



# FORT ORD REUSE AUTHORITY

## REGULAR MEETING

### FORT ORD REUSE AUTHORITY (FORA) ADMINISTRATIVE COMMITTEE

Wednesday, October 2, 2019 at 8:30 a.m.

920 2<sup>nd</sup> Avenue, Suite A, Marina, CA 93933 (FORA Conference Room)

## AGENDA

#### 1. CALL TO ORDER/ESTABLISHMENT OF QUORUM

#### 2. PLEDGE OF ALLEGIANCE

#### 3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

- OZ Forum

#### 4. PUBLIC COMMENT PERIOD

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

#### 5. APPROVAL OF MEETING MINUTES

**ACTION**

- September 9, 2019 Special Meeting Minutes
- September 18, 2019 Meeting Minutes

#### 6. OCTOBER 7, 2019 DRAFT SPECIAL BOARD MEETING AGENDA REVIEW OCTOBER 11, 2019 DRAFT BOARD MEETING AGENDA REVIEW

**INFORMATION**

#### 7. BUSINESS ITEMS

**INFORMATION/ACTION**

- Building Removal
  - Legal Documents
  - Monterey County Regional Fire District
  - Review Recommendation to Board
- 2018 Transition Plan Progress Report
- “Side-by-Side” CIP/Transition Plan Contrast/Comparison/Linkage
- Habitat Conversation Plan Schedule Update

#### 8. ITEMS FROM MEMBERS

**INFORMATION**

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

#### 9. ADJOURNMENT

**NEXT MEETING: Wednesday, October 16, 2019 at 8:30 a.m.**

Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at [www.fora.org](http://www.fora.org).



**FORT ORD REUSE AUTHORITY**  
**SPECIAL ADMINISTRATIVE COMMITTEE MEETING MINUTES**  
**12:00 p.m., Monday, September 9, 2019 | FORA Conference Room**  
920<sup>nd</sup> Avenue, Suite A, Marina, CA 93933

**1. CALL TO ORDER**

Chair Michael A. Houlemard, Jr. called the meeting to order at 12:13 p.m.

The following members were present:

Matt Mogensen\* (City of Marina)

Patrick Breen (MCWD)

Mike Zeller (TAMC)

Nicole Hollingsworth (17<sup>th</sup> State Senate District)

Anya Spear (CSUMB)

Melanie Beretti\* (County of Monterey)

Craig Malin\* (City of Seaside)

Yuri Anderson (County of Monterey, District 5)

Ray Pyle (CSUMB)

Larry Samuels (CSUMB)

\* Voting member

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mike Zeller of TAMC.

**3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

CSUMB Associate Director of Campus Planning Anya Spear introduced the Committee to Ray Pyle, the newly-appointed CSUMB Senior Director of Campus Planning.

**4. PUBLIC COMMENT PERIOD**

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

There were no public comments received.

**5. BUSINESS ITEMS**

**INFORMATION/ACTION**

a) Building Removal/Financing Preparatory Work

Executive Officer Houlemard introduced the item as a special Administrative Committee meeting called to discuss the building removal bond; Mr. Houlemard stated the Executive Committee encouraged all parties to stay on task with the building removal bond project.

Mr. Houlemard introduced FORA Senior Project Manager, Peter Said, who informed the Committee of two critical issues to secure the bond. The first, name a FORA successor entity. He noted that, while FORA currently holds a PLL policy which covers all projects within the former Fort Ord boundaries, the policy will discontinue upon FORA's sunset on June 30, 2024. In his presentation, Mr. Said provided a summary of the responsibilities of the bond account holder. While it is at the discretion the FORA board, staff recommended forming a JPA, in order to avoid future implementation risk to a successor.

Mr. Said advised the Committee on the second critical issue, bond fund allocation/distribution. He stated that since the exact fund amount will not be known until the bonds are sold, designating a single interim recipient (escrow account) may be the best option. Once total funds are realized, they could then be

distributed to the account owners according to the bond directions. There was further discussion on how the funds might be allocated to each jurisdiction including: whether funds should be allocated by a dollar amount or a jurisdictional percentage; or by a prioritization method. Each stakeholder may or may not be affected by how the funds are allocated. The Committee requested different methods of prioritization be presented at the next meeting on September 18, 2019 and that the methods prioritize public use/non-redevelopment areas, developable areas/CSUMB view shed associated and percentage/dollar amount. Staff addressed questions and comments from the Committee.

**6. ITEMS FROM MEMBERS**

There were no items from members.

**7. ADJOURNMENT** at: 1:45 p.m.

Minutes Prepared By:  
Amber Watson  
Administrative Assistant

DRAFT



**FORT ORD REUSE AUTHORITY**  
**ADMINISTRATIVE COMMITTEE MEETING MINUTES**  
**8:30 a.m., Wednesday September 18, 2019 | FORA Conference Room**  
920<sup>nd</sup> Avenue, Suite A, Marina, CA 93933

**1. CALL TO ORDER**

Co-Chair Michael A. Houlemard, Jr. called the meeting to order at 8:32 a.m.

The following were present:

Dino Pick* (City of Del Rey Oaks)	Jonathan Brinkmann (LAFCO)
David Sargenti (MCRFD)	Melanie Beretti* (County of Monterey)
Patrick Breen (MCWD)	Craig Malin* (City of Seaside)
Keith Van Der Maaten (MCWD)	Lisa Reinheimer (MST)
Hans Uslar* (City of Monterey)	Vicki Nakamura (MPC)
Debbie Hale (TAMC)	Layne Long* (City of Marina)
Nicole Hollingsworth (17 <sup>th</sup> State Senate District)	Michelle Overmeyer (MST)
Steve Matarazzo (UCSC)	Elizabeth Caraker (City of Monterey)
Ray Pyle (CSUMB)	Mike Zeller (TAMC)
Anya Spear (CSUMB)	*Voting member

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by TAMC Executive Director Debbie Hale.

**3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

- FORA Assistant Executive Officer Josh Metz announced that the Startup Investment Community and Capital Expo will take place on September 27, 2019 at Embassy Suites Monterey, which will include the graduation stage from the Startup Monterey Bay Challenge.
- Mr. Metz also announced that the Opportunity Zone Investment Forum will take place at the CSUMB City Center on October 14, 2019.
- CSUMB Associate Director of Campus Planning Anya Spear introduced newly-appointed CSUMB Senior Director of Campus Planning Ray Pyle.
- Kristie Reimer of Reimer Associates Consulting announced that the Association of Defense Committees will hold a Base Redevelopment Conference September 30 - October 1, 2019 in Monterey.

**4. PUBLIC COMMENT PERIOD**

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

No public comments were received.

