetings with jurisdictions to implement prevailing wage requests at Ft Ord. Mr. Houlemard thanked jurisdictions for providing support.

The Committee received no comments from members.

The Committee received no public comment.

b. TAMC-FORA Fee Reallocation Study and Presentation

Peter Said and Jonathan Brinkmann gave a brief report on this item. Mike Zeller (TAMC) provided a power point presentation and said the purpose is to re-analyze FORA CIP obligations generated by CIP – Phase III, regional transportation plan consistency, FORA post -2020 obligations and current specific planning. He also provided a land-use update with a preliminary model that uses AMBAG and land use assumptions. Jonathan added that the study is expected to be completed end of July and as a result, a possible change to the CIP might be needed.

The Committee received comments from members and public.

c. Water Augmentation: Pipeline Financing MOU Update

Peter Said gave a brief summary and said the MOU language terms are being further refined and may return to Administrative Committee in July for consideration.

The Committee received no comments from members.

The Committee received no public comment.

d. Three-Party Planning: Technical Advisory Group (TAG) Appointments

Peter Said gave a brief report and added the TAG appointments have not been received from local jurisdictions. MR.Houlemard asked for names of jurisdiction representatives to be added to Technical Advisory Group list.

There were no comments from Committee members.

The Committee received no public comment.

e. Capital Improvement Program (CIP)

i. Review Draft FY 16-17 CIP

ii. Recommend Board Adoption of FY 16-17 CIP

Jonathan Brinkmann provided a power point presentation and discussed the current CIP program and remaining pieces to be completed. He discussed the CIP funding: (CFC, land sales proceeds, property tax funds, grants fund and loans fund); he also discussed fee reductions and expected FY 16-17 changes. Committee members gave comments on the habitat management contingencies, assumptions to be made by FORA, the different scenarios to be considered; building removal/cost adjustments need to be accurately reflected in CIP. Mr. Houlemard responded that building removal is a policy directive from the Board and they may change it. But, this is a good time to recommend to Board any changes/comments. Peter Said pointed to information on the CIP Budget (specific line items). Mr. Houlemard said question before Committee is whether this CIP is ready for recommendation for Board. Jonathan Brinkmann asked Committee for its recommendation to Board.

The Committee received comments from members.
The Committee received public comment.

MOTION: Craig Malin moved, seconded by Melanie Beretti to adopt the FY 16-17 CIP with adjustments and recommendations provided.

SUBSTITUTE MOTION: Daniel Dawson moved, seconded by Layne Long to postpone recommending Board adoption until the two CIP studies are completed before recommending the CIP to Board and that FY 15-16 CIP budget be continued until the new CIP is adopted.

MOTION PASSED.

8. ITEMS FROM MEMBERS

None.

9. ADJOURNMENT

The meeting adjourned at 9:54 a.m.



FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES
8:30 a.m., Wednesday, June 15, 2016 | FORA Conference Room
920 2nd Avenue, Suite A, Marina CA 93933

1. CALL TO ORDER

Chair Dawson called the meeting to order at 8:30 a.m. The following were present:

**voting members, AR = arrived after call to order*

Layne Long (City of Marina)

Daniel Dawson (City of del Rey Oaks)

Craig Malin, City of Seaside*

Melanie Beretti, Monterey County* AR

Elizabeth Caraker, City of Monterey*

Steve Matarazzo, CSUMB

Michael Tebo, CSUMB

Pamela Lapham, CSUMB

Vicki Nakamura, MPC

Lisa Reinheimer, MST

Scott Ottama, City of Seaside

Patrick Breen, MCWD

Mike Wegley, MCWD

Doug Yount, ADE

Kristie Reimer, RAC

Don Hofer, MCP

Mike Zeller, TAMC

Ric Encarnacion, EHG/County
Monterey

Chieko Nozaki, ARMY/BRAC

Bill Collins, BRAC Ft Ord

Ed Walker, DTSC

Bob Schaffer

FORA Staff:

Michael Houlemard Jr.

Steve Endsley

Jonathan Brinkmann

Stan Cook/Laura Vidarri

Ted Lopez, Peter Said

Stan Cook, Josh Metz

Mary Israel, Sheri Damon

Helen Rodriguez

Maria Buell

2. PLEDGE OF ALLEGIANCE

Pledge of allegiance was led by Kristie Reimer.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Doug Yount, announced he will be new Project Director for Dunes Homes.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MEETING MINUTES

a. June 1, 2016 Administrative Committee Minutes

MOTION: Elizabeth Caraker moved, seconded by Craig Malin to approve the June 1, 2016 Administrative Committee minutes as presented.

MOTION PASSED UNANIMOUSLY

The Committee did not receive comments from members or public.

6. JUNE 10, 2016 BOARD MEETING AGENDA FOLLOW UP

Mr. Houlemard gave summary of items reviewed by Board on June 10, 2016.

a. Regional Urban Design Guidelines (RUDG)

Mr. Houlemard introduced Josh Metz and added that the RUDG received an unanimous vote at the Board meeting; next steps are to schedule meetings with City staff and roll out the information contained in the Guidelines. Josh Metz thanked everyone for the valuable input received and said the website shows the current final draft also available in a pdf downloaded document. These Guidelines

can be used by FORA's jurisdictions for future design use. Mr. Houlemard said FORA Staff spent an enormous amount of time in the final preparation.
The Committee received input from members.
The Committee did not receive public input.

b. FORA FY 2016/17 Capital Improvement Program

Mr. Houlemard said Board voted for a compromise vote on this item. Steve Endsley said Board wanted to approve the CIP budget and asked Staff to return with the new TAMC Fee allocation and EPS on the formulaic fee study and address comments from this Committee regarding fees and other recommendations. The Administrative Committee had requested Board to delay the approval; however, Board approved to continue with current budget and asked Staff to return in July with the CIP program and reallocations (TAMC study, EPS fee schedule). Mr. Houlemard added that Board wants it back within 90 days, if available, but EPS study may or may not be complete.
The Committee received comments from members
The Committee did not receive public comment.

c. Categories I and II Post Reassessment Actions Consultant Determination Opinion Report Update
Mr. Houlemard said the Board did not get to review this item as it lost quorum at 5:00 p.m.. He added that while Board was meeting, Keep Fort Ord Wild sent a letter to Board objecting to MBI Cat I and II opinion report. Committee members requested a copy of this letter. Mr. Houlemard added that COL Paul Fellingner's last day will be June 25th.

7. BUSINESS ITEMS

a. Land Use Covenant Jurisdictions Annual Report Request

Jonathan Brinkmann provided a brief summary to Committee and added that annually a Land Use Covenant report is completed. This report requires information on questions on several items from jurisdictions and is due on September 30th as outlined in the Staff memo. The information requested will be sent to Department of Toxic Substances Control. Ms. Beretti confirmed she is contact for County; Mr. Long said he'd remain the contact for City of Marina; and, Craig Malin confirmed he will be the contact for City of Seaside.
The Committee received no comments from members.
The Committee received no public comment.

b. Capital Improvement Program Status Report

Mr. Houlemard said he gave a brief report earlier (under Board Follow-up) and there was nothing further to add.
The Committee received no comments from members.
The Committee received no public comment.

At 8:57 a.m., 3min break was taken before beginning the Workshop.

c. **Workshop:** "Land Use Control Implementation Plan / Operations and Maintenance Plan"

Mr. Houlemard introduced Consultants team working in the Land Use Control Implementation Plan and Operations and Maintenance Plan to the Committee: Bill Collins; representatives from Department of Toxic Substances Control (DTSC), Judy Huang and Maeve Clancy who will succeed Judy after she leaves DTSC and Ed Walker, Project Manager; ARCADIS team, Chris Spill, Project Manager, and Chieko Nozaki for ARMY BRAC. He added it is important for jurisdictions to understand the process and land use controls to complete these requirements. Stan Cook said this is the fourth report that includes all comments received at the October presentation. He introduced the ESCA consulting team. Jeff Swanson gave a succinct power point presentation to Committee on the revisions which were included in the new report being presented.

The Committee received no comments from members.
The Committee received no public comment.

8. ITEMS FROM MEMBERS

None.

9. ADJOURNMENT

The meeting and workshop adjourned at 10:20 a.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Post Reassessment Advisory Committee

Meeting Date: June 10, 2016

Agenda Number: 5i

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Receive a report on the Post Reassessment Advisory Committee (PRAC) activity/meeting.
- ii. Assign PRAC charge (**Attachment A**) topics to other FORA committees and functions as described in the Background/Discussion section of this report.

BACKGROUND/DISCUSSION:

The PRAC met on May 11, 2016 to discuss the recent PRAC Report to the Executive Committee, and Building Removal Funding Strategies. The June 8, 2016 PRAC meeting has been cancelled. The next regular meeting will be July 6, 2016 at 9:00 a.m.

At its May 4, 2016 meeting, Executive Committee members directed staff to bring a recommendation to its June 29, 2016 meeting that would assign remaining PRAC topics to other FORA Committees or functions. Staff notes that, at its May 11, 2016 meeting, the PRAC voiced concern that some of their topics require further attention. Staff recommended that the following topics be formally assigned to the FORA committees and functions in the following manner:

Economic Development. Since 2013, the PRAC has focused its attention on Economic Development as it was a topic in the Base Reuse Plan (BRP) Reassessment Report Category IV. Over the past year, the PRAC considered affordable housing (or housing that is affordable) as a specific means of promoting Economic Development. Staff recommends that the PRAC's Economic Development/Affordable Housing topic be assigned to FORA's Economic Development Program functions, implemented primarily by the Executive Officer and Economic Development Coordinator. Staff notes that the FORA Board has direct oversight of FORA's Economic Development Program, which reports to them quarterly.

Blight/Building Removal. Similarly, the PRAC chose to consider Blight/Building Removal as a Category IV topic, and has reviewed efforts since 2013. Over the past six months, the PRAC focused more in depth on FORA's remaining building removal obligations and jurisdictions' building removal obligations. Staff recommends that the PRAC's Building Removal topic be assigned to the Transition Task Force because they are similarly considering Building Removal in their Post-2020 recommendations.


Fort Ord Trails Concept. The PRAC began to consider Fort Ord Trails planning efforts in 2014 as a Category IV topic. This effort culminated in the FORA Board adopting a resolution in support of the Draft Trails Concept on March 11, 2016. This 'Blueprint' was provided to Transportation Agency for Monterey County (TAMC), who is expected to move the Draft Trails Concept planning effort into the implementation and funding phase. Staff recommends that this topic be assigned to FORA staff to assist and support TAMC and others in trail planning implementation efforts.

Water Augmentation. The PRAC focused on the topic of Water Augmentation 2015-2016. Over the past year, the PRAC considered several topics within Water Augmentation, including history, legal framework, and project implementation. At one time, the PRAC considered recommending convening a regional summit on this topic to the Board and performed some initial planning. Staff recommends that this PRAC topic be assigned to the FORA Administrative Committee, the Water/Wastewater Oversight

Committee, and Transition Task Force, as needed, as they already advise the Board on Capital Improvement Program (CIP) components related to Water Augmentation.

Reassigning the above topics would result in a reduction in time needed to staff duplicative committee efforts. The Executive Committee recommended that the FORA Board assign the PRAC charge topics to FORA committees and functions as described in this report resulting in the PRAC's dissolution as a FORA Committee.

FISCAL IMPACT:

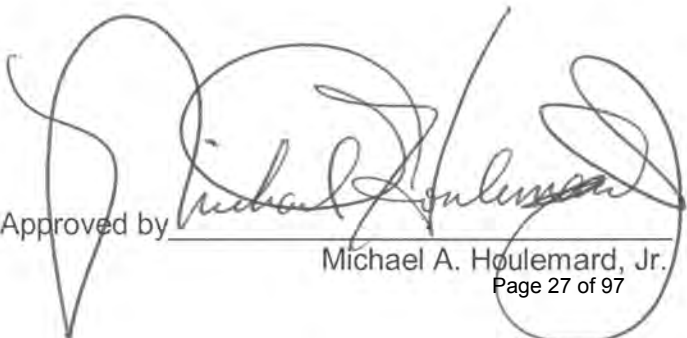
Reviewed by FORA Controller 

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

COORDINATION:

PRAC, California State University Monterey Bay, Transportation Agency for Monterey County, Administrative and Executive Committees.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.
Page 27 of 97

Base Reuse Plan Post-Reassessment Advisory Committee

Committee Charge

The Post-Reassessment Advisory Committee ("PRAC") is charged with advising the FORA Board regarding action items to be prioritized in the near term (approximately through the end of calendar year 2016), as a follow-up to the Base Reuse Plan reassessment effort completed in 2012.

The primary issues that are to be reviewed are the topics and options identified in Category IV of the final Reassessment Report, with additional consideration of the Reassessment Report's other subject areas as the FORA Board may deem necessary. FORA staff will provide technical and administrative support to the PRAC. The PRAC effort is anticipated to have a limited duration, with a goal of forwarding priority recommendations to the Board in May or June 2016.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Regional Urban Design Guidelines Task Force

Meeting Date: July 8, 2016

Agenda Number: 5j

INFORMATION

RECOMMENDATION(S):

Receive Regional Urban Design Guidelines (RUDG) Task Force (Task Force) Update.

BACKGROUND/DISCUSSION:

The RUDG process began in spring 2014 and concluded with the June 10, 2016 unanimous Board vote to adopt the RUDG as presented. Over the course of the two-year policy development process, the Task Force met on 34 separate occasions and reviewed/commented on 25 document drafts. The work of the Task Force was invaluable in arriving at a policy suitable for Board adoption.

The Task Force met for the last time on Wednesday June 2nd to review 6 formal comment submissions for members of the public in response to the 14-day Public Review Draft comment period. Following a detailed review and incorporation of comments as appropriate, members moved unanimously to recommend advancing the RUDG for Board consideration at the June 10th meeting.

The work of the Task Force is now complete, and it considered disbanded. The draft June 2, 2016 minutes are attached (**Attachment A**).

The Dover, Kohl & Partners contract concluded with final invoice payment on June 29, 2016. Total contract expenditure was \$420,537; which is \$94,373 below the approved \$514,910 contract amount. Cost savings reflect staff and Task Force in-house project completion efforts.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

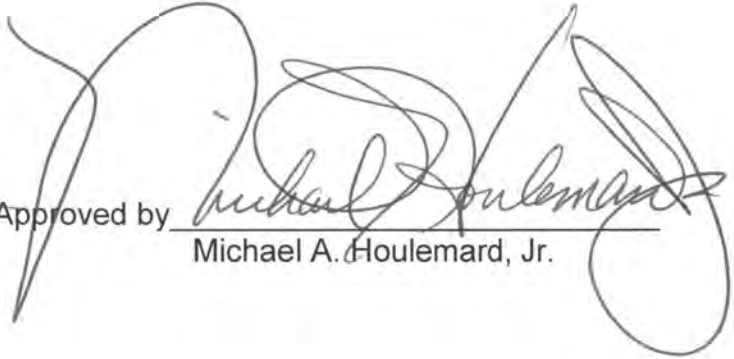
COORDINATION:

Administrative Committee

Prepared by


Josh Metz

Approved by


Michael A. Houlemard, Jr.



REGIONAL URBAN DESIGN GUIDELINES (RUDG) TASK FORCE MEETING

10:30 a.m., Wednesday, June 1, 2016, FORA Conference Room

1. CALL TO ORDER

Confirming quorum, FORA Executive Officer and Chair Michael Houlemard Jr. called the meeting to order at 10:30 a.m. The following were present:

Committee Members:

Melanie Baretta, Monterey County (*alt for Carl Holm*)
Craig Malin, City of Seaside
Layne Long, City of Marina
Anya Spear, California State University Monterey Bay (CSUMB)

FORA Staff:

Michael Houlemard, Jr.
Steve Endsley
Josh Metz
Jonathan Brinkmann
Ted Lopez
Mary Israel

Other Attendees:

Victoria Beach, former Task Force member
Kathy Biala, Marina Planning Commission
Brian Boudreau, member of the public
Wendy Elliot, member of the public
Gene Doherty, member of the public
Robert Guidi, U.S. Army Presidio of Monterey
Eric Morgan, Bureau of Land Management
Virginia Murrillo, Transportation Agency of Monterey County (TAMC)
Beth Palmer, member of the public
Bob Schaffer, member of the public
Karyn Wolfe, Citizens for Sustainable Marina
Doug Yount, member of the public

2. PLEDGE OF ALLEGIANCE

Gene Doherty led the pledge of allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Correspondences from Rob De Bree, Fred Watson, Kathy Biala, Jan Shriner and Karyn Wolfe were presented in hardcopy and are attached to these minutes.

4. APPROVAL OF MEETING MINUTES

a. May 10, 2016

MOTION: Layne Long moved, seconded by Craig Malin, to approve the May 10, 2016 RUDG Task Force minutes.

MOTION PASSED UNANIMOUSLY.

5. PUBLIC COMMENT PERIOD

None.

6. BUSINESS ITEMS

a. Review Public Draft Comments

Economic Development Coordinator Josh Metz said that there were six (6) submittals. One submittal came in after the deadline, but the Task Force unanimously agreed to accept it. Mr. Metz explained that staff had reviewed and assessed them in the following manner:

1. Accept and therefore integrate the suggestion into the RUDG, or
2. Recognize and note that the suggestion is better directed to jurisdictions about their zoning code, therefore not making use of it, or
3. Recognize and note that the suggestion is not a matter of visual importance, therefore not making use of it.

Mr. Metz then reviewed the comments that were integrated in the RUDG with Task Force. Because Gene Doherty's suggestions were not attached to the meeting packet, the Task Force discussed them with him.

Mr Metz walked through all of the in-line comments from Fred Watson with Task Force members. Task Force members refined trail surface material and width guidelines. Since Mr. Watson and other readers indicated confusion about the Objectives, Victoria Beach suggested the Task Force add language to the RUDG introduction to clarify that where BRP language is used in the Objectives sections. Many of Mr. Watson's suggestions were integrated into the RUDG.

MOTION: Layne Long moved, and Craig Malin seconded, to recommend the RUDG, with adjustments as noted to improve the document, to the FORA Board of Directors for a vote.
MOTION PASSED UNANIMOUSLY.