**5. APPROVAL OF MEETING MINUTES****ACTION**

## a. September 4, 2019 Regular Meeting Minutes

**MOTION:** On motion by Committee member Malin, second by Committee member Beretti and carried by the following unanimous vote, the Administrative Committee moved to approve the September 4, 2019 regular meeting minutes.

**MOTION PASSED UNANIMOUSLY****6. SEPTEMBER 13, 2019 BOARD MEETING FOLLOW-UP**

## • 2018 Transition Plan: Implementing Agreements

Executive Officer Michael A. Houlemard, Jr. informed the Committee that staff provided a presentation to the Board regarding the progress of the various Transition Plan Implementing Agreements (“TPIA”). Mr. Houlemard stated that the Board expressed concern as to the advancement of the TPIAs, particularly with the Monterey County Water District (“MCWD”) and CSUMB. FORA consultants heard questions from the Board and will be providing updated TPIAs at the October 11, 2019 Board meeting. In addition, Mr. Houlemard confirmed that the Habitat Conservation Plan (“HCP”) will be out for publication next month and after a 45-day review period will be finalized.

*\*Committee member Uslar introduced his guests from the city of Dubrovnik, Croatia; Romana, Head of Protocol for the Mayor’s Office and Ivan, architect for the Dubrovnik City Planning Department. Mr. Uslar explained that the colleagues were interested in the blight removal process in the United States.*

**7. BUSINESS ITEMS****INFORMATION/ACTION**

Mr. Houlemard introduced the items, stating that the primary goal for the present meeting was to follow up on the September 13, 2019 Board meeting and the September 9, 2019 special Administrative Committee meeting, during which multiple building removal options were discussed. He informed the Committee there is opportunity for an increase of the bond amount, but in order to move forward there remain a series of questions that the Committee must answer. Committee member Beretti expressed the need for sufficient time in the proposed plan in order for public hearings and review. Steps that may be taken to minimize the financial impact on the Monterey County Regional Fire District (“MCRFD”) were also discussed at the Board meeting.

**a. Building Removal/Financing: Legal Documents**

## i. Review Issuance Documentation and Options

Senior Project Manager Peter Said reviewed the items discussed at the previous Board meeting. Mr. Said noted that there are four primary concerns staff heard from the Board: 1) address the MCRFD funding shortfall; 2) set the building removal priority for each agency; 3) clarify insurance requirements; 4) confirm the statutory pass through in writing. Mr. Said informed the Committee that FORA consultant NHA Advisors conducted a Request for Proposals to solicit for underwriters. Based on an estimated \$3.4 million tax increment, the underwriters’ estimates ranged between \$38 million and \$64 million. FORA staff reviewed and concurred with NHA Advisors’ recommendation of Stifel for Senior Manager and Citi for Co-Manager. The underwriters have been directed to develop a strategy to cover \$50 million (+/-) in building removal (100% of estimated building removal).

NHA Advisors Principal Consultant Mark Northcross explained that Stifel and Citi proposed a series of three bonds: 1) “normal series,” which is based on fiscal year (“FY”) 2020 revenues; 2)

“occupancy permit series,” based on occupancy permits issued in FY 2021; 3) “speculative/future growth series,” based on estimated growth by calendar years 2020 and 2021. The Committee discussed the material provided. Mr. Northcross heard questions and will return to the next Committee meeting to provide further information.

ii. Consider Recommendation to the Board Regarding Adoption of a Successor Entity and Bond Revenue Allocation Methodology

Mr. Said presented three different options for bond proceed distribution based on: 1) percentage of blight by jurisdiction; 2) percentage of tax increment generated by jurisdiction; 3) estimated building removal cost per jurisdiction. Mr. Said went on to explain the responsibilities of a successor entity. In the event of a construction deficit, the successor entity would be liable for those costs. However, if there is a construction surplus, these funds may be returned for redistribution. The Committee was presented with three methods by which the successor entity may use the surplus funds: 1) pay off the bond with surplus funds; 2) equally re-allocate surplus funds to other agencies and jurisdictions; 3) re-allocate funds to project(s) with largest deficits/over-runs. Mr. Said noted that in order to move forward the Committee must recommend a successor entity to the Board. The Successor Entity may be either the City of Marina, the City of Seaside, or the Cities of Marina and Seaside as a Joint Powers Authority. Mr. Said provided a list of Agency “Owner” responsibilities, as well as a map of the thirteen building removal project areas and the current Owner. He explained that each Owner is considered the waste generator of their site, and that insurance costs are linked to the weight of hazardous materials generated. The amount of risk to the Owner is determined by EPA Hazardous Waste Requirements and each Owner must provide its own insurance as mitigation. An updated building removal priorities list was presented and the next steps were discussed. Mr. Said concluded the presentation by requesting the Committee provide recommendations as to the method of bond funds allocation, method of surplus funds distribution and who will be named the successor entity.

**MOTION #1:** On motion by Committee member Uslar, second by Committee member Beretti and carried by the following vote, the Administrative Committee moved to recommend that the Board 1) name the City of Marina as the Successor Entity, pending review of contingency, 2) recommend bond proceed distribution option two, with named successor entity to re-allocate surplus funds to other jurisdictions; 3) FORA staff and consultants to address liability for past and future disposal; and 4) collective take home for the Administrative Committee to evaluate criteria, or principles of how project priority should be established to be brought back to the next regular Committee meeting.

**SUBMOTION #2:** On motion by Committee member Beretti, second by Committee member Malin and carried by the following vote, the Administrative Committee moved to recommend that the Board 1) name the City of Marina as the Success Entity, pending review of contingencies; 2) bond proceed distribution option three, Successor Entity re-allocates funds to projects with largest deficits/over-runs; and 3) FORA staff, consultants and bond counsel address liability for past and future disposal, along with continuing to look at the principles idea, to be brought back at the October 2, 2019 Committee meeting.

*\*The maker and seconder the original motion withdrew his motion to support submotion #2.*

**MOTION PASSED UNANIMOUSLY WITH 1 ABSTENTION**

*Committee member Layne Long Abstained*

**b. 2018 Transition Plan Transportation Study****i. Review Transportation Study Results**

Mr. Said provided a brief background of the 2018 Transition Plan and the required Transportation Study. The study included an analysis of the existing transportation network, resulting in five proposed network scenarios. He noted that these scenarios were created based on the assumption that the widening of Imjin Road to four lanes will be completed. The first three scenarios show different connector options and are based on a full buildout of the 2019/2020 Capital Improvement Plan ("CIP"). Scenarios four and five are based on a CIP buildout over 30 years; option four using no connector and option five with no improvements to Gigling Road. Kimley-Horn consultant Frederik Venter provided a summary of land use projections for the Fort Ord Base and the various jurisdictions. These projections are based on the 2019/2020 Jurisdiction Development Forecast through 2040 and the 2018 AMBAG Regional Transportation Demand Model, as well as coordination with TAMC. These projections do not include development in the Parker Flats area. The results of this study were applied to the five proposed scenarios and the Committee discussed the various effects each scenario would have on the transportation network.

**ii. Consider Network Completion Options**

The purpose of the Transportation Study is to inform the final year CIP, which consists of four components: 1) a list of projects that complete the roadway network; 2) an estimated value of each CIP project; 3) a designated responsible agency; 4) a closeout budget for the final year. FORA is responsible for several CIP projects and must decide whether to remove the CIP segments from the project list or to designate a successor entity to take over these responsibilities upon FORA dissolution. Mr. Said stated that the Board will be looking to the Committee to make a recommendation based on the Transportation Study information and analysis. The Committee and staff discussed the information presented.

**8. ITEMS FROM MEMBERS**

There were no items from members.

**9. ADJOURNMENT** at: 11:03 a.m.

Minutes Prepared By:  
Natalie Van Fleet  
Administrative Assistant



# FORT ORD REUSE AUTHORITY

## SPECIAL MEETING FORT ORD REUSE AUTHORITY BOARD OF DIRECTORS MEETING

### AGENDA

Monday, October 7, 2019 @ 3:00 P.M.  
Carpenters Union Hall  
910 2<sup>nd</sup> Avenue, Marina, CA 93933

*Administrative Committee members have been invited to be present at the Special meeting, and a quorum may be in attendance acting only as support to members of the Board.*

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **CLOSED SESSION**
  - a. Public Employment, Gov. Code 54959.7(b) – Assistant Executive Officer
4. **ANNOUCEMENT OF ACTION TAKEN IN CLOSED SESSION**
5. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**
6. **PUBLIC COMMENT PERIOD:** Members of the audience wishing to address the Board on matters within the jurisdiction of the Authority but not on the agenda may do so during the Public Comment Period. You may speak for a maximum of three minutes on any subject. Public comments on specific agenda items will be heard at the time the matter is being considered by the Board.
7. **BUSINESS ITEMS** **INFORMATION/ACTION**
  - a. Building Removal/Financing: Legal Documents
    - i. Review issuance documentation and options
    - ii. Consider adoption of a Successor Entity and bond proceed allocation methodology
8. **ADJOURNMENT**

**NEXT REGULAR MEETING: October 11, 2019 AT 2:00 P.M.**

*Persons seeking disability related accommodations should contact the Deputy Clerk at (831) 883-3672 48 hours prior to the meeting. Agenda materials are available on the FORA website at [www.fora.org](http://www.fora.org).*

**- START -**

**DRAFT  
BOARD PACKET**



# FORT ORD REUSE AUTHORITY

## REGULAR MEETING

### FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS

Friday, October 11, 2019 at 2:00 p.m. | 910 2<sup>nd</sup> Avenue, Marina, CA 93933 (Carpenters Union Hall)

## AGENDA

**ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON OCTOBER 10, 2019.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE *(If able, please stand)*
3. CLOSED SESSION
4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION
5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE
6. ROLL CALL

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

## 7. CONSENT AGENDA

## INFORMATION/ACTION

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

- a. Approve August 15, 2019 Special Meeting Minutes  
**Recommendation:** Approve August 9, 2019 meeting minutes.
- b. Approve September 13, 2019 Meeting Minutes  
**Recommendation:** Approve September 13, 2019 meeting minutes.
- c. Administrative Committee  
**Recommendation:** Receive a report from the Administrative Committee.
- d. Veterans Issues Advisory Committee  
**Recommendation:** Receive a report from the Veterans Issues Advisory Committee.
- e. Water/Wastewater Oversight Committee  
**Recommendation:** Receive a report from the Water/Wastewater Oversight Committee.
- f. Environmental Services Cooperative Agreement Quarterly Report  
**Recommendation:** Receive an Environmental Services Cooperative Agreement Quarterly (ESCA) Status Report.
- g. Public Correspondence to the Board  
**Recommendation:** Receive Public Correspondence to the Board.

## 8. BUSINESS ITEMS

## INFORMATION/ACTION

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

- a. Building Removal Bonds  
**Recommendation:** Approve bond issuance related resolutions, and authorize the Executive Officer to take additional actions to finance significant building removal.
  
- b. 2018 Transition Plan and Implementing Agreements Progress Report  
**Recommendation:**
  - i. Receive a Transition Plan Implementing Agreements Progress Report, and;
  - ii. Provide direction to staff regarding Draft Implementation Agreements.
  
- c. "Side-by-Side" CIP/Transition Plan Contrast/Comparison/Linkage  
**Recommendation:**

## 9. PUBLIC COMMENT PERIOD

## INFORMATION

*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 or as otherwise determined by the Chair and will not receive Board action. Whenever possible, written correspondence should be submitted to the Board in advance of the meeting, to provide adequate time for its consideration.*

## 10. ITEMS FROM MEMBERS

## INFORMATION

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

## 11. ADJOURNMENT

**NEXT REGULAR MEETING: November 11, 2019 AT 2:00 P.M.**

*Persons seeking disability related accommodations should contact FORA 48 hours prior to the meeting. This meeting is recorded by Access Monterey Peninsula and televised Sundays at 9 a.m. and 1 p.m. on Marina/Peninsula Channel 25. The video and meeting materials are available online at [www.fora.org](http://www.fora.org)*

# **Placeholder for Item 7a**

**Special Board Meeting Minutes Aug 15, 2019**

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**This item will be included in the final Board packet.**

# **Placeholder for Item 7b**

**Board Meeting Minutes Sept 13, 2019**

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**This item will be included in the final Board packet.**

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT AGENDA

**Subject:** Administrative Committee

**Meeting Date:** October 11, 2019

**Agenda Number:** 7c

**INFORMATION/ACTION**

### **RECOMMENDATION:**

Receive a report from the Administrative Committee.

### **BACKGROUND/DISCUSSION:**

The Administrative Committee held a meeting on September 4, 2019 and September 18, 2019. The approved minutes for these meetings are provided as **Attachment A, and B.**

### **FISCAL IMPACT:**

Reviewed by the FORA Controller \_\_\_\_\_

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

### **COORDINATION:**

Administrative Committee

Prepared by \_\_\_\_\_ Approved by \_\_\_\_\_  
Heidi L. Lizarbe Michael A. Houlemard, Jr.



APPROVED

**FORT ORD REUSE AUTHORITY**  
**ADMINISTRATIVE COMMITTEE MEETING MINUTES**  
**8:30 a.m., Wednesday September 4, 2019 | FORA Conference Room**  
920<sup>nd</sup> Avenue, Suite A, Marina, CA 93933

**1. CALL TO ORDER**

Co-Chair Dino Pick called the meeting to order at 8:32 a.m.