7. ITEMS FROM MEMBERS

None.

8. ADJOURNMENT

Mr. Houlemard adjourned the meeting at 12:44 p.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Veterans Issues Advisory Committee

Meeting Date: July 8, 2016

Agenda Number: 5k

INFORMATION

RECOMMENDATION:

Receive an update from the Veterans Issues Advisory Committee (VIAC).

BACKGROUND/DISCUSSION:

The VIAC met on June 23, 2016 and discussed the status of the California Central Coast Veterans Cemetery, the Veterans Affairs/Department of Defense Veterans Clinic status and potential to use the historic flag pole, Veterans Transition Center housing construction logistical support, and the Historical Preservation Project status. The approved May 26, 2016 minutes are attached (**Attachment A.**)

FISCAL IMPACT:

Reviewed by FORA Controller 

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

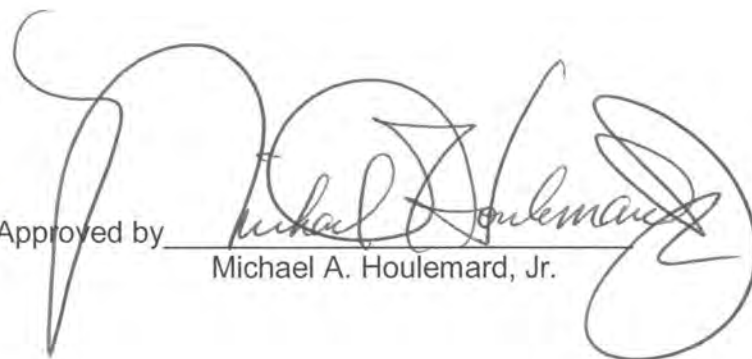
COORDINATION:

VIAC

Prepared by


Mary Israel

Approved by


Michael A. Houlemard, Jr.



**FORT ORD REUSE AUTHORITY
VETERANS ISSUES ADVISORY COMMITTEE (VIAC) MEETING MINUTES
3:00 P.M. Thursday, May 26, 2016
(FORA Conference Room)**

1. CALL TO ORDER

Confirming quorum, acting Chair Edith Johnsen called the meeting to order at 3:00 p.m. Chair Jerry Edelen was excused. The following were present:

Committee Members:

Mary Estrada, United Veterans Council (UVC)
Richard Garza, Central Coast Veterans Cemetery Foundation (CCVC Foundation)
Edith Johnsen, Veterans Families
Jack Stewart, Fort Ord Veterans Cemetery Citizens Advisory Committee
Sid Williams, Monterey County Military & Veterans Advisory Commission (VAC)
Preston Young, U.S. Army (POM/DLI)

FORA Staff:

Robert Norris
Jen Simon

Others in Attendance:

J. Fagan, CCVC Foundation
George Guinn, Forthm
Edwin Marticorena, Veterans Transition Center
Virgil Piper, Marina Planning Commission
Bob Schaffer, member of the public

2. PLEDGE OF ALLEGIANCE

Sid Williams led the pledge of allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Thank you card from Sue Putnam in the Agenda Packet.

4. PUBLIC COMMENT PERIOD

Virgil Piper asked how to purchase cemetery spots. Richard Garza said that individuals pre-qualify and application by the individual or a family member is done by calling 647-7613.

Mr. Piper also asked what the status of the new VA clinic is, and how to set up co-pay. Mr. Garza suggested calling the same number above, to ask the County.

5. APPROVAL OF MEETING MINUTES

a. April 28, 2016

MOTION: Sid Williams moved, seconded by Mary Estrada, to approve the April 28, 2016 Veterans Issues Advisory Committee minutes. MOTION PASSED UNANIMOUSLY.

6. BUSINESS ITEMS

a. California Central Coast Veterans Cemetery Status Report

i. Cemetery Administrator's Status Report

Principal Analyst Robert Norris said the hiring process underway for a local cemetery manager. Ms. Johnsen noted that they have approximately six hundred and eighteen candidates.

ii. Cemetery Advisory Committee (CAC) Working Meeting Agenda

Jack Stewart said there is a lack of clarity as to the role the CAC will play in the cemetery opening. Mr. Norris said that the CAC steering committee drafted a portion of the application to begin the statement of need for Phase 2.

iii. Endowment Parcel MOU

Sid Williams said the May 12 County Board of Supervisors Fort Ord Committee meeting, which he anticipated would discuss amending the MOU, was cancelled.

iv. Opening Ceremony

Mr. Norris confirmed the opening is still set for October.

v. Military and Veterans Affairs Pre-Enrollment Report

Ms. Johnsen reported that Dan Fahey (Interim Veterans Cemetery Manager) is doing a good job.

b. Fundraising Status

i. CCVC Foundation Status Report

Mr. Garza said the Foundation is focused on fundraising for Phase 2. He responded to a question from the public about plaques.

ii. Heroes Open Golf Tournament

Mr. Williams reported out from the planning meeting held onsite before this VIAC meeting. He explained how the event information can be accessed on the web and shared brochures. Mr. Williams stated that the letter for corporate sponsorship for the Tournament has been finalized, and that they will require a local match.

c. VA/DoD Veterans Clinic Status Report

i. Historic Flag Pole Variance Update

Mr. Williams reported that the VA have yet to test structural integrity of the flagpole.

ii. Clinic Construction Schedule

Mr. Norris said the schedule is on track for mid-October for the ribbon cutting.

d. Veterans Transition Center Housing Construction

Edwin Marticorena said VTC is seeking a conference call with FOR A and the Army to negotiate water to support the project. J. Fagan said the CEQA is under review at City of Marina.

e. Historical Preservation Project

Jack Stewart and Mr. Guinn discussed their pursuit of a new location for the historical preservation project. Group suggestions included: East Garrison, old FORA building.

f. California State Assembly Bill 2561

Mr. Norris said that AB 2561, a bill that declares monies can be specified for various purposes for the cemetery only, went through the Senate with a unanimous vote.

7. ITEMS FROM MEMBERS

Ms. Johnsen said the Marina Foundation dinner to raise funds for VTC is on May 28th and ticket information is on the website. Mr. Marticorena added that the cost of the dinner is \$25 per plate.

Ms. Johnsen also noted the selection of Mayor Edelen as the FORA representative to the County's Cemetery Advisory Committee. She asked for an additional business item for him to report on those meetings at VIAC.

8. ADJOURNMENT

Acting Chair Johnsen adjourned the meeting at 3:47 p.m.

NEXT SCHEDULED MEETING: 3 p.m. June 23, 2016

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Water/Wastewater Oversight Committee	
Meeting Date:	July 8, 2016	INFORMATION
Agenda Number:	51	

RECOMMENDATION:

Receive an update from the Water/Wastewater Oversight Committee (WWOC).

BACKGROUND/DISCUSSION:

The WWOC met on June 15, 2016. And approved May 2, 2016 minutes (**Attachment A**) held over from the previous meeting due to lack of quorum. The committee members received staff informational reports from MCWD on the Quarterly Financials, Wastewater credits from the 2005 FORA, ARMY, MCWD, MRWPCA Agreement, and the LAFCO Annexation Status. WWOC requested the water transfer at the Inter-tie be noted on future Quarterly reports.

FISCAL IMPACT:


Reviewed by FORA Controller 

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

COORDINATION:

WWOC, Marina Coast Water District

Prepared by 
Peter Said

Approved by 
Michael A. Houlemard, Jr.



**FORT ORD REUSE AUTHORITY
WATER/WASTEWATER OVERSIGHT COMMITTEE
MEETING MINUTES**

920 2nd Avenue, Suite A, Marina CA 93933 | FORA Conference Room
9:30 a.m., Monday, May 2, 2016

1. CALL TO ORDER

Confirming quorum, Chair Rick Riedl called the meeting to order at 9:30 a.m. The following were present:

Committee Members:

Melanie Beretti, Monterey County
Mike Lerch, California State University
Monterey Bay (CSUMB)
Steve Matarazzo, University of California
Santa Cruz (UCSC)
Rick Riedl, City of Seaside
Steve Wittry, City of Monterey

Patrick Breen, MCWD
Bob Schaffer
Andy Sterbenz, Schaaf and Wheeler

FORA Staff:

Michael Houlemard Jr.
Steve Endsley
Jonathan Brinkmann
Peter Said
Mary Israel

Other Attendees:

Keith Van Der Maaten, Marina Coast Water
District (MCWD)
Kelly Cadiente, MCWD
Mike Wegley, MCWD

2. PLEDGE OF ALLEGIANCE

Keith Van Der Maaten led the pledge of allegiance.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Steve Wittry introduced himself as the alternate for Elizabeth Caraker, who is on vacation.

4. PUBLIC COMMENT PERIOD

None.

5. APPROVAL OF MEETING MINUTES

a. April 13, 2016

MOTION: Steve Matarazzo moved, seconded by Mike Lerch, to approve both the April 13, 2016 Water/Wastewater Oversight Committee (WWOC) minutes with one change to the wording of item 7a.

MOTION PASSED UNANIMOUSLY.

6. BUSINESS ITEMS

- a. Recommendation of Marina Coast Water District's Proposed Ord Community Budget to the Fort Ord Reuse Authority Board

Committee members asked questions of MCWD staff in relation to specific budget line items and capital improvement projects. MCWD staff responded to each question during the meeting.

Steve Matarazzo requested the budget summary include a footnote that reads "The rate increases authorized by the Proposition 218 process are scheduled over a five year period from 2014-2019. The increases over this term are required for capital improvement projects and increased operating costs. The CIP Projects yet to be completed are X (to be provided by MCWD staff) and the schedule is X (to be provided by MCWD staff)."

Peter Said asked the committee if they were ready to make a recommendation to the FORA Board.

MOTION: Mike Lerch moved, accepting a friendly amendment to include Steve Matarazzo's requested CIP footnote previously described with estimated costs and timetables, seconded by Melanie Beretti, to recommend the FORA Board of Directors approve the MCWD 2016-2017 Compensation Plans.

MOTION PASSED UNANIMOUSLY.

7. ITEMS FROM MEMBERS

None.

8. ADJOURNMENT

Chair Riedl adjourned the meeting at 10:27 a.m.

NEXT MEETING: May 18, 2016

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Travel Report	
Meeting Date: July 8, 2016 Agenda Number: 5m	INFORMATION

RECOMMENDATION:

Receive a travel report from the Executive Officer.

BACKGROUND/DISCUSSION:

Per the FORA Travel Policy, the Executive Officer (EO) submits travel requests to the Executive Committee on FORA Board/staff travel. The Committee reviews and approves requests for EO, Authority Counsel and board members travel; the EO approves staff travel requests. Travel information is reported to the Board.

COMPLETED TRAVEL (as of June 30, 2016)

Association of Defense Communities (ADC) -2016 National Summit (6/20-6/22)

Destination: Washington, DC

Travel Dates: June 19-22, 2016

Traveler/s: Michael Houlemard and Board members Oglesby and Phillips

Board members Supervisor John Phillips and Mayor Pro Tem Ian Oglesby attended and participated at the Association of Defense Communities (ADC) National Summit. Nearly 600 leaders from local communities and state governments, DoD, the military services, Congress and defense industry joined in an active exchange/sharing information to gain knowledge on current military base closure and active base cooperation. During the three full days of seminars, sessions and high level presentations, participants explored political and defense trends, technical changes, and met with national leadership such as US Senators, DOD appointees, and career federal executives. Congressman Sam Far and his Chief Deputy Rochelle Dornatt received the ADC Presidents Award for their leadership and service to the Nation's defense communities. ADC rolled out several new initiatives during the Summit, including our *Great American Defense Communities program*, *State Advisors Council Congressional Member engagement on Capitol Hill*, the selection process for *2016 Regional Forums* and *ADC Advisory Services*, as well as our draft concept for *ADC's presidential transition paper*. Executive Officer Michael Houlemard provided a presentation on the issue of how communities can best ready themselves for the upcoming Presidential Transition.

UPCOMING TRAVEL

a. International Economic Development Council (IEDC) Training on Neighborhood Development Strategies

Destination: Cleveland, OH

Date: September 22-23, 2016

Traveler: Josh Metz, Economic Development Coordinator

IEDC is a non-profit, non-partisan membership organization serving economic developers and is the largest organization of its kind. IEDC members are employed in a wide variety of settings including local, state, provincial and federal governments, public-private partnerships, chambers of commerce, universities and a variety of other institutions. Participants learn how to identify the major neighborhood actors, their objectives, and strategies for redevelopment and process for creating a strategic economic development plan to meet the neighborhood development goals. Specifically, this course will examine social capital (e.g., linkages, networks, talent, etc.), environmental capital (e.g., stewardship,

residual management, etc.) and economic capital (e.g., investment and reinvestment) facing distressed neighborhoods and offer solutions to address local needs.

b. International Economic Development Council (IEDC) - Annual Conference

Destination: Cleveland, OH

Date: September 25-28, 2016

Traveler: Josh Metz, Economic Development Coordinator

The 2016 IEDC Annual Conference draws on the inspirational story of Cleveland through its rise as a powerhouse economy, its adaptation to new economic realities, and its rebirth through reinvestment in institutions, infrastructures, and relationships. The conference will showcase how economic developers are shaping stronger and resilient communities.

FISCAL IMPACT:

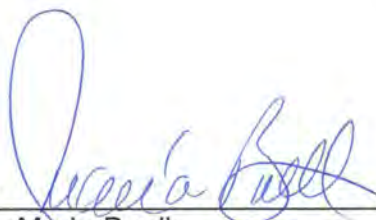
Reviewed by FORA Controller 

Travel expenses are paid/reimbursed according to the FORA Travel policy.

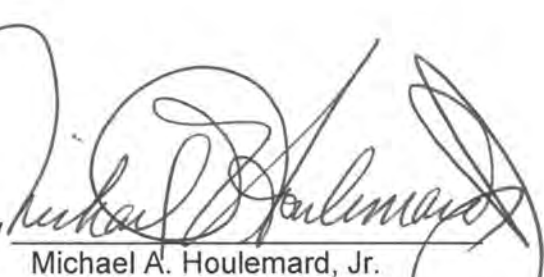
COORDINATION:

Executive Committee

Prepared by


Maria Buell

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT	
EXECUTIVE OFFICER'S REPORT	
Subject:	Public Correspondence to the Board
Meeting Date:	July 8, 2016
Agenda Number:	5n
INFORMATION	

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

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

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

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Consultant Determination Opinion Report Categories I and II Post Reassessment Actions – 2d Vote	
Meeting Date:	July 8, 2016	INFORMATION/ACTION
Agenda Number:	7a	

RECOMMENDATION(S):

Second Vote: Accept the Michael Baker International (MBI) Determination Opinion of Categories I and II Report.

BACKGROUND/DISCUSSION:

At the May 13, 2016 Fort Ord Reuse Authority (FORA) Board meeting, the Board voted 9-2 to accept the MBI Determination Opinion of Categories I and II Report.

At the February 13, 2014 FORA Board meeting, the Board approved the Base Reuse Plan (BRP) Reassessment "Work Plan," which identified Categories I and II items for completion. Category I focused on BRP corrections and updates, and Category II addressed prior Board actions and regional plan consistency.

In February 2016, FORA hired MBI to assess whether Categories I and II required California Environmental Quality Act (CEQA) review.

In consultation with the law firm of Holland & Knight, MBI completed its review of Categories I and II and presented their Determination Opinion of Categories I and II at the May 13, 2016 FORA Board meeting (**Attachment A**). MBI is of the opinion that Categories I and II do not meet the definition of "projects" under CEQA that warrant detailed environmental review or actions that have been previously reviewed by other agencies. According to the Determination Opinion conclusion, FORA has complied with CEQA for Categories I and II. FORA staff, working with MBI, will complete Category I and II work tasks as appropriate, including text and figure corrections, and updates.

At the May 13, 2016 FORA Board meeting, members of the general public raised questions regarding the Determination Opinion Report. MBI addressed these questions in its memorandum "Response to Comments on Determination Opinion of Categories I and II" (**Attachment B**). The Memorandum was included in the June 10, 2016 Board Agenda packet.

Following release of the June 10, 2016 Board packet, Board members Alan Haffa and Jane Parker (submitted by Principal Aide Kristi Markey) posed a number of questions pertaining to the MBI Determination Opinion Report. Staff compiled these questions and responses into a "Supplemental Information" item that was distributed prior to the Board meeting (**Attachment C**).

During its June 10, 2016 meeting, FORA Board members received correspondence from the law firm of Michael Stamp / Molly Erickson on behalf of Keep Fort Ord Wild (KFOW) objecting to the Board's acceptance of MBI's Determination Opinion Report (**Attachment D**). Staff reviewed the June 10, 2016 KFOW letter and prepared responses to KFOW's comments (**Attachment E**). Through this report and supporting materials, staff responded to the questions posed. Staff and Authority Counsel opine that Board acceptance of this report would not constitute a project under the CEQA. Staff recommends that the Board accept the MBI Determination Opinion Report. It is staff and Authority Counsel's view that the questions posed, and the follow on research, do not impact or alter the recommendation to accept the report.

FISCAL IMPACT:

Reviewed by FORA Controller 

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

COORDINATION:

MBI, Authority Counsel, Holland and Knight, Administrative and Executive Committees.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

May 5, 2016

Ted Lopez, Associate Planner
FORT ORD REUSE AUTHORITY
920 2nd Avenue, Suite A
Marina, CA 93933

RE: DETERMINATION OPINION OF CATEGORIES I AND II

Dear Mr. Lopez:

Pursuant to Task 1 of our scope of work, Michael Baker International, in coordination with Holland & Knight LLP, has reviewed all relevant documents and supporting materials related to Category I and II of the Final Reassessment Report (2012). Review of this material was conducted to provide an informed opinion as to whether the Fort Ord Base Reuse Plan (BRP) activities, past and present, as identified and categorized during the reassessment process, constitute a project as defined by California Environmental Quality Act (CEQA) Guidelines Section 15378.

FORA prepared the Fort Ord BRP pursuant to the provisions of Senate Bill 899 to guide the development of the Former Military Reservation. The BRP is a first-tier programmatic policy document that guides all land use decisions for any lands located within the former Fort Ord. Local land use agencies, such as the cities cited below, can refine BRP elements and act as independent lead agencies for environmental review purposes for lands that fall within their planning jurisdiction. Nonetheless, each lead local land use agency that approves projects on land located within the former Fort Ord needs to ensure such changes are consistent with the BRP. These changes can be either related to a specific development project or additional changes in land use designations. The FORA Board of Directors determines the subsequent changes' consistency with the BRP.

The Reassessment Report sorted the prior and pending changes to the BRP into five categories. For the purposes of this determination, our scope focuses only on Categories I and II. Category I, BRP Corrections and Updates, are mainly corrections to bring the BRP text and graphics up to date. These include correction of typographical errors, correction of outdated references, and revisions to the BRP maps to correct inconsistencies.

Category II, Prior Board Actions and Regional Plan Consistency, consists of text and map changes that would bring the BRP into conformance with previous FORA Board actions, particularly "consistency determinations" and other changes that would serve to improve BRP consistency with regional plans that have evolved since 1997. Such changes, taken in whole or in part, would result in modifications to the Land Use Concept map. The map changes are meant to reflect FORA Board decisions and consistency determinations that have already occurred. Category II also includes potential options for new BRP programs or policies and/or revisions to existing programs and policies to ensure the BRP is consistent with regional plans.

Based on our review of the BRP Category I and Category II revisions, it is our opinion that the individual actions and changes that have occurred or are recommended to occur do not, by themselves, meet the definition of "projects" under CEQA that warrant detailed environmental review or are actions that have been previously reviewed by other agencies. Past actions by FORA and local land use agencies that affect the BRP can be compared to amendments to an agency's General Plan over time. Individual General Plan Amendments may be processed, analyzed and approved over time, but those changes are not always physically incorporated into the body of the General Plan until the text or graphic changes are physically made within document. In this case, the past actions and amendments have been processed, analyzed and approved by several land use agencies, and the need for minor technical corrections have been identified. Updating the BRP at a future date to reflect these past actions is an administrative exercise necessary to memorialize the changes in one place.

CATEGORY I EVALUATION SUMMARY

Table 5, Index of BRP Corrections in the Reassessment Report, lists the identified corrections under Category I, and the text following that table outlines the specific corrections to be considered. During 2013, after the FORA Board received the BRP Reassessment Report, the public and FORA staff identified additional errata not included in the August 2001 Republished BRP, which also fall into Category I. Those corrections have no material effect on the purpose, intent, or guidance provided in the BRP, but are meant solely as BRP "cleanup" items. All of the Category I corrections are minor and incidental, such as typographical, grammar, incorrect references, minor figure changes, and formatting associated with BRP policies, programs, or mitigation measures. In addition, the Post-Reassessment Advisory Committee (PRAC) adopted figure Category I recommendations to reflect land use designation changes, to clarify how boundaries and names have changed, to correct labels and legends, and to properly cite the sources for the various changes on each map. These changes to the BRP would not result in direct or indirect physical impacts on the environment and would be considered administrative activities of governments per CEQA Guidelines Section 15378(b)(5). Therefore, Category I changes do not constitute a distinct "project," and an errata to the EIR can be prepared to address these changes.

CATEGORY II EVALUATION

Category II addresses two types of possible modifications to the BRP. The first type is based on actions the FORA Board has already taken (labelled II.a). These actions have resulted in draft modifications to BRP Figure 3.3-1, Land Use Concept Ultimate Development, and modifications to BRP transportation-related figures and text. The second type of modification reflects new policies or programs or the expansion of existing BRP policies or programs to ensure BRP consistency with regional and local plans (labelled II.b).

Our evaluation of Category II (II.a and II.b) for CEQA compliance follows.

II.A. MODIFICATIONS OF THE BRP LAND USE CONCEPT MAP

Prior Del Rey Oaks General Plan Consistency Determinations

This is a previously approved project under CEQA. The City of Del Rey Oaks General Plan (1997) included a General Plan designation change of approximately 7 acres of Open Space/Recreation under the BRP to General Commercial–Visitor/Office. In addition, the plan included other minor land use designation changes such as from Visitor Serving to General Commercial–Visitor/Office.

This was a discretionary project undertaken by the City and is considered a project under CEQA. Land use changes in Del Rey Oaks are documented in the General Plan's Land Use Map (see Del Rey Oaks General Plan Figure 2). Environmental impacts from these changes were analyzed in the City's General Plan EIR (State Clearinghouse [SCH] #1996041076) and certified by the City Council in May 1997.

Because the City of Del Rey Oaks reviewed the impacts of this exact change, no additional CEQA review is needed. Public Resources Code (PRC) Section 21080.1(a) requires FORA to rely on the existing document unless substantial evidence shows that there are significant new circumstances surrounding the 7-acre designation (see also 14 California Code of Regulations (CCR) Section 15162(c)). As there are no substantial changes to the circumstances, no new environmental review is required per CEQA Guidelines Section 15162 (see 14 CCR Section 15096(e), (h)). Additionally, no formal finding is necessary to rely on a prior EIR.

The BRP changes to reflect the Del Rey Oaks General Plan are considered administrative. The procedure is intended to update the document and make it consistent with the local agency's approvals and findings.

Prior Marina General Plan Consistency Determinations

This is a previously approved project under CEQA. The City of Marina General Plan (2005) plan included a General Plan designation change of approximately 11 acres of Open Space under the BRP to High Density Residential. The plan also changed approximately 60 acres from Planned Development Mixed Use to Parks and Recreation. In addition, the plan included other minor land use designation changes such as from Regional Retail to Light Industrial/Service Commercial.

This was a discretionary project undertaken by the City and is considered a project under CEQA. Environmental impacts from most of the land use changes in Marina were analyzed in the City's General Plan EIR (SCH #1999031064), certified by the City Council in October 2000 (see Marina General Plan EIR Figure 2.4 and pages 2-13 and 2-14). The change in the city's eastern portion, which corresponds to the Marina Heights development, was analyzed in the Marina Heights Specific Plan EIR (SCH #2003021012), certified in November 2003 (see Marina Heights Specific Plan EIR Table 2.2 and pages ES-4 and ES-5). Therefore, these land use changes have been addressed under CEQA.

Because the City of Marina reviewed the impacts of this exact change, no additional CEQA review is needed. PRC Section 21080.1(a) requires FORA to rely on the existing document unless substantial evidence shows that there are significant new circumstances surrounding the 11-acre designation (see also 14 California CCR Section 15162(c)). As there are no substantial changes to the circumstances, no new environmental review is required per CEQA Guidelines Section 15162 (see 14 CCR Section 15096(e), (h)). Additionally, no formal finding is necessary to rely on a prior EIR.

The BRP changes to reflect the Marina General Plan and the Marina Heights Specific Plan are considered administrative. The procedure is intended to update the document and make it consistent with the local agency's approvals and findings.

Prior Seaside General Plan Consistency Determinations

This is a previously approved project under CEQA. The City of Seaside General Plan (2003) included a General Plan designation change of approximately 43 acres of Open Space/Recreation under the BRP to Regional Commercial and approximately 11 acres of Open Space/Recreation to High Density

Residential. The plan also changed approximately 100 acres from Military Enclave and about 10 acres from Medium Density Residential to Park and Open Space. In addition, the plan included other minor land use designation changes such as from High Density Residential to Medium Density Residential.

This was a discretionary project undertaken by the City and is considered a project under CEQA. Environmental impacts from land use changes in Seaside were analyzed in the City's General Plan EIR (SCH #2003031021), certified by the City Council in August 2003 (see Seaside General Plan EIR Figure 5.8-1 and pages 5.8-3 through 5.8-7).

Because the City of Seaside reviewed the impacts of this exact change, no additional CEQA review is needed. PRC Section 21080.1(a) requires FORA to rely on the existing document unless substantial evidence shows that there are significant new circumstances surrounding the 54-acre designation (see also 14 CCR Section 15162(c)). As there are no substantial changes to the circumstances, no new environmental review is required per CEQA Guidelines Section 15162 (see 14 CCR Section 15096(e), (h)). Additionally, no formal finding is necessary to rely on a prior EIR.

The BRP changes to reflect the Seaside General Plan are considered administrative. The procedure is intended to update the document and make it consistent with the local agency's approvals and findings.

City of Monterey General Plan

This is a previously approved project under CEQA. The City of Monterey General Plan (amended 2013) was a discretionary project undertaken by the City and would be considered a project under CEQA. The plan included General Plan designation changes of approximately 8 acres of Public Facility/Institutional under the BRP to Industrial and approximately 7 acres of Public Facility/Institutional to Parks and Open Space.

Although FORA has not yet analyzed the City of Monterey General Plan for consistency, environmental impacts from land use changes in Monterey were analyzed in the City's General Plan EIR (SCH #2003081011), certified by the City Council in January 2005 (see City of Monterey General Plan EIR Figure 4 and pages 5-3, 1-17, 1-18, and 3-3).

Because the City of Monterey reviewed the impacts of this exact change, no additional CEQA review is needed. PRC Section 21080.1(a) requires FORA to rely on the existing document unless substantial evidence shows that there are significant new circumstances surrounding the 15-acre designation (see also 14 CCR Section 15162(c)). As there are no substantial changes to the circumstances, no new environmental review is required per CEQA Guidelines Section 15162 (see 14 CCR Section 15096(e), (h)). Additionally, no formal finding is necessary to rely on a prior EIR.

The BRP changes to reflect the City of Monterey General Plan are considered administrative. The procedure is intended to update the document and make it consistent with the local agency's approvals and findings.

2010 Monterey County General Plan

This is a previously approved project under CEQA. The County of Monterey adopted the Fort Ord Master Plan concurrently with its General Plan (2010). Both were discretionary projects undertaken by the County and would be considered projects under CEQA. The Fort Ord Master Plan land use map

essentially matches the BRP Land Use Concept, with the following exceptions: (1) the Youth Camp site near East Garrison is shown in the BRP as Public Facility/Institutional and in the Fort Ord Master Plan as Habitat Management; and (2) the Fort Ord Master Plan describes the East Garrison/Parker Flats land swap but does not reflect changes on the land use map.

Although FORA has not yet analyzed the Monterey County General Plan for consistency with the BRP, environmental impacts from land use changes in Monterey County were analyzed in the County's General Plan EIR (SCH #2007121001), certified by the Board of Supervisors in October 2010 (see Monterey County General Plan EIR Exhibit 3.2 and pages 4.1-13 and 4.1-14).

Because the County of Monterey reviewed the impacts of this exact change, no additional CEQA review is needed. PRC Section 21080.1(a) requires FORA to rely on the existing document unless substantial evidence shows that there are significant new circumstances surrounding land use designation changes (see also 14 CCR Section 15162(c)). As there are no substantial changes to the circumstances, no new environmental review is required per CEQA Guidelines Section 15162 (see 14 CCR Section 15096(e), (h)). Additionally, no formal finding is necessary to rely on a prior EIR.

The BRP changes to reflect the Monterey County General Plan are considered administrative. The procedure is intended to update the document and make it consistent with the local agency's approvals and findings.

FORA Board-Approved East Garrison/Parker Flats Land Swap

This is a previously approved project under CEQA. On December 13, 2002, the FORA Board authorized execution of the Memorandum of Understanding (MOU) Concerning the Proposed East Garrison/Parker Flats Land-Use Modification between the Fort Ord Reuse Authority, Monterey Peninsula College, County of Monterey, US Bureau of Land Management, and US Army as parties to the agreement MOU. The MOU documented several land use modifications to the BRP, primarily the relocation of Monterey Peninsula College public safety training facilities from East Garrison, and amendments to the Habitat Management Plan (approved by the US Fish and Wildlife Service). The five parties signed the MOU between August 3, 2004, and December 20, 2005.

The purpose of the land swap agreement was to resolve land use conflicts stemming from a long history of ordnance and explosives use, as well as competing conveyance requests for surplus property at the former base, and to address impacts associated with potential East Garrison development conflicts. The land swap agreement amended the 1997 Fort Ord Installation-Wide Multispecies Habitat Management Plan (HMP) for Fort Ord and was also signed by the US Fish and Wildlife Service and the California Department of Fish and Game. Although the land swap agreement affected the areas of allowable development, it resulted in a net increase of 246.7 acres in habitat reserve areas. The exchange of lands based on the MOU resulted in a transfer in densities without intensification, consistent with Section 8.02.010 of the Master Resolution. The land swap agreement amended the HMP designations for the territory within the East Garrison Specific Plan from Development with Reserve Areas/Restrictions to Development. Under the original HMP, the East Garrison area was permitted a 200-acre development footprint, 10 acres of development at the site of existing utilities, and a 31-acre road corridor; under the revised HMP, the East Garrison area has 451 acres of Development area with no restrictions (Zander Associates 2002).

At the time it was signed, MOUs were not legally considered a project under CEQA and in 2007 a case specifically found that a land swap agreement was not a project under CEQA (*Friends of the Sierra*

Railroad v. Tuolumne Park and Recreation Dist. (2007) 147 Cal.App.4th 643). Since that time, case law has evolved and an MOU that included wording that commits an agency to an action is now considered a project under CEQA (*Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116). Here, the terms of the MOU could be considered a project. However, since the MOU was entered, it is our understanding that all the parcels subject to the land swap have been legally exchanged and are owned by the entity contemplated under the exchange, or have since been sold to others. Those actions are complete and based on the MOU are valid since the time to challenge the actions has long since passed. FORA's amendments to make the BRP consistent with the land exchange merely restate the exchanges that were previously approved in the MOU and in the contractual land exchanges that already occurred.

Moreover, any subsequent projects or land use designation changes on the land that has been swapped are or were subject to CEQA. For example, Monterey County certified the project-level East Garrison Specific Plan Subsequent EIR (SCH #2003081086) in 2005, which analyzed impacts of the new land uses on that portion of the land swap. As such, all potential impacts associated with the action have been fully analyzed, with appropriate findings made by the County.

The City of Seaside is currently reviewing part of the Parker Flats portion of the land swap under the Monterey Downs and Horse Park and Central Coast Veteran's Cemetery Specific Plan Subsequent EIR (SCH #2012091056). The Monterey Downs project is located on 562.5 acres of Parker Flats that was subject to the land swap (i.e., the portion currently located in unincorporated Monterey County). Similar to East Garrison, any and all impacts will be disclosed and analyzed in the City's Final EIR, and findings will be required by the City Council if the project is ultimately approved. A separate consistency determination will also need to be made for that project.

Designation of the Fort Ord National Monument

This is not a project under CEQA. On April 20, 2012, the President of the United States established the Fort Ord National Monument (Proclamation 8803). Presidential proclamations are not subject to CEQA because CEQA applies to decisions of all California state, regional, or local agencies, but not to federal agencies. Therefore, this designation was not previously analyzed under CEQA and it does not need to be under California environmental law.

Modification of BRP Circulation Maps, Text, and Capital Improvement Program

Part of this is not a project and part is a previously approved project under CEQA. The reassessment plan identifies two potential changes to the circulation maps in the BRP:

1. A Memorandum of Agreement (MOA) adopted by FORA on December 10, 2010, resulted in changing the alignment of the multimodal corridor along Imjin Parkway/Blanco Road.
2. Abandoning planned improvements that would have realigned General Jim Moore Boulevard and 2nd Avenue where they intersect with Lightfighter Drive.

Change 1 is not a project under CEQA. The MOA is an agreement to cooperate. It is not a project under CEQA because it is not a discretionary action undertaken by a public agency per CEQA Section 21080(a). Under the California Supreme Court reasoning in *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, the MOU by its terms and circumstances is not a project because it does not commit any agency to any particular action. Also per CCR Section 15004(b)(2)(B), the MOU does not approve a project "in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review

of that public project." CEQA review would begin when Monterey-Salinas Transit (MST) begins the process of approving the corridor for construction. MST would be the lead agency at that time, and the MOU does not foreclose or predetermine any part of their analysis.

Change 2 is a previously approved project under CEQA. Realignment of a road would impact the physical environment because it could result in development of land that was not previously analyzed. As such, it would need to be analyzed under CEQA. To that end, environmental impacts from this change were analyzed in the California State University Monterey Bay Campus Master Plan EIR (SCH #1997081036), certified by the California State University Trustees in 2009 (see California State University Monterey Bay Campus Master Plan EIR Figure 11-4 and page 11-2). Therefore, Change 2 has been addressed under CEQA and no further analysis is necessary.

II.B. BRP MODIFICATIONS REGARDING CONSISTENCY WITH REGIONAL AND LOCAL PLANS

Transportation Agency for Monterey County (TAMC) Monterey County Regional Transportation Plan

This is a previously approved project under CEQA. The 2005 Monterey County Regional Transportation Plan (RTP) was prepared under the direction of the California Transportation Commission Regional Transportation Plan Guidelines, pursuant to Government Code Section 14522. This would be considered a project under CEQA. The plan includes many new or expanded policies, including one that directs TAMC to "implement road and highway capacity improvements" that would be subject to CEQA. Other policy changes, such as "identify and prioritize funding for elimination of bicycle network gaps," would not impact the physical environment and would not be analyzed under CEQA.

Environmental impacts from these changes were analyzed in the RTP Program EIR (SCH #2004061013), certified by the TAMC Board in 2005 (see RTP Program EIR Chapter 3). Subsequently, the TAMC Board adopted an addendum in 2008 that evaluated the environmental impacts of the Investment Plan for Transportation Sales Tax in Monterey County and the Development Impact Fee program. The addendum did not identify any significant environmental impacts that were not previously identified in the program EIR (see Addendum EIR page 5). Therefore, these changes have been addressed under CEQA. Recently, the Association of Monterey Bay Area Governments, in partnership with Council of San Benito County Governments, the Santa Cruz County Regional Transportation Commission and TAMC started preparing the 2040 Metropolitan Transportation Plan/Sustainable Communities Strategy (as an update to the RTP). This most recent update will yet again undergo individual environmental review.