The following members were present:

Jonathan Brinkmann (LAFCO)	Dino Pick* (City of Del Rey Oaks)
Matt Mogensen (City of Marina)	Melanie Beretti* (County of Monterey)
Patrick Breen (MCWD)	Craig Malin* (City of Seaside)
Hans Uslar* (City of Monterey)	Vicki Nakamura (MPC)
Todd Muck (TAMC)	Matthew McCluney (MPC)
Nicole Hollingsworth (17 <sup>th</sup> State Senate District)	Layne Long* (City of Marina)
Steve Matarazo (UCSC)	Michelle Overmeyer (MST)
Anya Spear (CSUMB)	Elizabeth Caraker (City of Monterey)
Doug Yount (Shea Homes)	Gail Morton (City of Marina)

\*Voting member

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Seaside City Manager Craig Malin.

**3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

Executive Officer Michael Houlemard announced that SB 189 was withheld at the Assembly Appropriations Committee. He congratulated the cities of Seaside and Marina on successful opposition to the bill from a minority position.

**4. PUBLIC COMMENT PERIOD**

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

**5. APPROVAL OF MEETING MINUTES**

**ACTION**

a. August 15, 2019 Special Meeting Minutes

**MOTION:** On motion by Committee member Malin second by Committee member Uslar and carried by the following unanimous vote, the Administrative Committee moved to approve the August 15, 2019 special meeting minutes.

**MOTION PASSED UNANIMOUSLY**

**6. BUSINESS ITEMS****INFORMATION/ACTION**

*\*Chair Michael A. Houlemard, Jr. noted there have been a several question regarding recent events that occurred over the last week that would affect the Building Removal and Transportation Study items. In addition, there have been a few requests to have this on the Agenda sooner. Co-Chair Dino Pick asked if any members of the Committee had an objection to hearing Item 6c first. No objections were received.*

**c. 2018 Transition Plan: Implementing Agreements Progress Report**

Executive Officer Michael A. Houlemard, Jr. noted the extension of FORA that was proposed by Senator Monning, agreed to by members of the Senate and Assembly, was moved to suspense two weeks ago and left on suspense last Friday. This means the proposed extension through Senate Bill 189 will not move to the floor nor will it be signed by the Governor.

Regional Government Services (“RGS”) Consultant Kendall Flint participated via teleconference providing an update on the status of the Transition Implementing Agreements (“TPIA”) progress. Mrs. Flint will be updating the master TPIA to reflect the FORA dissolution date of June 30, 2020, and distributing them for review. The additional TPIA’s are being “fast-tracked”\* and Mrs. Flint plans to connect with the member agencies to discuss the financial impact of the transition, as well as any requirements of the Local Agency Formation Commission of Monterey County. Mrs. Flint and Senior Program Manager Stan Cook are continuing to work through the Environmental Services Cooperative Agreement (“ESCA”) Implementing agreement as it is not affected by SB 189.

Mr. Cook provided a presentation detailing the ESCA Implementation and Management Long Term Obligations Program. Mr. Cook reviewed the purpose of Land Use Control (“LUC”) explaining it is to maintain public safety by establishing digging/excavation ordinances, deed restrictions, and annual LUC remedy maintenance and monitoring. LUC non-compliance may result in jurisdictional liability and worker/community risk. Mr. Cook explained that LUC provides the following benefits for the jurisdictions; 1) enforces ongoing public safety; 2) fulfills the LUC requirements necessary for deeds, Cultural Resource Permits, and Records of Decision; 3) assists the jurisdictions in maintaining land value through a well-defined program; 4) provides an ongoing track record for regulators that may be used by land owners to support a request for removal of LUC restrictions in the future; 5) efficiently applies a limited financial contribution from the Army; 6) minimizes staff impact and staff costs. Mr. Cook outlined the steps to assigning a Successor-in-Interest and encouraged the Committee to discuss the frequency, attendees, and location of these meetings. Staff and Mr. Cook responded to questions and comments from the Committee and the public.

*\*Member Beretti stated for the record that in order to maintain the proposed TPIA timeline, the County of Monterey must begin preparing as early in Q1 as possible.*

**a. Building Removal/Financing Preparatory Work**

Senior Project Manager Peter Said introduced the item noting he is seeking a recommendation from the Committee as to the successor entity and project area prioritization. NHA Advisors Principal Mark Northcross provided a presentation outlining the key roles in the bond issuance process, how the bond cash flow will work, the basic legal documents for the bond issuance; 1) authorizing Resolution by the FORA Board; 2) indenture of Trust; and 3) official statement. Mr. Northcross explained that the official bond amount will not be known until the time of the bond sale. He requested that the jurisdictions reach a consensus on several items as to building removal project prioritization: allocation of net bond proceeds, surplus or shortfall in net proceeds, not allowing any amendments of final allocation of bond

proceeds, the successor entity, the financing schedule, and an agreement between FORA and the Monterey County Regional Fire District on mitigation of adverse financial impacts. Mr. Northcross reviewed the next steps and the suggested schedule. FORA Staff, Mr. Northcross, and Brian Forbath responded to questions and comments from the Committee and Public.

#### **b. 2018 Transition Plan: Transportation Study**

Mr. Said advised the Committee that the 2018 Transition Plan called for a transportation study showing the inclusion of the FORA lead agency on-site roads and comparing the inclusion of the on-site roads to the removal of the FORA lead agency roads on the remaining regional and on-site local roads to ascertain the impact on the Ord Community and the last year of the FORA Capital Improvement Program ("CIP"). Mr. Said noted for the Committee which roads FORA is the lead agency for, including South Boundary and Gigling Roads improvements and the NE/SW Connector. Mr. Said reviewed the five (5) proposed scenarios and the impact of each scenario. Mr. Said advised the Committee that the Kimley-Horn team updated the land use assumptions based on the 2019-20 jurisdictions development forecast through 2040, using the 2018 AMBAG Regional Transportation Demand Model, coordination with Transportation Agency of Monterey County, and does not include development in the Parker Flats area. 65 segments were analyzed and the areas that are considered deficient were highlighted. Scenario one through three show the network as functioning sufficiently in 2040, however Reservation Road from Davis Road to Watkins Gate will be deficient by 2040. Scenario four, without a connector, will impact several roads, and scenario five suggests two lanes for Gigling Road is sufficient for all scenarios and may be oversized at four lanes. Mr. Said advised the Committee that with the data being presented, a recommendation will need to be made to the Board. The Committee expressed the desire for additional time to review the study, and postpone a recommendation until the next scheduled Administrative Committee meeting on September 18, 2019. Staff responded to question and comments from the Committee and Public.

#### **7. SEPTEMBER 13, 2019 DRAFT BOARD MEETING AGENDA REVIEW**

- a. Consider rescheduling September 13, 2019 Board Meeting to accommodate action items.
- b. Consider setting a bond program/transition study Board Workshop

Mr. Houlemard advised the Committee the items that are on the agenda for the September 13, 2019 Board meeting are information only. It had originally been anticipated that it would be an information/action agenda, providing the required information had been received from the consultants to bring forward for Board review and action.

**MOTION:** On motion by Committee member Beretti second by Committee member Malin and carried by the following vote, the Administrative Committee moved to make a recommendation to the Executive Committee to postpone the September 13, 2019 meeting and hold a Special Meeting/ Workshop prior to the next regularly scheduled October 11, 2019 Board meeting.

#### **8. ITEMS FROM MEMBERS**

There were no items from members.

#### **9. ADJOURNMENT** at: 10:42 a.m.

Minutes Prepared By:  
Heidi Lizarbe  
Deputy Clerk

# **Attachment b to Item 7c**

**Administrative Committee Meeting Minutes Sept 18, 2019**

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**This item will be included in the final Board packet.**

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT AGENDA</b>	
<b>Subject:</b>	Veterans Issues Advisory Committee
<b>Meeting Date:</b>	October 11, 2019
<b>Agenda Number:</b>	7d
	<b>INFORMATION/ACTION</b>

**RECOMMENDATION:**

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

**BACKGROUND/DISCUSSION:**

The VIAC met on September 26, 2019 and approved the August 22, 2019 minutes. The approved minutes for this meeting is provided as **Attachment A**.

**FISCAL IMPACT:**

Reviewed by FORA Controller \_\_\_\_\_

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

**COORDINATION:**

VIAC

Prepared by \_\_\_\_\_  
Natalie Van Fleet

Approved by \_\_\_\_\_  
Michael A. Houlemard, Jr.

# **Placeholder for Item 7e**

**Water/Wastewater Oversight Committee Report**

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**This item will be included in the final Board packet.**

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT AGENDA

<b>Subject:</b>	Environmental Services Cooperative Agreement Quarterly Report	
<b>Meeting Date:</b>	October 11, 2019	<b>INFORMATION/ACTION</b>
<b>Agenda Number:</b>	7f	

### **RECOMMENDATION:**

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

### **BACKGROUND:**

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

To complete the ESCA and AOC obligations, FORA entered into a Remediation Services Agreement (RSA) in 2007 by competitively selecting LFR Inc. (now Arcadis) to provide MEC remediation services. Arcadis remediation services are executed under a cost-cap insurance policy through American International Group (AIG) assuring financial resources to complete the work and offer other protections for FORA and the jurisdictions. Arcadis ESCA contracting team included Westcliffe Engineers and Weston Solutions to provide Engineering, MEC Remediation and Public/Regulatory Outreach services.

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

Of the \$98 million that FORA ESCA RP received, FORA paid \$82.1 million upfront, to secure an AIG "cost-cap" insurance policy. AIG controlled the \$82.1 million in a "commutation" account and paid Arcadis directly as work was performed. AIG provided up to \$128 million assuring additional work (known and unknown) is completed to the Regulators satisfaction (see table below). Under those agreements, AIG paid Arcadis directly while FORA oversaw Arcadis compliance with the ESCA and AOC requirements. On January 25, 2017, Arcadis notified FORA that the ESCA commutation account was exhausted and that future Arcadis work would be paid under the terms of the AIG "cost-cap" insurance policy until March 30, 2019. Arcadis continues to provide FORA with quarterly AIG cost-cap insurance invoicing estimates provided in the ESCA Quarterly Board Report under an ESCA amendment (2019) mentioned later in this report.

**Post-ESCA Amendment ESCA Fund Status as of September 2019:**

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

The ESCA properties have received Records of Decision (RODs) documenting the cleanup and controls required to protect public health and safety and Land Use Control Implementation Plan/Operation and Maintenance Plans (LUCIP/OMP) implementing, operating and maintaining ROD controls tailored to individual site conditions and historic MEC use. The Final ESCA LUCIP/OMP documents were accepted by the Army and Regulators in February 2019. The future property owner staff (California State University Monterey Bay, City of Del Rey Oaks, Monterey County, City of Monterey and Monterey Peninsula College) have received LUCIP/OMP site-specific training workshops. The ESCA properties received the last EPA Remedial Action Completion letter February 2019. Currently the EPA is outlining the requirements for a site-wide ESCA remedial completion and associated site-wide EPA Remedial Action Completion documents. ESCA property cannot be transferred to the jurisdictions and remain closed for public access until DTSC Covenants Restricting Use of Property amendments, Army deed modifications

and issuance of the Army CERCLA Warrantees are completed. In September 2019, FORA requested the Army deed modifications and issuance of the Army CERCLA Warrantee for the ESCA CSUMB Off-Campus property.

Please note that Regulatory approval of remedial completion does not determine land use. 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.

**ESCA Amendments Update:**

ESCA Amendment 2017: ESCA Remedial Action Completion has initiated Army Long-Term Obligations (LTO) on ESCA property (see table above, Line Item 0004, Post-Closure MEC Find Assessments and Line Item 0005, Long-Term/LUC Management). Under the ESCA, FORA contracted for \$4,234,443 to take on the Army LTO until 2028. FORA (and its Successor) will need continued qualified ESCA LTO support services through 2028. The contracting firms of Arcadis, Weston Solutions, Inc. and Westcliffe Engineers, Inc. have provided ESCA-specific Engineering, MEC Remediation and Public/Regulatory Outreach services for over a decade and are uniquely knowledgeable/qualified to provide FORA with ESCA property LTO support services. May 2019 the FORA Board adopted Resolution 19-05 authorizing the FORA Executive Officer to retain the current ESCA team of Arcadis, Westcliffe Engineers and Weston Solutions to assist FORA by providing LTO support services at a cost not to exceed \$1,328,741. In June, FORA received and accepted proposals from Arcadis, Weston Solutions, Inc., Westcliffe Engineers, Inc., resulting in three (3) ESCA LTO Support Service contracts until 2028.

ESCA Amendments 2019: In 2018, Army BRAC Headquarters (HQ) in Washington D.C. changed their document review and approval process resulting in extended Army review of ESCA documents, driving ESCA work/costs beyond the March 30, 2019 AIG cost-cap insurance termination date. On August 2018, the FORA Board authorized the FORA Executive Officer and FORA Special Counsel, with FORA Executive Committee direction, to enter into Army negotiations for additional funds covering ESCA costs beyond the AIG cost-cap insurance policy expiration date. FORA staff met with Army BRAC HQ staff in Washington, D.C in December 2018. On February 20, 2019, Army BRAC HQ and U.S. Army Corps of Engineers contract support team visited/inspected the ESCA properties to finalize the Scope of Work and Estimate, which the Army accepted. On March 31, 2019, FORA received ESCA Agreement Modification 00010 with \$343,455 of Army funds covering ESCA costs beyond the AIG cost-cap insurance policy expiration date. In May 2019, the FORA Board authorized the Executive Officer to enter into an agreement with Arcadis to continue providing ESCA services using the Army Contingent Funds. In June 2019 that contract was executed.