Because TAMC reviewed the impacts of this exact change, no additional CEQA review is needed. PRC Section 21080.1(a) requires FORA to rely on the existing document unless substantial evidence shows that there are significant new circumstances surrounding the policy change (see also 14 CCR Section 15162(c)). As there are no substantial changes to the circumstances, no new environmental review is required per CEQA Guidelines Section 15162 (see 14 CCR Section 15096(e), (h)). Additionally, no formal finding is necessary to rely on a prior EIR.

The BRP changes to reflect the Monterey County RTP are considered administrative. The procedure is intended to update the document and make it consistent with the local agency's approvals and findings.

Monterey Bay Unified Air Pollution Control District (MBUAPCD) Air Quality Management Plan

This is an exempt project under CEQA. The 2008 MBUAPCD Air Quality Management Plan (AQMP) was drafted to comply with the California Clean Air Act, which requires each nonattainment district in the state to adopt a plan showing how the California ambient air quality standard for ozone would be met in its area of jurisdiction. The AQMP is a State-certified regulatory program (PRC Section 21080.5; CCR Section 15251(d)). Under PRC Section 21080(b)(15), there is an applicable statutory exemption for "projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5." As such, no CEQA review is necessary for the addition of policies that implement policies from the Air Quality Management Plan in the BRP. In addition, the MBUAPCD is considered exempt from CEQA under Class 8, Actions by Regulatory Agencies for the Protection of the Environment (CEQA Guidelines Section 15308). Similarly, the amendments to the BRP to be consistent with the AQMP are also exempt.

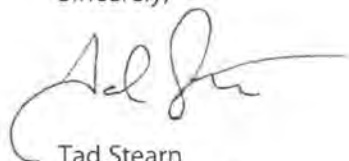
Regional Water Quality Control Board (RWQCB) Water Quality Control Plan for the Central Coast Basin

This is an exempt project under CEQA. The RWQCB Water Quality Control Plan for the Central Coast Basin (2011, updated 2016) (Basin Plan) was drafted to comply with the state Porter-Cologne Water Quality Control Act (1969) and portions of the federal Clean Water Act (1977). The Basin Plan is a State-certified regulatory program that was reviewed under a Substitute Environmental Document (SED) which was approved by the State Water Resources Control Board on June 19, 2012 (PRC Section 21080.5; CCR Section 15251(g)). Under PRC Section 21080(b)(15), there is an applicable statutory exemption for "projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5." As such, no CEQA review is necessary for the addition of policies that implement policies from the Basin Plan in the BRP.

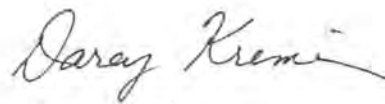
CONCLUSION

Based on our review of the BRP Category I and Category II revisions, it is our opinion that the individual actions and changes that have occurred or are recommended to occur do not, by themselves, meet the definition of "projects" under CEQA that warrant detailed environmental review or are actions that have been previously reviewed by other agencies. Past actions by FORA and local land use agencies that affect the BRP can be compared to amendments to an agency's General Plan over time. Individual General Plan Amendments may be processed, analyzed and approved over time, but those changes are not always physically incorporated into the body of the General Plan until the text or graphic changes are physically made within document. In this case, the past actions and amendments have been processed, analyzed and approved by several land use agencies, and the need for minor technical corrections have been identified. Updating the BRP at a future date to reflect these past actions is an administrative exercise necessary to memorialize the changes in one place.

Sincerely,



Tad Stearn
Project Director



Darcy Kremin
Project Manager

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- Zander Associates. 2002. *Assessment of East Garrison Parker Flats Land Use Modifications Fort Ord, California*.

May 26, 2016

Ted Lopez, Associate Planner
FORT ORD REUSE AUTHORITY
920 2nd Avenue, Suite A
Marina, CA 93933

RE: RESPONSE TO COMMENTS ON DETERMINATION OPINION OF CATEGORIES I AND II

Dear Mr. Lopez:

Michael Baker International, in coordination with Holland & Knight LLP, has provided responses to the Fort Ord Reuse Authority (FORA) Board of Directors and public comments on the Determination Opinion of Categories I and II Memo, dated May 5, 2016. The comments were received at the May 13, 2016 meeting. For clarification purposes, we want to emphasize that Michael Baker International and Holland & Knight reviewed the land use decisions, which occurred subsequent to the adoption of the Base Reuse Plan in 1997, in light of the California Environmental Quality Act (CEQA). We looked at whether those decisions were adequately covered under CEQA or if they require additional environmental review. Consistent with our scope of work, we did not provide a conclusion as to whether those changes are consistent with the BRP; rather, we focused on the scope direction to determine whether additional CEQA review is needed.

One member of the public mentioned the equal-dignities rule. The equal-dignities rule refers to a legal doctrine related to written contracts whereby an agent must have written authority to enter the contract on the principal's behalf for the contract to be binding. The equal-dignities rule is a corollary to the Statute of Fraud and does not apply to CEQA. Therefore it is not applicable to our determination opinion. Moreover, the point the commenter seemed to be making was that the revisions to the BRP needed by be made through an ordinance amendment. The process for revising the BRP is outside the scope of the Determination Opinion. The Determination Opinion simply addresses whether additional CEQA review is necessary. CEQA review can be satisfied in CEQA documents prepared by other agencies as CEQA seeks to avoid duplicative environmental review (Public Resources Code Section 21080.1(a)).

Another member of the public also inquired about the Monterey County General Plan and the relationship between that plan and the previous Board decisions regarding it. FORA analyzed the Monterey County General Plan in 2012 for consistency with the BRP. The board voted 6 to 6 at that time, thus per the Board rules the General Plan was not found to be consistent or inconsistent with the BRP and was returned to the County "without prejudice." However, the Board's vote does not preclude a finding regarding the adequacy of CEQA analysis for the Monterey County General Plan. The Determination Opinion does not address consistency, rather it found that environmental impacts from land use changes in Monterey County were analyzed in the County's General Plan EIR and therefore, no further environmental analysis would be required.

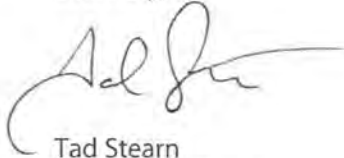
Fort Ord Reuse Authority

RE: Response to Comments on response to comments on Determination Opinion of Categories I and II

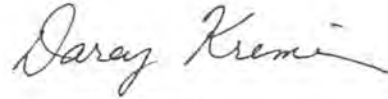
Page 2

Lastly, the public inquired about the East Garrison/Parker Flats land swap agreement. The agreement included several conditions that may or may not have been met prior to exchange of the parcels. However, our review focused on whether land use changes were covered under CEQA and if additional environmental review would be needed. Our review determined that, regardless of the conditions, all of the exchanges have occurred. No subsequent environmental review is required to update the BRP.

Sincerely,



Tad Stearn
Project Director



Darcy Kremin
Project Manager

Supplemental information for item 9c – June 10, 2016 Meeting

Questions from Board Member Alan Haffa:

1) Regarding Item 9C, I am wondering if we have a written legal opinion from either our attorney or from the lawyer mentioned in the staff report from the May 13 meeting, Amanda J. Monchamp, Esq? My concern is that the staff with MBI who signed the opinion in our packet determining that CEQA is not required are not themselves lawyers. Given the risk of possible litigation, it seems prudent to have a written opinion from the law firm of Holland & Knight. Do we know if MBI or FORA staff received any written communication from Amanda Monchamp or anyone else at Holland & Knight?

Response: We do not have a separate written legal opinion from either Jon Giffen or Amanda J. Monchamp, Esq. However, the MBI Determination Opinion letter was thoroughly reviewed by Ms. Monchamp and states: "Pursuant to Task 1 of our scope of work, Michael Baker International, in coordination with Holland & Knight LLP, has reviewed all relevant documents and supporting materials related to Category I and II of the Final Reassessment Report (2012)." MBI hired Holland & Knight as a subconsultant to prepare and review all legal issues relevant to their Determination Opinion letter.

2) Also, it would be helpful for me if any amendments to Categories I and II be provided to FORA board showing strike outs and underlines (for new language).

Response: Category I – BRP Corrections and Updates – is described in detail in the BRP Reassessment Report starting on page 3-2 and ending on page 3-19. BRP text corrections are listed in Table 5 (pages 3-3 and 3-4). BRP text and figure corrections are described from page 3-4 to page 3-19.

Category II – Prior Board Actions and Regional Plan Consistency – is described in the BRP Reassessment Report from page 3-19 to 3-32. FORA Board Consistency Determinations that would lead to modifications of the BRP Land Use Concept map are described in tables in this section.

3) For each Category II item, the letter from MBI says that BRP changes...are "considered administrative." What does this mean? Does this mean that the Category II changes in the BRP, if this report is accepted, will not come back to the board for approval but the changes will be made by staff separately?

Response: "considered administrative" means that the FORA Board has already acted on a Consistency Determination or similar action in the past. Jurisdictions conducted CEQA review on all of their past Consistency Determinations. Since CEQA was completed prior to the FORA Board's previous actions, FORA is not required to conduct additional CEQA review prior to making revisions to its BRP Land Use Concept map based on those prior actions. CEQA only applies when a Board exercises discretion, which the FORA Board already took during their consistency review/determination.

The FORA Act, California Government Code Section 67675.8(a), describes FORA's procedures for Base Reuse Plan revisions as follows:

"67675.8. (a) After the board has adopted a reuse plan pursuant to this title, any revision or other change to that plan which only affects territory lying within the jurisdiction of one member agency may only be adopted by the board if one of the following conditions is satisfied:

(1) The revision or other change was initiated by resolution adopted by the legislative body of the affected member agency and approved by at least a majority affirmative vote of the board.

(2) The revision or other change was initiated by the board or any entity other than the affected member agency and approved by at least a two-thirds affirmative vote of the board."

What this means is that the FORA Board has already taken actions that modify the BRP in the past. Since the Board action has already occurred and the appropriate CEQA was done at the time, and so the consultant concludes that no additional action is required. Staff can provide informational reports to the Board regarding republication of the BRP reflecting prior Board actions.

The FORA Act, California Government Code Section 67675(f), describes FORA's requirement to have a BRP that is consistent with regional and local plans as follows:

"(f) In preparing, adopting, reviewing, and revising the reuse plan, the board shall be consistent with approved coastal plans, air quality plans, water quality plans, spheres of influence, and other county-wide or regional plans required by federal or state law, other than local general plans, including any amendments subsequent to the enactment of this title, and shall consider all of the following:

(1) Monterey Bay regional plans.

(2) County and city plans and proposed projects covering the territory occupied by Fort Ord or otherwise likely to be affected by the future uses of the base.

(3) Other public and nongovernmental entity plans and proposed projects affecting the planning and development of the territory occupied by Fort Ord."

What this means is that FORA has a mandate to maintain consistency of the BRP with other regional plans, such as MBUAPCD's Air Quality Management Plan. MBI has found that, under PRC Section 21080(b)(15), there is an applicable statutory exemption for "projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5." MBI's Determination Opinion letter states that no CEQA review is necessary for the addition of policies that implement policies from the Air Quality Management Plan in the BRP. In summary, FORA does not need to perform CEQA when it modifies the BRP to be consistent with the Air Quality Management Plan and other regional plans. The BRP Reassessment Report includes "Table 10 Regional and Local Plan Consistency Needs," found on pages 3-26 to 3-31, describing BRP Policy/Program Modifications for Regional and Local Plan Consistency.

4) As I am coming to understand this, am I right in concluding that the land use jurisdictions have taken various actions in the past that were not consistent with the BRP, which they were required to be, and now we are going back and administratively changing the BRP to make them consistent? If so, that seems backwards to me; FORA should have required that actions taken by jurisdictions be consistent with BRP before consistency determinations were made for the various projects mentioned.

Response: This is not the case. The consultant says in their Determination Opinion letter that, in making prior FORA Board Consistency Determinations, the Board certified the land use jurisdictions' General Plan or zoning changes as consistent with the BRP. Staff will only modify the BRP administratively if the modifications are predicated upon prior FORA Board action or in order to assure that the BRP remains consistent with Regional Plans, such as MBUAPCD's Air Quality Management Plan.

5) Are the signatories to MBI letter, Mr. Stearn and Ms. Kremin attorneys? If not, how legally defensible is this opinion if we are challenged on our action?

Response: Mr. Stearn and Ms. Kremin are not attorneys. Authority Counsel Jon Giffen reviewed the Determination Opinion letter and agrees that its conclusions are consistent with those provided to the Board by Special Counsel Alan Waltner and others. As noted above, Amanda Monchamp, of Holland and Knight, reviewed and worked on the consultant's Determination Opinion letter.

6) Did FORA or MBI receive written opinion from attorney Monchamp or the firm of Holland & Knight? If yes, could FORA board be provided with copies? If not, how legally defensible is this opinion if we are challenged on our action?

Response: The written opinion letter by MBI is meant to have the same force as a formal opinion letter. Authority Counsel finds that the Determination Opinion letter is consistent with those provided to FORA by Special Counsel Alan Waltner and others.

Questions from District 4 Principal Aide Kristi Markey:

We have a number of questions that weren't answered at the last Board meeting and which are critical to ensuring that the Board understands the meaning of Board "acceptance" of the Baker memos:

1) Will staff bring a revised BRP to the Board for adoption, or do you plan to simply modify it based on your interpretations of prior Board actions?

Response: The requested Action is to confirm that the republished document will not require any further CEQA Action in reference to Category 1 and 2 items. Specifically, this means the 'errata' reviewed by the PRAC do not need further CEQA review, and prior

Consistency Determinations do not require additional CEQA review as the CEQA work was already performed at the jurisdictional level. The consultant provides the rationale for this in the report. Therefore, the BRP would not be brought back "to the Board for adoption."

2) For each jurisdiction that changed land use designations in their General Plans, necessitating a modification to the Base Plan, can you show us exactly what sites were changed?

Response: A list of adjusted Land Use Designations was included in the BRP Reassessment Report, pages 3-20 and 3-21, and is attached to this response. Those changes would be made to the Land Use Concept map and the consultant is saying that they are not subject to further CEQA or approval actions.

3) The Parker Flats-East Garrison land swap – what does FORA staff believe the land swap did in terms of affecting land uses in the non-habitat areas of Parker Flats? It states that residential uses shall be removed from the Parker Flats area, which we interpret to mean that the remaining development parcels would be light commercial.

Response: The Land Swap was an agreement between Monterey County, MPC, FORA, BLM, and US Army, which was approved by USFWS to swap habitat acres between the County portions of East Garrison and Parker Flats. The land swap only removes residential, light industrial, golf course and other uses to accommodate the MPC officer training and EVOC facilities. According to the land swap, Parker Flats would still provide areas for the California Central Coast Veterans Cemetery, Monterey Horse Park and other potential development. Other potential development is not defined in the land swap document and, therefore, could allow residential development.

4) What changes will be made to the BRP to reflect TAMC's RTP? The section of the memo that talks about the RTP says changes will be made but does not specify what those changes will be.

Response: Under Category 2, FORA considers its requirements for the BRP to be consistent with TAMC's RTP. This was already carried out in 1997 and 2005 with TAMC's FORA Fee Reallocation Study and will be revised in TAMC's 2016 FORA Fee Allocation Study, which will ensure that FORA's CIP Transportation/Transit projects continue to be a subset of TAMC's Regional Transportation Plan. The BRP Reassessment Report includes "Table 10 Regional and Local Plan Consistency Needs," found on pages 3-26 to 3-31, describing BRP Policy/Program Modifications for Regional and Local Plan Consistency, including modifications from TAMC's RTP.

5) What policies will be added to the Base Plan to conform to the Air District planning document?

Response: Under Category 2, FORA would consider its requirement that its BRP be consistent with the Monterey Bay Unified Air Pollution Control District's (MBUAPCD's) Air Quality Management Plan. The BRP Reassessment Report includes "Table 10 Regional and Local Plan Consistency Needs," found on pages 3-26 to 3-31, describing BRP Policy/Program Modifications for Regional and Local Plan Consistency, including modifications from MBUAPCD's Air Quality Management Plan.

6) What policies will be added to the Base Plan to conform to the Regional Water Quality Control Plan?

Response: Under Category 2, FORA would consider its requirement that its BRP be consistent with the Regional Water Quality Control Board (RWQCB) Water Quality Control Plan. The BRP Reassessment Report includes "Table 10 Regional and Local Plan Consistency Needs," found on pages 3-26 to 3-31, describing BRP Policy/Program Modifications for Regional and Local Plan Consistency, including modifications from RWQCB's Water Quality Control Plan.

7) Will you be adding sections to the Base Plan chapter on policies and programs for Del Rey Oaks and the City of Monterey, to specify which policies and programs apply to them? If not, why not?

Response: BRP policies and Programs previously listed as County/City of Monterey and County/Del Rey Oaks, or any descriptive location now annexed into a subsequent jurisdiction, still apply to the annexing jurisdiction. The annexing jurisdiction needs to submit a General Plan that conforms to BRP policies and programs as well as submit subsequent entitlements to FORA for consistency determination. Del Rey Oaks has submitted their General Plan and it has been found consistent with the BRP. Any subsequent entitlements would need to be consistent with that General Plan and the BRP. City of Monterey has not yet submitted their General Plan for consistency but will be required to do so prior to going forward with future development entitlement projects on former Fort Ord. MBI's Determination Opinion memo does not analyze this question because it is identified as a Category IV topic in the 2012 BRP Reassessment Report. Therefore, no new sections would be added to the BRP at this time.

Michael W. Stamp
Molly Erickson

STAMP | ERICKSON
Attorneys at Law

479 Pacific Street, Suite One
Monterey, California 93940
T: (831) 373-1214
F: (831) 373-0242

June 10, 2016

Via E-mail and Hand Delivery

Frank O'Connell, Chair
Board of Directors
Fort Ord Reuse Authority
920 2nd Avenue, Suite A
Marina, CA 93933

Re: Objection to acceptance of Michael Baker Intl. opinion (agenda item 9c)

Dear Chair O'Connell and members of the FORA Board of Directors:

Keep Fort Ord Wild objects to the acceptance of the Michael Baker International (MBI) opinion ("opinion") regarding categories I and II of the Reassessment Report, for all the reasons stated in this letter and by KFOR and others. We urge the FORA Board to carefully review this letter before taking any action on the item. The FORA Board controls the time frame, and has the discretion to continue this item to a future meeting to allow more time to review the issues and the objections. If FORA chooses to act now instead of taking more time, FORA does so at its own risk.

Keep Fort Ord Wild does not have sufficient information to provide complete comments on the item. The staff report omits the initial study, the greenhouse gas analysis, the air quality analysis, and the Habitat Management Plan assessment, and the legal opinion prepared pursuant to the FORA contract with Michael Baker International. The opinion fails to adequately consider, quantify or disclose the issues of greenhouse gas, air quality and habitat impacts. Alan Waltner specifically recommended that an initial study be prepared.

The project that is proposed is not clear. The Board of Directors and KFOR need to see the actual typographic changes and maps changes so the decision makers and KFOR understand what the changes would be. If there are changes to the text and the maps that are part of the project to be considered, those materials must be available for review by the decision makers and KFOR prior to approval. Absent that critical information, KFOR is unable to make complete comments.

The changes pursuant to Category I have not been presented to the current decision makers on this item. The current Board makeup is materially different from the Board members in 2012 when the Reassessment Report was done and in 2013 when the Report was considered. The FORA Board specifically directed that the Category I changes, including all proposed changes to text and maps, are to be brought before the Board for Board approval (May 10, 2013 Board minutes, item 7b; March 22, 2013 Board minutes, item 6a). That has not been done. FORA staff has failed to tell the

current Board about those unanimous Board directions with which FORA staff has failed to comply.

The same problems exist with the Category II changes – neither the decision makers nor KFOW and the public have seen the changes proposed. KFOW is unable to make complete comments and the Board cannot make an informed decision unless and until the project has been presented to the Board – not as paraphrased material and not in general and truncated terms and language, but completely and exactly as proposed to amend the Reuse Plan. The MBI opinion does not list all the consistency determinations that MBI claims will be used to amend the Reuse Plan, and FORA does not list them either. The evidence is that there is no complete list of the projects and consistency determinations that MBI has reviewed and analyzed in making its opinions, and which MBI purports to include in its opinion to the FORA Board. The MBI opinion does not refer to the plans, projects, or consistency determinations with adequate specificity. The MBI opinion is materially flawed with errors and omissions. The dates provided in the MBI opinion are not the dates of the consistency determinations, where such determinations have been made, so KFOW cannot check FORA Board records for those dates. The opinion fails to identify which plans and projects have obtained a consistency determination from FORA, and which have not.

The City of Monterey General Plan and the County of Monterey General Plan have not been determined by FORA to be consistent with the Reuse Plan, although that is required by the Master Resolution and the FORA/Sierra Club settlement agreement. The MBI opinion asserts that FORA has not analyzed the County General Plan for consistency. The MBI opinion omits the material fact that the FORA Board refused to certify the County General Plan. Thus, the Category II changes should not include those two plans. No legislative act is final unless the act is certified pursuant to the Master Resolution requirements. (Master Resolution, sec. 8.01.020.f.)

These problems are fatal. The Board should not amend the Reuse Plan without knowing exactly what changes and amendments are being proposed, which should be attached to the Board resolution. The use of the MBI opinion is unknown and not identified and not disclosed to KFOW, despite our many efforts to stay informed and participate in the FORA process. The Board should not and cannot amend the Reuse Plan through the back door, such as possibly proposed here -- by merely accepting a third party opinion without the exercise of independent judgment.

* Keep Fort Ord Wild made a California Public Records Act request seeking some of the information that underlies the FORA consultant Michael Baker International report "Determination Opinion of Categories I and II" dated May 3, 2016, and by FORA in recommending the FORA Board's approval of that opinion. In that report, numerous references are made to consistency determinations but dates and resolution numbers are not provided for the consistency determinations and the determinations are not otherwise easily accessible to the public. Also in that report, numerous references are

made to CEQA documents. None of this is supported or disclosed to the public or to your Board.

Keep Fort Ord Wild asked to inspect "1. The consistency determinations relied upon by Fort Ord Reuse Authority consultant Michael Baker International in writing its report "Determination Opinion of Categories I and II" dated May 3, 2016, and by FORA staff in recommending that the FORA Board approve that opinion." and "2. The CEQA documents relied upon by FORA consultant Michael Baker International in writing its report "Determination Opinion of Categories I and II" dated May 3, 2016, and by FORA staff in recommending the FORA Board's approval of that opinion." and "3. Lists of Fort Ord Reuse Authority consistency determinations." (May 17, 2016 letter.) KFOR pointed out that "The records should be relatively simple to find because the Michael Baker Report squarely addressed the CEQA documents and consistency determinations." (*ibid.*)

In response, FORA did not produce any records showing that what consistency determinations FORA had provided for the consultant, and FORA merely produced a link to a list of consistency determinations in the scoping report that was only 5 pages long and ended in 2007. (FORA response, May 26, 2016.) FORA evidently does not have a complete list of the consistency determinations, and thus it is unclear to KFOR and the decision makers what consistency determinations are included in the Category II changes. Absent that information, KFOR cannot make adequate informed comment and the decision makers cannot make an informed decision.

We ask for Fort Ord Reuse Authority's help in identifying the records we seek, but got none. KFOR also emphasized that "Time is of the essence. KFOR asks to have access to the records prior to the next FORA Board Meeting when the Michael Baker International report is discussed." That critical information has not been provided and FORA has delayed producing it or has destroyed the records sought.

The project before you has been inadequately defined. A fixed and stable project description is critical. It must be provided as part of the staff report and for adequate review by KFOR, other members of the public, and decision makers before the Board takes action on this item and/or purports to amend the Reuse Plan.

The impacts of redesignating land on Reuse Plan maps as "Veterans Cemetery" have not been analyzed adequately. A veterans' cemetery location is not shown in the 1996 public draft version of the Fort Ord Reuse Plan, nor in the Fort Ord Reuse Plan EIR. A "VC" and cemetery designation was included on the 2001 Fort Ord Reuse Plan Land Use Concept map but that change was done absent any formal approval of the Board to amend the Reuse Plan and absent adequate and necessary CEQA review. The CEQA analysis to date of the entire cemetery is incomplete. Because that analysis is not final, FORA cannot legally change the designation, and the proposed change to show the cemetery on the Reuse Plan requires CEQA review and an appropriate public

process. This is not to say that KFOW opposes a cemetery. It is simply to say that the cemetery cannot legally be shown on the Reuse Plan map and the Reuse Plan cannot be changed to allow a cemetery until adequate CEQA review has been performed on the impacts of the entire cemetery at buildout. That analysis has not yet happened. The Reassessment Report admitted (at p 3-117) that "The public draft BRP Land Use Concept maps (May 1996) do not indicate a veterans' cemetery or a land use designation specifically for cemeteries. The cemetery site was . . . not included on the BRP Land Use Concept map adopted on June 13, 1997." The Reassessment Report said this: "The Seaside General Plan designates the cemetery site as Parks and Open Space (the same designation as the City's existing cemetery), which Seaside and the FORA Board found consistent with the BRP in 2004 (refer to Pages 4-180 and 4-181, and Figures 5 and 6 in the Scoping Report). Within Monterey County, the BRP and the Fort Ord Master Plan designate the veterans' cemetery location as Low Density Residential." The inconsistency between those designations and the redesignation as a cemetery has not been determined and FORA has not determined consistency for the Cemetery in Seaside or the County. Again, this is not opposition to the cemetery. It is a request for legal and adequate analysis and required planning efforts. The issues are transparency and law.

Amending the Reuse Plan is a project, but there has not been a public hearing noticed according to FORA's procedures for today's meeting. We know that others are interested in this issue, as shown by the high interest in the County consistency determination for the County 2010 General Plan and Fort Ord Master Plan. There is inadequate notice on the agenda and the staff report for FORA Board to act either on CEQA exemption or to amend the Reuse Plan. No CEQA exemption is listed on the agenda for today's item. For that reason, the Board cannot act today to approve an exemption pursuant to CEQA.

It is unclear what exemption is being proposed by MBI. The MBI opinion claims that the Category I and II changes are one of the following: are not " 'projects' under CEQA that warrant detailed environmental review"; and are "actions that have been previously reviewed by other agencies." Those claims are neither accurate nor adequate. We provide here a few of the reasons and examples the problems.

Merely because parts of the land swap MOU have been performed does not mean that environmental review cannot and should not be done or that the impacts should not be mitigated. The impacts have not been identified or disclosed. The land swap conditions may be considered mitigations that have not been adopted and implemented. It is insufficient to say merely that the acts have taken place and therefore the change to the Reuse Plan to reflect those acts are not a project. CEQA analysis can and should be done. The land swap MOU incorporated limitations and conditions that have not been implemented (e.g., Zander report limitation/prohibition on residential use in Parker Flats) and those conditions and limitations are part of the land swap agreement. FORA is taking an inconsistent position – that the portions of the

swap that were done get a free pass and should be incorporated in the reuse Plan, and the portions of the MOU that were not done can be ignored and not incorporated into the Reuse Plan. That selective approach violates CEQA and other planning and zoning laws and is inconsistent with FORA's legal obligations. Deferring the analysis (for example, to Seaside's unfinished and uncertified EIR, see p. 6 of the opinion) is not appropriate or legal.

The MBI opinions and the FORA staff report have failed to disclose the fact that at least several of the consistency determinations were made by the FORA Board during the time that the illegal amendments to Master Resolution Chapter 8 were in place. In March 2010, FORA illegally and improperly amended the chapter 8 requirements to replace many of the "shall" to "may," thus making permissive what the settlement agreement required to be mandatory. When the illegal changes were brought to light by KFOW and the Sierra Club in 2013, the Board reversed the illegal changes. However, FORA did not review the actions taken under the illegal language. Thus, FORA does not know for certain that those determinations were proper or supported. These determinations included the County housing element in 2010, the Seaside housing element in 2011, the Seaside Local Coastal Program in March 2013, and at least two projects, and possibly more. KFOW cannot identify the others with certainty because FORA has been unable to provide a complete list of consistency determinations in response to KFOW's public records request described earlier in this letter.

FORA has failed to ensure that the policies applicable to the County that should also be applicable to Del Rey Oaks (DRO) and the City of Monterey have not been adopted by Del Rey Oaks and the City. Multiple important and material policies applicable to the County should have been made applicable to DRO and the City, including the oak woodlands protection policies, but were not communicated to DRO and the City. No past FORA consistency determinations as to DRO and City plans and projects should be considered to effect changes in the Reuse Plan due to this material failure.

Michael Baker International has a conflict of interest because the same consultant is preparing the EIR for the Monterey Downs project, a project which depends on some of the policies and plans that the opinion proposes for inclusions in the Reuse Plan by amendment. This conflict of interest should be thoroughly investigated and disclosed before proceeding with this opinion.

The matters addressed in this agenda item and opinion letter are made more complex and confusing, and further violate CEQA, Planning and Zoning laws, and other statutes and regulations, because FORA has failed to adequately monitor and enforce the mitigations required pursuant to the Reuse Plan and its EIR. Today's proposed action appears to be part of a pattern and practice by FORA with regard to those

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failures by FORA. FORA has an independent duty to enforce the mitigations, independent of any FORA consistency determinations.

Amendments to the Reuse Plan must be done in a formal amendment process that is properly noticed and described. That process was not followed for this item.

KFOW urges the Board to refuse to accept the opinion, or at the very least continue the item to a future date so the errors and omissions can be corrected first and we and the Board can review the necessary information. I hope to be present in person to present this letter, but due to press of other matter I may be unable to make it to the Board meeting in time. Thank you.

Very truly yours,

STAMP | ERICKSON


Molly Erickson

Supplemental information for item 7a – July 8, 2016 Meeting

Comments Extracted from Keep Fort Ord Wild Letter of June 10, 2016:

1) **“Keep Fort Ord Wild does not have sufficient information to provide complete comments on the item.”**

Response: The June 10, 2016 FORA Board meeting adjourned before the Board considered item 9c “Consultant Determination Opinion Report Categories I and II Post Reassessment Actions – 2d Vote. So, KFOR will have more than sufficient time to provide complete comments on the item. FORA also provided KFOR additional information in its responses to KFOR’s May 17 and 18 Public Records Act requests on May 26 and June 15, respectively.

2) **“The opinions of the MBI Report failed to adequately consider, quantify, or disclose the issues of greenhouse gas, air quality, and habitat impacts. Alan Waltner specifically recommended an initial study be prepared.**

Response: The issue of whether an initial study should be prepared was part of MBI’s scope of work. MBI concluded that this is not a project under CEQA. Thus, an initial study is not required. In addition, issues related to greenhouse gas, air quality, and habitat impacts are not pertinent to this item.

3) **“The project that is proposed is not clear.”**

Response: The Board’s acceptance of the Determination Opinion Report is not a project. In essence, FORA has received multiple consultant advice indicating that republishing the Base Reuse Plan (BRP) based on corrected errata and prior Board Actions, as called forth in the BRP Reassessment document, require no further CEQA actions at this time.

4) **“The changes pursuant to Category I have not been presented to the current decision makers on this item.....the same problems exist with the Category II changes...”**

Response: The FORA Board members reviewed Categories I and II items when they received the BRP Reassessment Report on December 12, 2012, and when they reviewed BRP Post Reassessment items on March 15, 2013 and March 22, 2013. Category I errata corrections were originally assigned by the FORA Board to its ad hoc sub-committee known as the Post-Reassessment Advisory Committee (the “PRAC”) which reviewed the corrections in detail and recommended republishing of the BRP with those errata corrections. The Consultant concurred. Category II prior Board Actions (primarily Consistency Determinations) were reviewed by the Consultant which concluded that each prior Board Action was duly approved at the time by the requesting FORA jurisdiction and a full CEQA analysis was performed on the item prior to submittal to FORA. The FORA Board evaluated these items for certification in a Consistency

Determination, reviewed the accompanying CEQA documents and concurred in the finding of Consistency. The Consultant reviewed these prior FORA Board actions and concluded that no further CEQA actions were necessary prior to republishing the BRP reflecting those prior Board actions.

5) “The MBI opinion does not refer to the plans, projects, or consistency determinations with adequate specificity.”

*Response: The Consistency Determinations are listed in the Base Reuse Plan Reassessment Report Category II section from page 3-19 to 3-32. Attached to this response is a list of Development Entitlement and Legislative Land Use Decision Consistency Determinations under **Exhibit A**.*

6) “The opinion fails to identify which plans and projects have obtained a consistency determination from FORA, and which have not.”

*Response: **Exhibit A** indicates which plans and projects obtained a Consistency Determination from FORA, and which did not.*

7) “The City of Monterey General Plan and the County of Monterey General Plan have not been determined by FORA to be consistent with the Reuse Plan....”

Response: When the City of Monterey processes an entitlement on its Fort Ord lands it will be required to provide both the entitlement and a General Plan Update to FORA for consistency certification. The City will be required to conform to the appropriate BRP Plans and Procedures at that time. The County of Monterey General Plan has already been found consistent by the FORA Board on January 18, 2002. The County updated and adopted its General Plan on October 26, 2010. The County submitted that plan to the FORA Board for Consistency certification at the September 24, 2013 FORA Board meeting. The FORA Board voted 6-6 on this item on March 14, 2014, resulting in No Action. The County will have to return without prejudice to the FORA Board for a Consistency certification on its most recently updated General Plan prior to processing any entitlement for consistency certification for County lands.

8) “The Board should not amend the Reuse Plan without knowing exactly what changes and amendments are being proposed, which should be attached to the Board resolution.”

Response: The Board is not amending the BRP with this Action. The MBI Determination Opinion reviews only prior actions by the FORA Board under Category II and clerical cleanup of obvious errata as described in Category I. Any future amendments to the BRP would be treated as described in Category IV of the BRP Reassessment.

9) “Keep Fort Ord Wild made a California Public Records Act request seeking some of the information that underlies the FORA consultant Michael Baker International report ‘Determination Opinion of Categories I and II’ dated May 3, 2016, and by FORA in recommending the FORA Board’s approval of that opinion.”

Response: To date, FORA has complied with this Public Records request and provided the requested information.

10) “Keep Fort Ord Wild asked to inspect 1. The consistency determinations relied upon by Fort Ord Reuse Authority consultant Michael Baker International in writing its report “Determination Opinion of Categories I and II” dated May 3, 2016, and by FORA staff in recommending that the FORA Board approve that opinion.” and 2. The CEQA documents relied upon by FORA consultant Michael Baker International in writing its report “Determination Opinion of Categories I and II” dated May 3, 2016, and by FORA staff in recommending the FORA Board’s approval of that opinion.” and “3. Lists of Fort Ord Reuse Authority consistency determinations.” (May 17, 2016 letter.) KFOV pointed out that “The records should be relatively simple to find because the Michael Baker Report squarely addressed the CEQA documents and consistency determinations.” (Ibid.)

Response: To date, FORA has complied with this Public Records request and provided the requested information. MBI reviewed FORA’s prior Consistency Determinations to evaluate whether or not appropriate CEQA review was conducted on them by the jurisdictions. MBI concluded that appropriate CEQA review was performed and this is included in their May 3, 2016 Determination Opinion letter.

11) “FORA did not produce any records showing that what consistency determinations FORA had provided for the consultant, and FORA merely produced a link to a list of consistency determinations in the scoping report that was only 5 pages long and ended in 2007.”

Response: See FORA response to #1.

12) “We ask for Fort Ord Reuse Authority’s help in identifying the records we seek, but got none.... That critical information has not been provided and FORA has delayed producing it or has destroyed the records sought.”

*Response: FORA provides records and/or information in a reasonable time frame sought under the Public Records Act. The records sought need to be clearly identified, not general in nature. **Exhibit A**, the items identified in the BRP Reassessment Report, and the records reviewed by the Consultant provide additional information concerning the requested Action. In addition, to FORA’s knowledge, no official records were destroyed,*

13) “The project before you has been inadequately defined.”

Response: See response to #3. The action and its purpose are described in the various Staff Reports made to the FORA Board, the Request for Proposals, the MBI Determination Opinion letter, this response letter, and various other responses made by public comment, written and verbal.

14) "The impacts of redesignating land on Reuse Plan maps as "Veterans Cemetery" have not been analyzed adequately."