In August 2019, FORA, as directed by the Army requested a two-month extension of the ESCA funding for an additional \$40,362 in Army Contingent Funds to cover Arcadis and FORA accounting costs to September 30, 2019. The Army accepted the request and issued ESCA Agreement Modification 00011 to fund the request.

In September 2019, FORA, as directed by the Army, will request a three-month ESCA extension and Arcadis and FORA accounting costs to December 31, 2019.

**FISCAL IMPACT:**

Reviewed by FORA Controller \_\_\_\_\_

The actual cost to FORA of these Army obligations will be fully reimbursed.

**COORDINATION:**

Administrative Committee; Executive Committee; Authority Counsel; Special Counsel, Arcadis; Westcliffe Engineering, Weston Solutions, U.S. Army EPA; and DTSC.

DRAFT

Prepared by \_\_\_\_\_ Approved by \_\_\_\_\_  
Stan Cook Michael A. Houlemard, Jr.

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT AGENDA</b>	
<b>Subject:</b>	Public Correspondence to the Board
<b>Meeting Date:</b>	October 11,2019
<b>Agenda Number:</b>	7g
	<b>INFORMATION/ACTION</b>

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](mailto:board@fora.org) or mailed to the address below:

FORA Board of Directors  
 920 2<sup>nd</sup> Avenue, Suite A  
 Marina, CA 93933

DRAFT

# **Placeholder for Item 8a**

**Building Removal Bonds**

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**This item will be included in the final Board packet.**

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEM

**Subject:** 2018 Transition Plan Implementing Agreements Progress Report

**Meeting Date:** October 11, 2019

**Agenda Number:** 8b

**INFORMATION**

### **RECOMMENDATION:**

- i. Receive a Fort Ord Reuse Authority (“FORA”) Transition Plan Implementing Agreements Progress Report.
- ii. Provide direction to staff regarding Draft Implementation Agreements.

### **BACKGROUND:**

At the March 22, 2019 Board meeting and prior Board meetings the FORA Board requested that staff and consultants provide periodic updates regarding the status of the 2018 Transition Plan Implementation.

### **TRANSITION PLANNING PROGRESS REPORT:**

Since the August 9, 2019 Board meeting report, FORA transition plan implementation consultants Regional Government Services (“RGS”) continue meeting with various stakeholders and compiling background information to support drafting Transition Plan Implementation Agreements (“TPIA”). The RGS workplan involves drafting the following set of TPIA for consideration by the Board:

1. **Multi-agency TPIA:** addressing issues relevant to each FORA land use jurisdiction (Del Rey Oaks, Marina, Monterey, Monterey County, Seaside) as well as:
  - a. Transferring FORA’s regional transportation obligations and offsite transportation reimbursement agreements to the Transportation Agency for Monterey County (“TAMC”) and the holdover jurisdictions;
  - b. Economic Development Conveyance (“EDC”) Successor (property transfers);
  - c. Local Reuse Authority (“LRA”) Successor; and
  - d. Provisions to continue regional housing solutions cooperation.
2. **Water TPIA:** addressing transfer of certain FORA water supply/allocation rights (as may be noted in EDC agreement above) and obligations to Marina Coast Water District (“MCWD”).
3. **Environmental Services Cooperative Agreement (‘ESCA’) TPIA:** regarding post-FORA successor and obligations under this contract with the US Army.

RGS consultants met with the Administrative Committee on March 20, April 3, June 5, June 19, July 3, July 31, August 14, September 4, 2019 to provide updates on TPIA progress (**Attachment A**).

A draft Multi-Agency Implementing Agreement was reviewed by the Administrative Committee June 19 and July 3, 2019, and was shared for review by the Board and public prior to the July 12 meeting. An updated DRAFT Multi-Agency Implementing Agreement, incorporating new language reflecting the firm June 30, 2020 sunset date was circulated at the September 13, 2019 Board meeting (**Attachment B**). RGS incorporated Board and Administrative Committee comments.

RGS consultants produced a DRAFT ESCA TPIA for Administrative Committee review at the July 31, 2019 meeting. Following receipt of stakeholder feedback, FORA-ESCA staff prepared a revised DRAFT ESCA TPIA and provided to RGS consultants.

In addition to the RGS consultant workplan, Staff is advancing the following transition related items:

- a) Habitat Conservation Plan Joint Powers Authority formation;
- b) Local Agency Formation Commission of Monterey County-FORA Liability Agreement;
- c) Final FY 19/20 Capital Improvement Program;
- d) Environmental Protection Agency (“EPA”)/Department of Toxic Substances Control (“DTSC”) /Army – FORA ESCA successor acceptance process; and
- e) Public Employee Retirement System obligations and FORA projected staffing.

**FISCAL IMPACT:**

Reviewed by FORA Controller \_\_\_\_\_

Funding for staff time and RGS Consultants included in the approved FORA budget.

**COORDINATION:**

Executive Officer.

**ATTACHMENTS:**

Attachment A: TPIA Status Chart

Attachment B: DRAFT Multi-Agency TPIA

Prepared by \_\_\_\_\_ Approved by \_\_\_\_\_

Josh Metz

Michael A. Houlemard, Jr.

Transition Document	By	Parties	Status	Draft to Board	Draft to FORA Legal Counsel	Revised Draft	Final Draft	Signed
Implementing Agreements	RGS	Del Rey Oaks Marina Monterey Monterey County Seaside	Adjusted based on June 30, 2020 dissolution.	9/13/19	9/13/19	11/8/19	12/13/19	<input type="checkbox"/> Del Rey Oaks <input type="checkbox"/> Marina <input type="checkbox"/> Monterey <input type="checkbox"/> Monterey County <input type="checkbox"/> Seaside
MCWD Water Agreements	MCWD	Del Rey Oaks Marina Seaside Monterey Monterey County UC Santa Cruz Monterey Peninsula College	Drafts have been submitted and reviewed by Admin Committee in April and May. MCWD is finalizing with agencies.			11/8/19	12/13/19	<input type="checkbox"/> Del Rey Oaks <input type="checkbox"/> Marina <input type="checkbox"/> Seaside <input type="checkbox"/> Monterey <input type="checkbox"/> Monterey County <input type="checkbox"/> UC Santa Cruz <input type="checkbox"/> Monterey <input type="checkbox"/> Peninsula College
ESCA	RGS FORA Seaside	Del Rey Oaks Marina Seaside Monterey Monterey County UC Santa Cruz Monterey Peninsula College	Draft prepared and submitted, document pending final review by Army, DTSC and EPA	12/13/19			1/10/20	<input type="checkbox"/> Del Rey Oaks <input type="checkbox"/> Marina <input type="checkbox"/> Seaside <input type="checkbox"/> Monterey <input type="checkbox"/> Monterey County <input type="checkbox"/> UC Santa Cruz <input type="checkbox"/> Monterey <input type="checkbox"/> Peninsula College
EDC Successor	RGS		Addressed in Implementing Agreements.	9/13/19	9/13/19	11/8/19	12/13/19	
LRA Successor	RGS		Addressed in Implementing Agreements.	9/13/19	9/13/19	11/8/19	12/13/19	
FORA-UCSC Agreement Concerning Funding of Habitat	RGS	FORA UCSC						<input type="checkbox"/>