Response: See September 14, 2012 FORA Board Packet item 7d, October 12, 2012 FORA Board Packet item 8c, and November 16, 2012 FORA Board Packet item 8d for additional background on this issue. The Veterans Cemetery site was included in the 1997 Base Reuse Plan (BRP) and BRP Final Program Environmental Impact Report (EIR):

- 1) *December 13, 1996 FORA Board Packet Item 4a: "Approve Site For Veteran Cemetery On Former Fort Ord"*
- 2) *Pages 80-82 of the BRP Final Program EIR/Volume II Response to Comments "Response to Letter 44"*

15) "Amending the Reuse Plan is a project, but there has not been a public hearing noticed according to FORA's procedures for today's meeting."

Response: The FORA Board is not amending the BRP in this Action. The MBI Determination Opinion letter addresses this issue, and it advises that no additional CEQA actions are necessary.

16) "It is unclear what exemption is being proposed by MBI. The MBI opinion claims that the Category I and II changes are one of the following: are not "projects" under CEQA that warrant detailed environmental review"; and are "actions that have been previously reviewed by other agencies."

Response: FORA is not proposing a CEQA exemption at this time. MBI is advising that no further CEQA action is required to republish the BRP reflecting correction of errata and prior actions already taken by the FORA Board, including review of prior CEQA documentation. As a follow up, FORA staff will meet with regional planning staff from MBUAPCD, RWQCB, and TAMC to review general consistency with those agencies.

17) "Merely because parts of the land swap MOU have been performed does not mean that environmental review cannot and should not be done or that the impacts should not be mitigated."

Response: MBI's Determination Opinion Report states that the MOU actions are complete and based on the MOU are valid since the time to challenge the actions has passed.

18) "The MBI opinions and the FORA staff report have failed to disclose the fact that at least several of the consistency determinations were made by the FORA Board during the time that the illegal amendments to Master Resolution Chapter 8 were in place."

Response: The FORA Board amended its Master Resolution on March 12, 2010 to make minor clarifying corrections throughout the document. A change to Chapter 8 of

the Master Resolution included changing the word “shall” to “may” to section 8.02.010(a). The FORA Board reversed the Chapter 8 change on March 15, 2013 after receiving a letter from the Ventana Chapter of the Sierra Club, noting that these changes were made without giving the Sierra Club 30 days advance notice and were considered a major, material provision of the 1998 Sierra Club-FORA settlement agreement. In its letter, the Sierra Club gave the FORA Board an opportunity to voluntarily correct the situation, which it did. No evidence suggests that the word change from “shall” to “may” affected the outcome of FORA consistency determinations made from March 12, 2010 to March 15, 2013.

19) “FORA has failed to ensure that the policies applicable to the County that should also be applicable to Del Rey Oaks (DRO) and the City of Monterey have not been adopted by Del Rey Oaks and the City.”

Response: All policies applicable to the County lands annexed by Del Rey Oaks and City of Monterey will still be in effect. When DRO proceeds with entitlements and requests FORA certify consistency of those entitlements, they will have to comply with all applicable BRP Programs and Policies. When the City of Monterey proceeds with its request for FORA to certify consistency of its amended General Plan and any entitlements, it will have to comply with all applicable BRP Programs and Policies.

20) “Michael Baker International has a conflict of interest because the same consultant is preparing the EIR for the Monterey Downs project, a project which depends on some of the policies and plans that the opinion proposes for inclusions in the Reuse Plan by amendment.”

Response: FORA is not aware that any conflict exists.

21) “The matters addressed in this agenda item and opinion letter are made more complex and confusing, and further violate CEQA, Planning and Zoning laws, and other statutes and regulations, because FORA has failed to adequately monitor and enforce the mitigations required pursuant to the Reuse Plan and its EIR.”

Response: There are no violations of CEQA delineated in the Determination Opinion Letter and in fact the Letter makes it clear that the correct CEQA actions were taken at the time the Board made its prior actions. This is spelled out in the BRP Reassessment, the Alan Waltner memos, the MBI Opinion Letter, and responses to comments. FORA has engaged in the monitoring and enforcement necessary to ensure the mitigations listed in the BRP are carried out.

22) “Amendments to the Reuse Plan must be done in a formal amendment process that is properly noticed and described. That process was not followed for this item.”

Response: This item is not an amendment to the Reuse Plan. MBI reviewed CEQA implications of prior Board actions and regional plan consistency in their Determination Opinion Report. All required noticing and description, as well as CEQA documentation,

were reviewed and carried out at the time these prior Board actions were taken.. According to the MBI Opinion Letter, because the Reuse Plan was not amended, no formal amendment process with additional notices and descriptions is required. The requested action is Board acceptance of the MBI Opinion Letter..

LIST OF CONSISTENCY DETERMINATIONS IN BOARD AGENDAS

Date (mm/dd/yyyy)	Topic: Consistency Determine, Approve Consistency, Public Hearing	Certified as Consistent (Y/N)	Legislative Land Use Decision (Y/N)
1997			
10/10/1997	Approved Consistency of Marina Municipal Airport Redevelopment Plan	Y	Y
10/23/1997	CD of MPC-East Garrison Public Benefit Conveyance w/ FOBRP	N	Y
1998			
3/13/1998	Approve City of Marina Legislative Consistency Finding	Y	Y
9/11/1998	Approve City of Seaside Consistency Determination		Y
10/9/1998	PH to AC determination for the City of Seaside General Plan & Zoning		Y
	PH to AC determination for the City of Del Rey Oaks General Plan & Zoning		Y
10/23/1998	PH to AC determination for the City of Seaside General Plan & Zoning		Y
	PH to AC determination for the City of Del Rey Oaks General Plan & Zoning		Y
11/13/1998	PH to AC determination for the City of Seaside General Plan & Zoning		Y
	PH to AC determination for the City of Del Rey Oaks General Plan & Zoning	Y	Y
11/20/1998	AC determination for the City of Seaside General Plan & Zoning	Y	Y
	AC determination for the City of Seaside General Plan & Zoning (2nd vote)	Y	Y
12/11/1998	AC determination for the City of Del Rey Oaks General Plan & Zoning	Y	Y
1999			
12/10/1999	CD of City of Marina Redevelopment Plan	Y	Y
2000			
9/21/2000	CD Marina Municipal Airport / Business Park	Y	Y
2001			
3/22/2001	CD of City of Marina General Plan	Y	Y

Exhibit A to Attachment E to Item 7a
FORA Board Meeting, 7/8/16

2002			
1/18/2002	CD of County of Monterey General Plan Amendment	Y	Y
3/8/2002	CD of County of Monterey Redevelopment Plan	Y	Y
5/10/2002	CD of City of Seaside Redevelopment Plan	Y	Y
9/13/2002	CD of City of Seaside Zoning Ordinance to allow conditional uses in ME-FO	Y	Y
2003			
6/13/2003	CD of Marina Airport Zoning Ordinance Amendment	Y	Y
9/12/2003	CD of Del Rey Oaks Redevelopment Project Plan	Y	Y
2004			
4/16/2004	CD of Marina Heights Project	Y	Y
5/14/2004	CD of Marina Heights Project	Y	Y
11/19/2004	2004 CD of City of Seaside General Plan Status Report		
12/10/2004	CD of City of Seaside 2004 General Plan	Y	Y
2005			
3/11/2005	CD of City of Marina Adopted Housing Element	Y	Y
5/13/2005	CD of 1st Amendment to City of Marina 2005 General Plan	Y	Y
6/10/2005	CD of City of Marina University Villages Project		Y
6/30/2005	CD of City of Marina University Villages Project: Approve Resolution 05-6	Y	Y
7/8/2005	CD of City of Marina Univeristy Villages (2nd Vote)	Y	Y
8/12/2005	Seaside Resort Project - (1) Presentation; (2) Admin. CD of Entitlement Project	Y	N
11/18/2005	CD of County of Monterey East Garrison Project	Y	Y
12/9/2005	Administrative CD of Entitlement Project: Young Nak Church	Y	N
	CD of County of Monterey East Garrison Project	Y	Y
2006			
1/12/2006	CD of County of Monterey East Garrison Project	Y	Y
2/10/2006	CD of Imjin Office Park Project	Y	Y
	CD of Las Animas Concrete, LLC, Batch Plant Project	Y	Y
3/10/2006	CD of City of Marina Zoning Ordinance Amendments for Housing Element	Y	Y
	CD of South Marina Zoning Map Amendments	Y	Y
	Administrative Consistency Determination for Entitlements		
	City of Seaside Monterey College of Law Project	Y	N

	City of Marina Golden Gate University Project	Y	N
	City of Marina Imjin Office Park Project	Y	N
	City of Marina Las Animas Concrete, LLC, Batch Plant Project	Y	N
12/8/2006	CD of Cypress Knolls Project	Y	Y
2007			
1/12/2007	CD of Cypress Knolls Project	Y	Y
	CD of Amendments to the Marina Zoning Ordinance	Y	Y
2/9/2007	Cypress Knolls Project Entitlement Consistency Determination	Y	N
	CD of City of Marina Amendments to Marina Zoning Ordinance	Y	Y
9/14/2007	CD of Young Nak Church Amendment to Specific Plan	Y	Y
	CD of City of Marina New Marina Subdivision Ordinance	Y	Y
	CD of City of Marina Amendments to General Plan	Y	Y
2008			
	CD of Seaside Implementation Plan 2007-2012 - Fort Ord Redevelopment Project Area	Y	Y
5/9/2008			
2009			
	ADMINISTRATIVE CD FOR ENTITLEMENT: City of Seaside Chartwell School Project	Y	N
11/13/2009			
2010			
2/11/2010	CD: Marina Housing Element	Y	Y
	CD: Salinas Valley Memorial Healthcare System Imjin Parkway Project	Y	Y
	ADMINISTRATIVE CD FOR ENTITLEMENT: Marina's Community Hospital	Y	N
3/12/2010			
7/9/2010	CD: Monterey County Housing Element	Y	Y
	CD: Marina's General Plan Amendment & Rezone for Monterey Peninsula	Y	Y
9/10/2010			
10/8/2010	CD: Seaside's the Projects at Main Gate Specific Plan	Y	Y
	CD: General Plan Amendments for City of Marina Pedestrian & Bicycle Master Plan	Y	Y
12/10/2010			
2011			

ADMINISTRATIVE CD FOR ENTITLEMENT: Marina Coast
Water

3/11/2011	District Cell Tower	Y	N
8/12/2011	CD: City of Marina Zoning Ordinance Amendments	Y	Y
11/18/2011	CD: City of Seaside Housing Element	Y	Y
2012			
13-Jul	Marina Rockrose Garden Assisted Living ACD	Y	N
14-Dec	VA Clinic ACD	Y	N
2013			
15-Mar	Seaside Local Coastal Program CD	Y	Y
9-Aug	Promontory ACD	Y	N
2014			
14-Nov-14	Marina Marriot Hotel ACD	Y	N
Dec	Marina Marriot Hotel ACD	Y	N
Dec	Church of Latter-Day Saints ACD	Y	N
March	Seaside American Youth Hostel CD	Y	N
3/14/2016	MoCo Gen Plan Update CD	N	Y
2016			
Feb-16	The Dunes at MB Fast-Casual	Y	N

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Adoption of FORA FY 2016/17 Capital Improvement Program – 2d Vote	
Meeting Date:	July 8, 2016	ACTION
Agenda Number:	7b	

RECOMMENDATION(S):

Second Vote: Adopt the FORA FY 2016/17 CIP and direct staff to present revisions to the FORA FY 2016/17 CIP to the Board for consideration after incorporating results from Transportation Agency for Monterey County's (TAMC's) 2016 FORA Fee Reallocation Study and Economic and Planning Systems' (EPS's) Biennial Formulaic Fee Review (expected timing to be within the next 3 months). The link to this document is provide here:

http://fora.org/Board/2016/Packet/Additional/070816_Item7b_CIP_Report.pdf

BACKGROUND/DISCUSSION:

At its June 10, 2016 meeting, the FORA Board voted on a motion to approve the FY 2016/17 CIP. Since the vote was not unanimous, the item returns to the FORA Board for a second vote.

FORA staff annually provides a CIP overview, including updates made through revenue and expenditure reprogramming and text edits. The most significant updates this year include:

- 1) Transportation projects and other CIP expenditure adjustments to accommodate updated FORA CFD special tax/ development fee collection, land sales and property tax collection, development forecasts, and transportation/transit project prioritization;
- 2) Prevailing wage support/coordination and caretaker costs are both included in Table 3;
- 3) The Board adopted Caretaker Costs Reimbursement Policy (October 9, 2015) is now included under Appendix C to the CIP;
- 4) Staff has indexed FORA's building removal obligation of \$4 million in Seaside Surplus II by the Construction Cost Index (CCI) to current dollars of \$5.4 million; and
- 5) According to the FORA Community Facilities District (CFD) Notice of Special Tax Lien, the CFD Special Tax rates are increased on each July 1 by the percentage change in the previous year's CCI. Since the percentage change in the CCI was 1.6% over the past year, FORA will increase its CFD Special Tax rate by this percentage on July 1, 2016.

FORA staff annually requests updated development forecasts from the land use jurisdictions. FORA staff and Administrative Committee review the submitted forecasts to ensure that forecasts are realistic and within the Base Reuse Plan residential unit caps. The FORA Administrative Committee confirmed the updated forecasts at their March 2, 2016 meeting. Using these forecasts, FORA estimates CIP funding sources, including CFD special tax/development fees, land sales, property taxes, and grant proceeds anticipated to be received each fiscal year. Staff used the forecasted revenues to place expenditures on transportation/transit, water augmentation, habitat management and building removal over the course of four years and the "post-FORA" term. "Post-FORA" means the time-period after June 30, 2020 (FORA dissolution date in state law) needed to complete CIP funding collections and project expenditures by FORA or its successor(s). This time-period is currently estimated to extend 15 years after 2020.

TAMC is currently working with consultant Kimley-Horn and Associates to complete an updated FORA Fee Reallocation Study within the next few months. Once completed, the updated study

will provide current information on FORA's transportation and transit obligations, which will inform EPS's biennial formulaic fee review. Should the Board adopt the draft FY 2016/17 CIP, the results of both studies will likely lead to staff presenting FORA CIP revisions to the Board for consideration by the September 9, 2016 Board meeting.

The Administrative Committee did not recommend FORA Board approval of the attached FY 2016/17 CIP at their June 1, 2016 meeting. Instead, the Committee recommended that the Board continue the adopted FY 2015/16 CIP into FY 2016/17 and direct staff to present the FORA FY 2016/17 CIP to the Board for consideration after incorporating results from TAMC's 2016 FORA Fee Reallocation Study and EPS's biennial formulaic fee review, which would likely occur by the September 9, 2016 Board meeting. During the same meeting, committee members and public discussed the concern of increased building removal costs within the Dunes on Monterey Bay project area.

CIP reprogramming continues to be a routine procedure to assure that mitigation projects are implemented in the best possible sequence with reuse needs. Next year's CIP may differ, based on updated jurisdiction forecasts and actual fee collection. As part of FORA's biennial formulaic fee review, EPS will analyze the FORA land sale revenue forecasting methodology in detail. The FORA Board typically adopts the CIP at its May or June meeting in order to implement the program by the start of the fiscal year on July 1.

FISCAL IMPACT:

Reviewed by FORA Controller 

Staff time for this item is included in the approved annual budget. Once the CIP is approved, staff is authorized to initiate individual components noted in the document. CFD special tax rate will apply on July 1, 2016 regardless of Board action on the CIP.

COORDINATION:

Authority Counsel, Administrative and Executive Committees, land use jurisdictions, Marina Coast Water District, Transportation Agency for Monterey County.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	University of California Monterey Bay Education Science and Technology Status Report	
Meeting Date:	July 8, 2016	INFORMATION
Agenda Number:	7c	

RECOMMENDATION:

Receive a University of California Monterey Bay Education Science and Technology (UCMBEST) Status Report.

BACKGROUND:

In 1994 the University of California (UC) obtained approximately 1,000 acres of Fort Ord land, approximately 600 for habitat conservation and 400 acres to provide research and development opportunities associated with the UCMBEST Center, which was to be managed by the UC Santa Cruz (UCSC) campus. Despite high aspirations, market demand for the Center has failed to meet expectations. Over the course of the last fifteen years UC engaged in two unsuccessful attempts to partner with a master developer. The UCSC Campus has managed the property for more than 20 years.

UCSC Chancellor George Blumenthal announced in March 2010 that UC intended to shrink the footprint of the Center and consider alternative uses for peripheral lands. In response to a request from Congressman Sam Farr, a group of stakeholders was assembled to discuss and make recommendations regarding a future vision for UCMBEST Center lands. UCSC and the Fort Ord Reuse Authority (FORA) hosted a series of facilitated stakeholder meetings. Stakeholder recommendations from that effort are summarized in the 2011 UCMBEST Center Visioning Process Report (<http://bit.ly/1SBPITt>), and memorialized in a letter executed by stakeholders. Stakeholders agreed on the following intended outcomes:

- UC's presence continues to be valued. Stakeholders recommend that UC retain control of the UCMBEST Center;
- The local institutions of higher education (and potentially others) should be invited to join an advisory group to help guide the UCMBEST Center;
- UC to actively seek new UCMBEST Center tenants and work to streamline the approval process;
- UC peripheral lands may be used in the near term for economic development opportunities; and
- UC may be expected to retain and utilize reasonable revenues for development.

Next steps outlined in the 2011 Report include:

- 1) Convene a special Working Group meeting to explore potential federal initiatives;
- 2) Convene a meeting between UCSC and CSUMB to explore Eighth Street parcel uses;
- 3) Invite local higher education institutions to collaborate in supporting UCSC development of the UCMBEST Center and to establish a process for expanding the range of potential research uses;
- 4) Seek funding for entitlements and additional water resources; and
- 5) Complete entitlements.

While many of the recommendations above remain valid, continued stagnation at the UCMBEST project area has repeatedly raised Board and community concerns. Recently, following Board direction, the strengthening of Monterey County Economic Development staffing, and the hiring of a new FORA Economic Development Coordinator, efforts have renewed to catalyze reuse activity at UCMBEST. To this end a series of meetings were held in the fall of 2015 culminating with an Executive-level meeting at UCSC on December 22, 2015.