Management Related Expenses on the Fort Ord Natural Reserve								
Del Rey Oaks-FORA-Developer Endangered Species MOA	RGS	FORA Del Rey Oaks			10/1/19	11/1/19		<input type="checkbox"/>
FORA-UCSC FONR-Extension of Funding	RGS	FORA UCSC			10/1/19	11/1/19		<input type="checkbox"/>
County-FORA-Developer Endangered Species MOA	RGS	FORA County			10/1/19	11/1/19		<input type="checkbox"/>
County-FORA-EG Partners LLC Funding Obligations	RGS	FORA County EG Partners			10/1/19	11/1/19		<input type="checkbox"/>
County, MPC, FORA Public Safety Officer Training Facilities Agreement	RGS	FORA County MPC			10/1/19	11/1/19		<input type="checkbox"/>
Writ of Mandate	RGS				10/1/19	11/1/19		<input type="checkbox"/>
Stipulation to Discharge Peremptory Writ of Mandate (CSUMB)	RGS	FORA CSUMB			10/1/19	11/1/19		<input type="checkbox"/>
FORA-Seaside-County-VCF Cemetery Land Sale Agreement 2012	RGS	FORA Seaside County Veterans			10/1/19	11/1/19		<input type="checkbox"/>
Water/Wastewater Facilities Agreement	RGS	FORA MCWD			10/1/19	11/1/19		<input type="checkbox"/>
HCP JPA (Cooperative)	Member Agencies	Del Rey Oaks Marina Seaside Monterey Monterey County UC Santa Cruz	Draft JPA Agreement prepared by FORA.				4/1/20	<input type="checkbox"/> Del Rey Oaks <input type="checkbox"/> Marina <input type="checkbox"/> Seaside <input type="checkbox"/> Monterey <input type="checkbox"/> Monterey County <input type="checkbox"/> UC Santa Cruz

		Monterey Peninsula College Veterans Cemetery County of Monterey California State Parks Monterey Peninsula Regional Park District Marina Coast Water District Bureau of Land Management (BLM)						<input type="checkbox"/> Monterey Peninsula College <input type="checkbox"/> Veterans Cemetery <input type="checkbox"/> County of Monterey <input type="checkbox"/> California State Parks <input type="checkbox"/> Monterey Peninsula Regional Park District <input type="checkbox"/> Marina Coast Water District <input type="checkbox"/> Bureau of Land Management (BLM)
LAFCO Liability and Risk	FORA LAFCO							
South Boundary Road Project	FORA							
Gen Jim Completion	FORA							

## IMPLEMENTING AGREEMENT

THIS IMPLEMENTING AGREEMENT (hereinafter "Agreement") is made as of **Month Day, 2019** between the Fort Ord Reuse Authority (hereinafter "FORA") and the following:

- the City of Del Rey Oaks,
- the City of Marina,
- the City of Monterey,
- the City of Seaside, and
- the County of Monterey (hereinafter collectively "Jurisdictions").

### RECITALS:

- A. FORA is a regional agency established under Government Code Section 67650 to plan, facilitate, and manage the transfer of former Fort Ord property from the United States Army (hereinafter "Army") to the governing local jurisdictions or their designee(s).
- B. FORA acquired portions of the former Fort Ord from the Army, under an Economic Development Conveyance Memorandum of Agreement (hereinafter "EDC Agreement") between FORA and the Army and dated June 20, 2000. FORA has delivered to the Jurisdictions a complete copy of the EDC Agreement, as executed in June 2000 and including attachments and subsequent amendments.
- C. FORA, as a regional agency, adopted a Base Reuse Plan in June 1997, which identified (1) environmental actions required to mitigate development and redevelopment of the former Fort Ord (hereinafter "Basewide Mitigation Measures"), and (2) infrastructure and related costs necessary to accommodate development and redevelopment of the former Fort Ord (hereinafter "Basewide Costs").
- D. FORA is obligated by the California Environmental Quality Act, the Base Reuse Plan and the Authority Act (as defined in Section 1 below) to implement the Basewide Mitigation Measures and incur the Basewide Costs.
- E. FORA will cease operations on June 30, 2020.

WITH REFERENCE TO THE FACTS RECITED ABOVE, the Parties agree as follows:

### Section 1 Definitions

The following capitalized and underscored terms have the following meanings when used in this agreement:

- a. Agreement means this Implementing Agreement.
- b. Army means the United States Army.

- c. Authority Act means, collectively, SB 899 and AB 1600 adopted in 1994, as codified at (i) Government Code Title 7.85, Chapters 1 through 7, commencing with Section 67650, and (ii) selected provisions of the California Redevelopment Law, including Health and Safety Code Sections 33492 et seq. and 33492.70 et seq.
- d. Base Closure Act means Section 2905(b)(4) of the Base Closure Act, as amended by Section 2821 of the Defense Authorization Act for Fiscal Year 2000, No-Cost EDC Legislation - Public Law 106-65.
- e. Base Reuse Plan means the Fort Ord Base Reuse Plan and its accompanying environmental impact report adopted as certified by the FORA Board in June 1997 to guide the reuse of the former Fort Ord, all as amended from time to time.
- f. Basewide Costs means the estimated costs identified in the Base Reuse Plan for the following: FORA Reuse Operations, Net Jurisdictional Fiscal Shortfalls, Caretaker Costs, and Demolition. The Basewide Costs are more particularly described in the Fort Ord Comprehensive Business Plan and the Findings attached to the Base Reuse Plan.
- g. Basewide Mitigation Measures means the mitigation measures identified in the Base Reuse Plan. Basewide Mitigation Measures include: base wide transportation costs (local and regional); habitat management capital and operating costs; water line and storm drainage costs; public capital costs; augmenting the water supply; and fire protection costs. The Basewide Mitigation Measures are more particularly described in the Fort Ord Comprehensive Business Plan, described in Section 1 (f), the Development and Resource Management Plan, and the Findings attached to the Base Reuse Plan.
- h. Interim Use means the Jurisdiction's use of transferred property prior to the Jurisdiction's establishment of a permanent use.
- i. Jurisdiction-Owned Jurisdiction Property means all of the Jurisdiction Property that the Jurisdiction acquires through FORA.
- j. Jurisdiction Property means the portions of the former Fort Ord located within the jurisdictional limits of the Jurisdiction.
- k. Sale or Lease Proceeds means the consideration received by the Jurisdiction or FORA for purposes of Sections 4d and 4e when leasing or selling a portion of the Jurisdiction-Owned Jurisdiction Property, minus any Direct Leasing Expenses and/or Direct Sale Expenses.