FORA staff and Board representatives met again with UC Santa Cruz representatives on 2/11/16, 3/4/16, and 3/17/16 to define paths forward including drafting a Memorandum of Agreement (MOA) on collaboration including establishment of a staff-level UCMBEST Working Group. Subsequently, UCSC presented at the March 11, 2016 FORA Board meeting to present the current UCMBEST project status and clarify their commitments to moving the project forward. Since then, bi-weekly status calls with UC Santa Cruz and Monterey County representatives have continued with the MOA collaboration and new development interests as the main focus.

DISCUSSION:

UCSC Vice President for Research, Scott Brandt will provide a UCMBEST status update including current and future efforts to catalyze activity at the UCMBEST Center.

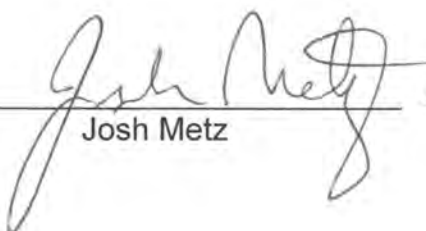

FISCAL IMPACT:

Reviewed by FORA Controller .

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

COORDINATION:

UCSC and Administrative Committee

Prepared by  Josh Metz Approved by  Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Consider a Pipeline Financing Reimbursement Agreement with Marina Coast Water District	
Meeting Date:	July 8, 2016	ACTION
Agenda Number:	7d	

RECOMMENDATION(S):

Authorize the Executive Officer to execute a Pipeline Financing Reimbursement Agreement (RA) with Marina Coast Water District (MCWD) **Attachment A**.

BACKGROUND:

The Fort Ord Reuse Authority (FORA) Board identified the hybrid RUWAP as its preferred water augmentation solution in 2005 and it remains the former Fort Ord water augmentation project. Staff has worked closely with Monterey Regional Water Pollution Control Agency (MRWPCA) and Marina Coast Water District (MCWD) to utilize the Pure Water Monterey (PWM) project as the catalyst for water augmentation on the former Fort Ord. The FORA Board has taken a number of actions over the last nine months to further this end. In November 2015, the Board accepted Advanced Treated Water (ATW) as the potential water source for the recycled component of the approved Regional Urban Water Augmentation Project (RUWAP); in December 2015 MRWPCA and MCWD came to an agreement on how they would partner the PWM and RUWAP by sharing the RUWAP Trunk-line ("Pipeline") to deliver ATW to customers who would use it for irrigation and landscaping; in March 2016 The FORA Board recommended the PWM to the California Public Utilities Commission (CPUC); and, in April 2016, the Board approved the Executive Officer to negotiate an RA with MCWD.

FORA's Executive Officer has negotiated a Pipeline Financing RA with MCWD that reimburses RUWAP Project expenditures and is based upon two pre-existing agreements. The first is the 1998 Water Wastewater Facilities Agreement (FA) and the second is the 2016 Pure Water Delivery and Supply Project Facilities Agreement between MRWPCA and MCWD. The FA outlines MCWD's responsibility to build new facilities identified by FORA, and FORA's responsibility to provide for a portion of these new facilities. The "Pipeline" is a portion of the RUWAP and therefore FORA, under the FA, has a mechanism by which line item funds in the Capital Improvement Program (CIP) Budget can be applied to the Water Augmentation Program. Secondly, the Pure Water Delivery and Supply Project Agreement between MRWPCA and MCWD outlines how the PWM project will deliver higher quality ATW in lieu of recycled tertiary water to the Ord Community and central Marina service area, how MRWPCA utilizes the RUWAP Pipeline, and how funding received by MCWD for the RUWAP will be applied. This agreement is the foundation on which the Pipeline Financing RA is built. These two agreements frame the RA, decreasing risks and providing benefits for the three agencies and the Monterey Bay area.


This Pipeline Financing RA has three major terms; 1) \$6 million dollars of FORA's revenues will be committed to reimburse MCWD for implementation costs of the RUWAP "Pipeline" between now and the end of Fiscal Year (FY) 2019/2020; and, 2) FORA will receive assurances of funding being applied to the RUWAP recycled project; and 3) FORA will work with MCWD to obtain commitments from the land-use jurisdictions to receive the water provided by the pipeline.

DISCUSSION:

In 2007, each FORA land-use jurisdiction received an allocated portion of 1,427 AFY of future recycled water. MCWD and MRWPCA have engineered the PWM & RUWAP Phase One such that MCWD has ability to provide 600 AFY of recycled water at the cost of potable water. Now that MCWD is ready to deliver, it is necessary to define which land-use jurisdictions will commit to receiving the recycled water, and how much of the initial 600 AFY they expect to take.

With the understanding that a commitment of funds by FORA will require jurisdictions to define their obligations to MCWD, FORA staff recommends the Board authorize the Executive Officer to execute a Pipeline Financing Reimbursement Agreement (RA) with Marina Coast Water District (MCWD).


FISCAL IMPACT:

Reviewed by FORA Controller 

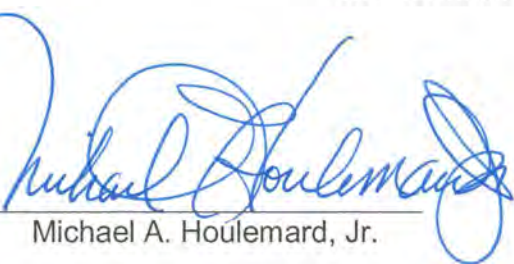
Staff time and \$1.5M of the \$6M are included in the approved annual budget and the proposed capital improvement plan. Once approved, staff will return to request a reserve be established from which reimbursements to the water augmentation line item could be issued. All payments are contingent upon actual receipt of CFD Developer Fees and Land Sale Revenues.

COORDINATION:

MCWD, MRWPCA, Authority Counsel, Administrative and Executive Committees.

Prepared by 
Peter Said

Approved by 
Steve Endsley

Approved by 
Michael A. Houlemard, Jr.

**REIMBURSEMENT AGREEMENT
FOR AWT PHASE 1 OF
THE RUWAP RECYCLED PROJECT**

This Reimbursement Agreement for AWT Phase 1 of the RUWAP Recycled Project (this “Agreement”) is made effective _____, 2016 (the “Effective Date”) by and between Fort Ord Reuse Authority, a public corporation of the State of California (“FORA”) and Marina Coast Water District, a California special district (“MCWD”) with reference to the following facts and objectives.

RECITALS

A. The 1997 Fort Ord Base Reuse Plan (the “BRP”) identifies the availability of water as a resource constraint, estimating that an additional 2,400 acre-feet per year (“AFY”) of water is needed to augment the existing groundwater supply to achieve the permitted development level as reflected in the BRP (Volume 3, figure PFIP 2-7).

B. Under Section 3.2.2 of the 1998 Water/Wastewater Facilities Agreement (the “1998 Agreement”), FORA has the responsibility to determine, in consultation with MCWD, what additional water and sewer facilities are necessary for MCWD’s Ord Community service area (the “Ord Community”) in order to meet the BRP requirements. Section 3.2.1 of the 1998 Agreement further provides that, once FORA determines that additional water supply and/or sewer conveyance capacity is needed, it is MCWD’s responsibility to plan, design, and construct such additional water and sewer facilities. The 1998 Agreement contemplates that MCWD will recover all of its direct and indirect, short term and long term costs of furnishing the facilities to the service area and that MCWD shall not be required to take any action in connection with furnishing the facilities to the service area unless and until a source of funds is secured from the service area to pay in full in a reasonable manner consistent with normal accounting practices all of MCWD’s direct and indirect, short term and long term costs of the action to be taken by MCWD, including costs of administration, operation, maintenance and capital improvements to provide adequate system capacity to meet existing and anticipated service demands, per Section 7.1.2 of the 1998 Agreement.

C. On January 18, 2002, FORA’s Board of Directors adopted Resolution No. 02-1 establishing the Fort Ord Reuse Authority Basewide Community Facilities District (the “CFD”) to collect fees for, among other impacts caused by development, 2,400 AFY of water augmentation to support the BRP.

D. In 2002, MCWD, in cooperation with FORA, initiated the Regional Urban Water Augmentation Project (the “RUWAP”) to explore water supply alternatives to provide the additional 2,400 AFY of water supply needed under the BRP.

E. As a result of an extensive environmental review, FORA and MCWD (each a “Party” and collectively the “Parties”) agreed to adopt a modified hybrid alternative (the

“RUWAP Recycled Project”), which would provide 1,427 AFY of recycled water to the Ord Community without the need for seasonal storage. This in turn resulted in the FORA Board adopting in May 2007 Resolution 07-10, which allocated that 1,427 AFY of recycled water to FORA’s member agencies having land use jurisdiction and constituted FORA’s determination under Section 3.2.2 of the 1998 Agreement that MCWD was required to develop facilities for the processing/production of 1,427 AFY of recycled water.

F. MCWD has been and continues to work collaboratively with FORA and with the Monterey Peninsula Regional Water Pollution Control Agency (“MRWPCA”) to carry out MCWD’s obligation to provide the 1,427 AFY of recycled water for the Ord Community.

G. On October 8, 2015, MRWPCA’s Board of Directors unanimously certified the environmental impact report (“EIR”) for the Pure Water Monterey Project and thereafter approved the Pure Water Monterey Project. The MRWPCA Board selected the alignment established under the RUWAP for the Product Water Conveyance Pipeline (defined in Recital I below).

H. On October 9, 2015, the FORA Board unanimously adopted Resolution 15-___, endorsing the Pure Water Monterey Project as the recycled water component of the RUWAP. In connection with implementation of the Pure Water Monterey Project, the FORA Board will review project component costs and scheduling through annual consideration of the FORA capital improvement program and Ord Community budgets.

I. On December 2, 2015, MCWD and MRWPCA each applied for separate State Revolving Fund loans to finance their respective RUWAP and Pure Water Monterey Projects, which are anticipated to share the use of a single pipeline for the conveyance of the water processed/produced by the projects (the “Product Water Conveyance Pipeline”). MCWD commenced further CEQA review for shared use of a single Product Water Conveyance Pipeline for both MRWPCA’s Pure Water Monterey Project and MCWD’s RUWAP.

J. On April 8, 2016, MCWD and MRWPCA entered into the Pure Water Delivery and Supply Project Facilities Agreement (“2016 MRWPCA-MCWD Agreement”) pursuant to which certain facilities having a capacity sufficient to convey 1,427 AFY of advance treated water for the Ord Community will be designed, constructed, owned, and operated by MCWD in accordance with the 1998 Agreement and pursuant to which MCWD will have the right to utilize up to and including a net 1,427 AFY of the facilities’ treatment capacity to implement FORA Board Resolution 07-10.

K. Completion of construction of AWT Phase 1 and 2 as described in the 2016 MRWPCA-MCWD Agreement would fully implement the RUWAP Recycled Project.

L. FORA desires (1) to financially contribute to the capital costs of a shared, single Product Water Conveyance Pipeline, thereby reducing the costs to users of the advance treated water within the Ord Community and (2) to contribute a source of funds from which MCWD can recover some of its costs as described under Section 7.1.2 of the 1998 Agreement.

NOW, THEREFORE, based on the foregoing and in consideration of the mutual terms, covenants and conditions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **PURPOSE.** The purpose of this Agreement is to establish the extent to and manner in which FORA will reimburse or contribute payment toward MCWD's costs of implementing AWT Phase 1 under the 2016 MRWPCA-MCWD Agreement. This Agreement does not obligate FORA to reimburse or contribute toward any costs of implementing AWT Phase 2.

2. **DEFINITIONS.** For the purposes of this Agreement, the terms used in this Agreement shall be defined expressly within this Agreement or in Exhibit A to this Agreement. As used in this Agreement, references to MCWD or FORA (or a Party and/or the Parties) shall be deemed to include their respective Boards of Directors.

3. **OBLIGATIONS**

3.01 FORA Financial Obligation

(a) FORA shall provide up to \$6,000,000 toward reimbursement or payment toward eligible costs of implementing AWT Phase 1 of the RUWAP Recycled Project.

(b) Subject to the limit stated in subsection 3.01(a) above, FORA shall honor and pay invoices for eligible costs incurred after the Effective Date (except as provided in subsection 3.02(b) below) and submitted by MCWD as set forth in section 3.02 and 3.03 below.

(c) FORA shall have sole discretion as to the source of funds for use in satisfying its monetary obligations under this Agreement.

3.02 FORA Obligation for RUWAP Start-up Costs

(a) FORA shall provide to MCWD up to \$500,000 (inclusive of the amount set forth in subsection 3.02(b) below) for start-up costs and make funds available in the FORA budget beginning in Fiscal Year 2016-2017 and continuing into subsequent fiscal years, if the work is delayed and unexpended funds remain available.

(b) Upon execution of this Agreement, FORA will provide MCWD with \$250,000 and will reimburse the remainder of start-up costs as invoiced.

(c) Start-up costs eligible for reimbursement pursuant to this Section 3.02 consist of the following:

- i. property, easements, and/or acquisition of rights of way

- ii. preparation of a negative declaration, mitigated negative declaration, or environmental impact report
- iii. scoping meeting(s)
- iv. design, engineering, and support, including consultants, legal, and the costs of administrative and operational overhead, needed for MCWD to obtain project funding approval, process bids, award contracts, and/or issue a "Notice to Proceed" on AWT Phase 1 of the RUWAP Recycled Project

3.03 FORA Obligation for RUWAP Implementation Costs

(a) At the times and subject to the limitations set forth in Section 3.04 below, FORA shall provide to MCWD up to the amount set forth in subsection 3.01(a) above, less any amounts provided pursuant to subsections 3.02(a) or (b) above, for the implementation of AWT Phase 1 of the RUWAP Recycled Project.

(b) Implementation costs eligible for reimbursement pursuant to this Section 3.03 consist of the following:

- i. direct and indirect, short term and long term costs of AWT Phase 1 of the RUWAP Recycled Project incurred by MCWD, including consultants, legal, and the costs of administration and operational overhead
- ii. debt service, capital financing, and capital costs

Costs relating to litigation in which MCWD is or was a party shall not be an expense eligible for reimbursement under this Agreement.

3.04 Timing of FORA Reimbursements

(a) Following FORA's receipt of a copy of the "Notice to Proceed" issued by MCWD with respect to AWT Phase 1 of the RUWAP Recycled Project, FORA shall reimburse MCWD for implementation costs described in Section 3.03 and incurred after the Effective Date based on the progress and completion of the design and construction of AWT Phase 1 of the RUWAP Recycled Project as follows:

- i. \$1,000,000 in FY 16-17 (in addition to amounts paid pursuant to Section 3.02).
- ii. \$1,600,000 in FY 17-18.
- iii. \$1,200,000 to \$1,900,000 in FY 18-19. FORA commits to \$1,200,000 in FY 18-19, the remainder is contingent upon real estate market

conditions and the receipt of revenues from land sales and the CFD, which are based upon the issuance of building permits within the developable lands of the former Fort Ord.

- iv. \$1,000,000 in FY 19-20 is contingent upon real estate market conditions and the receipt of revenues from land sales and the CFD, which are based upon the issuance of building permits within the developable lands of the former Fort Ord.

(b) In setting and establishing FORA's annual budget and capital improvements plan, FORA's obligations outlined in subsection 3.04(a) above shall be subordinate only to FORA's Habitat Conservation Plan fund obligation, which assigns 30.2% of monies received by FORA through the CFD to a reserve.

(c) Any remaining annual funds budgeted in each fiscal year for payments under this Agreement will be carried over into the following fiscal year(s), up until the work is complete, this Agreement is terminated, or FORA ceases to exist (scheduled for June 30, 2020).

(d) If RUWAP work proceeds faster than anticipated, MCWD may apply to FORA for accelerated reimbursement. In order to so apply, MCWD shall provide at least three (3) months' prior written notice with supporting documentation satisfactory to FORA demonstrating the need to accelerate reimbursements. Provided that FORA has surplus funds available and is satisfied that accelerated reimbursement is necessary to the successful completion of the project, FORA will advance up to \$500,000 from funds allocated to a subsequent fiscal year.

(e) FORA shall review invoices for the project submitted by MCWD and shall within fifteen (15) business days following receipt either approve such invoices or notify MCWD as to why such invoices are not approved. FORA shall disburse payments within fifteen (15) business days after approving the invoices. FORA reserves the right to exclude disputed elements of any invoice from payment until any such dispute is resolved.

(f) In the event of a dispute regarding the approval of invoices as described in subsection 3.04(e) above, the Contract Administrators (identified in Section 6.04 below) shall work to resolve the dispute within fifteen (15) business days. If no resolution can be achieved by the Contract Administrators, the parties shall mediate the dispute at the earliest possible date with a mutually-agreed upon, neutral third party serving as mediator. If the dispute is not resolved in mediation, the dispute shall be submitted for binding arbitration to the Judicial Arbitration and Mediation Services ("JAMS") in San Jose, California, with the hearing to be held in Monterey, California. The costs of the arbitration, including all arbitration fees, and costs for the use of facilities during the hearings, shall be advanced equally by the parties to the arbitration. All such fees and costs together with attorneys' fees and costs, including expert witness costs of the parties and attorneys' fees and costs incurred in enforcing any judgment, shall be awarded to the prevailing party (or most prevailing party, as decided by the arbitrator). The provisions of Sections 1282.6, 1283, and 1283.05 of the

California Code of Civil Procedure shall apply to the arbitration. The arbitrator shall issue a final decision within thirty (30) days of the conclusion of testimony unless otherwise agreed to by the parties.

3.05 FORA coordination with MCWD

(a) FORA will work in coordination with MCWD to obtain binding commitments from the land use jurisdictions within the Ord Community (1) to take delivery of the 600 AFY of recycled water when the recycled water is available for delivery by MCWD and (2) to pay for MCWD's actual cost of service for the recycled water, which cost will be based upon all applicable CEQA and design costs, capital costs, financing costs, an estimated renewal and replacement cost reserve, estimated annual operations and maintenance costs, and such other costs included in a cost of service study for recycled water.

(b) The binding commitments may be achieved through the modification of existing implementation agreements with the land use jurisdictions or through other agreements including but not limited to recycled water supply agreements with customers. The Parties will make a good faith effort to obtain such commitments by November 30, 2016.

(c) FORA will support MCWD in obtaining or acquiring any remaining property, easements, or rights-of-way necessary for the implementation of the RUWAP Recycled Project by facilitating meetings and assisting in negotiations.

3.06 MCWD Obligations

(a) In accordance with Section 3.05(a) MCWD will cooperate and coordinate with FORA to obtain binding commitments from the land use jurisdictions.

(b) MCWD will apply FORA's financial contributions only toward the types of costs listed in subsections 3.02(c) and 3.03(b).

(c) MCWD shall provide FORA the right to inspect the RUWAP Recycled Project facilities while under construction upon the giving of three (3) days' advance notice to MCWD and the party administering the construction contract. Such inspections may take place at any time during the day or night; however, nighttime inspections will not take place without at least one (1) weeks' notice, except in case of emergency or by mutual consent of the Parties. FORA's right to inspect is for the purpose of processing reimbursement requests in accordance with Sections 3.01, 3.03 and 3.04 and for observation only and not for the purpose of supervision or direction of the work observed.

(d) MCWD shall provide monthly status updates to FORA staff on the progress of the project which will include current and cumulative information on the project plans, milestones, objectives, and budget, and support RUWAP invoicing.

- (e) MCWD shall submit requests for RUWAP reimbursement(s) monthly to:

Fort Ord Reuse Authority
Attn: Accounting Services
920 2nd Ave., Suite A
Marina, CA 93933

(f) Upon completion of AWT Phase 1 of the RUWAP Recycled Project, MCWD shall provide FORA a copy of a Notice of Completion filed with the County Recorder's office for the project.

3.07 MCWD Obligations Pertaining to Recycled Water Rates

(a) If MCWD negotiates a recycled water supply agreement with an individual public entity or with specific customers for use within the Ord Community, and such agreements specify a schedule of recycled water rates for multiple years, then such agreements shall be subject to approval by the FORA Board before they initially take effect, but shall not require further approval by the FORA Board during years covered by the specified schedule contained therein.

(b) If MCWD determines to generally provide recycled water to individual Ord Community customers, MCWD will provide to the FORA Board proposed recycled water rates for a five (5) successive year period based upon a cost of service study prepared by a qualified outside consultant. Upon approval of the proposed rates by the FORA Board, MCWD shall initiate a Proposition 218 process for those approved rates.

(c) Upon successful completion of the Proposition 218 process, FORA agrees that those rates shall be put into effect for the specified five (5) year period and will not be subject to annual review by FORA.

(d) In reviewing any recycled water rates, FORA acknowledges its obligation to comply with Section 7.1.2 of the 1998 Agreement.

4. INDEMNIFICATION. MCWD agrees to indemnify, defend and hold FORA harmless from and against any loss, cost, claim, or damages directly related to MCWD's actions or inactions under this Agreement. FORA agrees to indemnify, defend and hold MCWD harmless from and against any loss, cost, claim, or damage directly related to FORA's actions or inactions under this Agreement.

5. DISPUTE RESOLUTION. All disputes arising under this Agreement shall be resolved pursuant to the process set forth in Section 3.04(f) above.

6. GENERAL PROVISIONS

6.01 Governing Law. This Agreement shall be governed by and interpreted by and in accordance with the laws of the State of California.

6.02 Attorneys' Fees. If either Party commences an action against the other Party arising out of or in connection with this Agreement, the prevailing Party shall be entitled to have and recover from the losing Party reasonable attorneys' fees and costs.

6.03 Entire Agreement; Amendments. This Agreement, along with any exhibits and attachments hereto, constitutes the entire agreement between the Parties concerning the specific subject matter hereof. No amendment or modification shall be made to this Agreement, except in writing, approved by the respective Boards and duly signed by both Parties.

6.04 Contract Administrators

(a) MCWD hereby designates its General Manager as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of MCWD shall be under the direction of or shall be submitted to the General Manager or such other MCWD employee in MCWD as the General Manager may appoint. MCWD may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to FORA of any such change.

(b) FORA hereby designates its Executive Officer as its contract administrator for this Agreement. All matters concerning this Agreement which are within the responsibility of FORA shall be under the direction of or shall be submitted to the Executive Officer or such other FORA employee in FORA as the Executive Officer may appoint. FORA may, in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to MCWD of any such change.

6.05 Inurement. Each and all of the rights, benefits, duties, liabilities, and obligations of the Parties under this Agreement shall inure to the benefit of, and be binding upon, their respective successors. Without limiting the generality of the foregoing, any then unfulfilled duties, liabilities or obligations of MCWD under this Agreement shall survive the termination of FORA's existence (scheduled for June 30, 2020), whereupon they shall become enforceable by the land use jurisdictions within the Ord Community as intended third party beneficiaries.

6.06 Negotiated Agreement. This Agreement has been arrived at through negotiation between the Parties. Neither Party is to be deemed the Party which prepared this Agreement within the meaning of Civil Code Section 1654.

6.07 Time is of Essence. Time is of the essence of this Agreement.

6.08 Headings. The article and paragraph headings are for convenience only and shall not be used to limit or interpret the terms of this Agreement.

6.09 Notices. All notices and demands required under this Agreement shall be deemed given by one Party when delivered personally to the principal office of the other Party; when faxed to the other Party, to the fax number provided by the receiving Party; or five (5) days after

the document is placed in the US mail, certified mail and return receipt requested, addressed to the other Party as follows:

To FORA:

Executive Officer
FORA
920 2nd Ave., Suite A
Marina, CA 93933
Fax: (831) 883-3675

To MCWD:

General Manager
MCWD
11 Reservation Road
Marina, CA 93933
Fax: (831) 883-5995

6.10 Cooperation. Each of the Parties agrees to use reasonable and good faith efforts to take, or cause to be taken, all action to do, or cause to be done, and to assist and cooperate with the other Party in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement including signing, acknowledging, and delivering any instruments and documents as may be necessary, expedient, or proper, to carry out the intent and purpose of this Agreement. Each Party agrees to exercise good faith and fair dealing in the performance of its obligations under this Agreement.

6.11 Waiver. No waiver of any right or obligation of any of the Parties shall be effective unless in writing, specifying such waiver, executed by the Party against whom such waiver is sought to be enforced. A waiver by any of the parties of any of its rights under this Agreement on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

6.12 Written Authorization. For any action by any Party which requires written authorization from the other Party, the written authorization shall be signed by authorizing Party's General Manager/Executive Director, or the written designee.

6.13 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. Any provision of this Agreement held to be void or unenforceable under applicable law shall be deemed stricken and all remaining provisions of this Agreement shall continue to be valid and binding upon the Parties.

6.14 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same complete instrument. The signature page of each counterpart may be detached from such counterpart and attached to a single document which shall for all purposes be treated as an original. Faxed, photocopied or e-mailed signatures shall be deemed originals for all purposes.

IN WITNESS WHEREOF, the Parties have signed this Agreement effective on the date first above written.

FORA

MCWD

Dated: _____

Dated: _____

Board Chair, Board of Directors

President, Board of Directors

Approved as to form:

Dated: _____

Dated: _____

Counsel, FORA

Counsel, MCWD

DRAFT

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Consistency Determination: City of Marina Housing Element 2015-2023	
Meeting Date:	July 8, 2016	INFORMATION/ACTION
Agenda Number:	7e	

RECOMMENDATION(S):

- i. Conduct a public hearing regarding City of Marina Housing Element 2015-2023 (Housing Element) and its consistency with the Base Reuse Plan (noticed appropriately on June 28, 2016).
- ii. Consider approving Resolution 16-XX (**Attachment A**), certifying that the Housing Element is consistent with the Fort Ord Base Reuse Plan (BRP).

BACKGROUND:

The City of Marina (Marina) submitted the Housing Element for consistency determination on Friday, June 24, 2016. In addition, Marina included a link to the Housing Element itself and its Initial Study/Negative Declaration. The links are as follows:

- Marina Housing Element consistency determination submission;
http://fora.org/Board/2016/Packet/Additional/070816_Item7e_Marina-ConsistencyDetermination.pdf
- Marina Housing Element and Housing Element Initial Study/Negative Declaration;
<http://www.ci.marina.ca.us/documentcenter/view/5595>

This item is included on the Board agenda because the Housing Element is a component of the Marina General Plan, which is a Legislative Land Use Decision requiring Board certification. With its submittal, Marina requested a Legislative Land Use Decision review of the Housing Element in accordance with section 8.02.010 of the Fort Ord Reuse Authority (FORA) Master Resolution. Under state law, (as codified in FORA's Master Resolution) Legislative Land Use Decisions (plan level documents such as General Plans, Zoning Codes, General Plans, Redevelopment Plans, etc.) must be scheduled for FORA Board review for consideration of certification under strict timeframes.

The FORA Administrative Committee reviewed this item on June 29, 2016 and recommended FORA Board certification.

DISCUSSION:

Marina staff will be available to provide additional information to the FORA Board on July 8, 2016. In all consistency determinations, the following additional considerations are made.

Rationale for consistency determinations. FORA staff finds that there are several defensible rationales for making an affirmative consistency determination. Sometimes additional information is provided to buttress conclusions. In general, it is noted that the BRP is a framework for development, not a precise plan to be mirrored. However, there are thresholds set in the resource constrained BRP that may not be exceeded without other actions, most notably 6,160

new residential housing units and a finite water allocation. More particularly, the rationales for consistency analyzed are:

LEGISLATIVE LAND USE DECISION CONSISTENCY FROM SECTIONS 8.02.010 AND 8.02.020 OF THE FORA MASTER RESOLUTION

(a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land use decision for which there is substantial evidence support by the record, that:

(1) Provides a land use designation that allows more intense land uses than the uses permitted in the Reuse Plan for the affected territory;

The Housing Element would not establish a land use designation that is more intense than the uses permitted in the BRP since the Housing Element does not amend the General Plan land use map. A Housing Element must be updated every five to seven years by State law. This Housing Element's planning cycle is from 2015 to 2023. The Housing Element is one of the required elements of the Marina General Plan.

(2) Provides for a development more dense than the density of uses permitted in the Reuse Plan for the affected territory;

Certification of the Housing Element would not permit sites to be rezoned and would not permit an increase in density.

(3) Is not in substantial conformance with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution;

The Housing Element is in substantial conformance with applicable programs.

(4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority;

The Housing Element is compatible with open space, recreational, and habitat management areas.

(5) Does not require or otherwise provide for the financing and/or installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the legislative land use decision;

Marina development within the former Fort Ord that is affected by the Housing Element will pay its fair share of the basewide costs through the FORA Community Facilities District special tax and property taxes that will accrue to FORA, as well as land sales revenues.

(6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan;

The Fort Ord Habitat Management Plan (HMP) designates certain parcels for "Development," in order to allow economic recovery through development while promoting preservation, enhancement, and restoration of special status plant and animal species in designated habitats. The Housing Element only affects lands that are located within areas designated for "Development with Reserve Areas and Restrictions" and "Development with no Restrictions" under the HMP. Lands designated as "Development" have no management restrictions placed upon them as a result of the HMP. The Housing Element would not conflict with implementation of the Fort Ord HMP.

Additional Considerations

(7) Is not consistent with the Highway 1 Design Corridor Design Guidelines as such guidelines may be developed and approved by the Authority Board; and

The Housing Element would not modify Highway 1 Design Corridor Design Guidelines.

(8) Is not consistent with the jobs/housing balance requirements developed and approved by the Authority Board as provided in Section 8.02.020(t) of this Master Resolution.

The Housing Element addresses the maintenance of a variety of housing types and prices so that households of all income levels are able to have the opportunity to find suitable ownership or rental housing. This is consistent with the jobs/housing balance approved by the FORA Board.

(9) Is not consistent with FORA's prevailing wage policy, section 3.03.090 of the FORA Master Resolution.

The Housing Element does not modify prevailing wage requirements for future development entitlements within Marina's former Fort Ord jurisdiction.

FISCAL IMPACT:

Reviewed by FORA Controller 

This action is regulatory in nature and should have no direct fiscal, administrative, or operational impact. In addition to points already dealt with in this report, it is clarified that the developments expected to be engaged in reuse subject to the Housing Element are covered by the Community Facilities District or other agreement that ensure a fair share payment of appropriate future special taxes/fees to mitigate for impacts delineated in the 1997 BRP and accompanying Environmental Impact Report. Marina has agreed to provisions for payment of all required fees for future developments in the former Fort Ord under its jurisdiction.

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

COORDINATION:

Marina, Authority Counsel, Administrative and Executive Committees.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

RESOLUTION NO. 16-xx

Attachment A to Item 7e
FORA Board Meeting, 7/8/16

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY *Certifying the City of Marina Housing Element 2015-2023*

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

- A. On June 13, 1997, the Fort Ord Reuse Authority ("FORA") adopted the Final Base Reuse Plan under Government Code Section 67675, et seq.
- B. After FORA adopted the reuse plan, Government Code Section 67675, et seq. requires each county or city within the former Fort Ord to submit to FORA its general plan or amended general plan and zoning ordinances, and to submit project entitlements, and legislative land use decisions that satisfy the statutory requirements.
- C. By Resolution No. 98-1, the Authority Board of FORA adopted policies and procedures implementing the requirements in Government Code 67675, et seq.
- D. The City of Marina ("Marina") is a member of FORA. Marina has land use authority over land situated within the former Fort Ord and subject to FORA's jurisdiction.
- E. After a noticed public meeting on June 21, 2016, Marina adopted the General Plan Amendment for the City of Marina Housing Element ("Housing Element"), affecting lands on the former Fort Ord. Marina also found the Housing Element is consistent with the Fort Ord Base Reuse Plan, FORA's plans and policies and the FORA Act and considered the Fort Ord Base Reuse Plan Environmental Impact Report ("EIR") in their review and deliberations.
- F. On June 21, 2016, the Marina recommended that FORA certify the Housing Element as consistent with FORA's Final Base Reuse Plan, certified by the Board on June 13, 1997. Marina submitted to FORA its Housing Element together with the accompanying documentation.
- G. Consistent with the Implementation Agreements between FORA and Marina, on June 24, 2016, Marina provided FORA with a complete copy of the submittal for lands on the former Fort Ord, the resolutions and/or ordinance approving it, a staff report and materials relating to Marina's action, a reference to the environmental documentation and/or CEQA findings, and findings and evidence supporting its determination that the Housing Element is consistent with the Fort Ord Base Reuse Plan and the FORA Act (collectively, "Supporting Material"). Marina requested that FORA certify the Housing Element as being consistent with the Fort Ord Base Reuse Plan for those portions of Marina that lie within the jurisdiction of FORA.
- H. FORA's Executive Officer and the FORA Administrative Committee reviewed Marina's application for consistency evaluation. The Executive Officer submitted a report recommending that the FORA Board find that the Housing Element is consistent with the Fort Ord Base Reuse Plan. The Administrative Committee reviewed the Supporting Material, received additional information, and concurred with the Executive Officer's

recommendation. The Executive Officer set the matter for public hearing regarding consistency of the Housing Element before the FORA Board on July 8, 2016.

- I. Master Resolution, Chapter 8, Section 8.01.020(e) reads in part: "(e) In the event the Authority Board refuses to certify the legislative land use decision in whole or in part, the Authority Board's resolution making findings shall include suggested modifications which, if adopted and transmitted to the Authority Board by the affected land use agency, will allow the legislative land use decision to be certified. If such modifications are adopted by the affected land use agency as suggested, and the Executive Officer confirms such modifications have been made, the legislative land use decision shall be deemed certified..."
- J. FORA's review, evaluation, and determination of consistency is based on six criteria identified in section 8.02.010. Evaluation of these six criteria form a basis for the Board's decision to certify or to refuse to certify the legislative land use decision.
- K. The term "consistency" is defined in the General Plan Guidelines adopted by the State Office of Planning and Research as follows: "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." This includes compliance with required procedures such as section 8.02.010 of the FORA Master Resolution.
- L. Master Resolution, Chapter 8, Section 8.02.010(a)(1-6) reads: "(a) In the review, evaluation, and determination of consistency regarding legislative land use decisions, the Authority Board shall disapprove any legislative land use decision for which there is substantial evidence supported by the record, that (1) Provides a land use designation that allows more intense land uses than the uses permitted in the Reuse Plan for the affected territory; (2) Provides for a development more dense than the density of use permitted in the Reuse Plan for the affected territory; (3) Is not in substantial conformance with applicable programs specified in the Reuse Plan and Section 8.02.020 of this Master Resolution. (4) Provides uses which conflict or are incompatible with uses permitted or allowed in the Reuse Plan for the affected property or which conflict or are incompatible with open space, recreational, or habitat management areas within the jurisdiction of the Authority; (5) Does not require or otherwise provide for the financing and/or installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the legislative land use decision; and (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan."

NOW THEREFORE the Board hereby resolves that:

1. The FORA Board acknowledges Marina's recommendations and actions of June 21, 2016 requesting that the FORA Board certify that the Housing Element and the Reuse Plan are consistent.
2. The FORA Board has reviewed and considered the Initial Study/Negative Declaration and Marina's environmental documentation, and finds that these documents provide substantial additional information for purposes of FORA's determination that the Housing Element and the Reuse Plan are consistent.

3. The FORA Board has considered all the materials submitted with this application for a consistency determination, the recommendations of the Executive Officer and the Administrative Committee, and the oral and written testimony presented at the hearings, all of which are hereby incorporated by reference.
4. The FORA Board certifies that the Housing Element is consistent with the Base Reuse Plan. The FORA Board further finds that its legislative decision is based in part upon the substantial evidence submitted and a weighing of the Reuse Plan's emphasis on a resource constrained sustainable reuse that evidences a balance between jobs created and housing provided.
5. The Housing Element will, considering all its aspects, further the objectives and policies of the Reuse Plan. The Marina application is hereby determined to satisfy the requirements of Title 7.85 of the Government Code and the Reuse Plan.

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

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Frank O'Connell, Chair

ATTEST:

Michael A. Houlemard, Jr.
Clerk