## Section 2      Compliance with Water/Waste Water Allocations

The Jurisdictions agree to honor the FORA potable and recycled water allocations under the Base Reuse Plan as set forth in FORA resolution 07-01 for potable water and FORA resolution 07-10 for

recycled water as follows (collectively “Allocations”), subject to compliance with all applicable laws including, but not limited to, CEQA and the Sustainable Groundwater Management Act (hereinafter the SGMA) and to work with Marina Coast Water District to establish parameters for future allocations.

### Section 3. Capital Improvements: Local Roads

The Jurisdiction(s) will receive no funding from FORA post July 1, 2020 for local road improvement projects that may be required as mitigation for development by local projects. Should improvements be required due to local mitigation impacts, this would be from the agency’s own resources, grants, or from developers contracting with the agency.

These include:

- Abrams Dr. (2nd Ave to Crescent Court, Marina)
- 8th St. (2nd Ave to Inter-Garrison Rd, Marina)
- Salinas Ave. (Abrams Drive to Reservation Rd, Marina)
- General Jim Moore Blvd. Intersection at South Boundary Rd. (Del Rey Oaks)
- South Boundary Rd. Upgrade (Del Rey Oaks/Monterey)
- NE-SW Connector (County), Eucalyptus Rd. (County), Intergarrison Road (County), Gigling Road (County)
- Gigling Road (Seaside)

### Section 4 Capital Improvements: Regional Roads

Effective July 1, 2020, the Transportation Agency of Monterey County (TAMC) will be responsible for the collection of Regional Development Impact Fees for the FORA Zone (Zone 5). TAMC’s Regional Development Impact Fee collection and funding of its Regional Transportation Projects will satisfy FORA Basewide Mitigation Measures for off-site and Regional Roadway and Transit Improvements. TAMC will utilize a nexus-based fee program.

For developments within the FORA boundary that are entitled but not required to pay Community Facilities District (hereinafter “CFD”) fees after the dissolution of FORA, the Jurisdiction with permitting authority over such development will either assess the Regional Development Impact Fee or collect a comparable impact fee equal to the Regional Development Impact Fee amount and remit that amount to the Transportation Agency for Monterey County as mitigation for impacts to regional roads.

### Section 5 Habitat Conservation Plan Implementation

The Jurisdiction(s) will receive no funding from FORA post July 1, 2020 for Basewide Mitigation Measures or Basewide Costs.

It was estimated in the 2018 Transition Plan that by June 30, 2020 FORA will hold approximately \$21,000,000 in CFD funds dedicated to habitat conservation. All such funds accumulated before FORA's dissolution shall be transferred in the following order of priority:

- 1) If before FORA's dissolution a Habitat Conservation Plan Cooperative joint powers authority (the "HCP Cooperative") has been established, all of the habitat conservation funds held by FORA immediately prior to FORA's dissolution shall be transferred in their entirety to the HCP Cooperative for use in connection with the base-wide Habitat Conservation Plan for Fort Ord being administered by the HCP Cooperative.
- 2) If no HCP Cooperative is then in existence, but a joint powers authority has been formed for the management of Habitat Management Areas within the former Fort Ord, then a portion of the habitat conservation funds held by FORA immediately prior to FORA's dissolution shall be transferred to the joint powers authority for use in connection with the management of Habitat Management Areas within the former Fort Ord and the remainder in a program for incidental take permits for future development.
- 3) If no HCP Cooperative or other joint powers authority for the regional management of Habitat Management Areas within the former Fort Ord is in existence prior to April 1, 2020, then FORA shall prepare a program to distribute funds as between long term management of the habitat management areas (HMA) on the one hand and incidental take permits for future development.

#### Section 6 Munitions and Explosives of Concern (hereinafter "MEC")

The Jurisdictions shall cooperate fully with the Army's investigation, characterization, and remediation of potential MEC impediments to allow the reuse of the Jurisdiction Property as contemplated by the Base Reuse Plan. This will specifically include recognizing the Army's designated Agency effective July 1, 2020 and entering into a separate agreement establishing those requirements.

#### Section 7 Records Retention and Management

All FORA records including personnel files, documents, and meeting records will be transferred to the County of Monterey for retention and management.

#### Section 8 Land Transfer Reporting Requirements

At least annually, commencing with the year in which the FORA transfers a particular parcel of Fort Ord Property to a Jurisdiction and ending on the seventh (7<sup>th</sup>) anniversary of such transfer, the Jurisdiction shall submit to the County, serving as the Economic Development Corporation Successor and Local Reuse Authority Successor, a written report of the Jurisdiction's uses of all Sale or Lease Proceeds received by the Jurisdiction in connection with such parcel of Jurisdiction-Owned Jurisdiction Property and not shared previously with FORA. The Jurisdiction shall have forty-five (45) days from the anniversary of each transfer to prepare and submit its report to the County who will submit to the Army as the designated reporting agency.

Section 9

Dissolution of the Authority

No later than April 30, 2020, FORA shall negotiate for and secure one or more successor agencies to implement all terms, conditions, and obligations of the transition plan. If no agreement is reached for one or more successor agencies prior to its dissolution, FORA plan shall designate a single successor agency from among FORA's members that shall implement all terms, conditions, and obligations of the transition plan.

The Monterey County Local Agency Formation Commission (LAFCO) shall oversee the orderly dissolution of FORA pursuant to the transition plan. LAFCO shall ensure that the successor agency or agencies carry out the terms, conditions, and obligations of the transition plan, and that all contracts, agreements, and pledges to pay or repay money entered into by FORA are honored and properly administered, and that all assets of FORA are appropriately transferred. The dissolution of FORA, and the discharge of its responsibilities pursuant to this section, shall not cause LAFCO to succeed to any obligation, financial or otherwise, of FORA, its members, or any other entity.

Upon dissolution of FORA, all remaining CFD revenues and other fund balances shall be transferred to the County of Monterey. The County of Monterey shall disburse those community facilities district revenues and other fund balances to each underlying land use jurisdiction on a pro rata basis, based on the source of the revenue or another equitable method that the County of Monterey determines is reasonable.

If FORA has any remaining outstanding and properly established debt at the time of its dissolution, property tax revenues shall continue to be paid to the County of Monterey in accordance with subparagraph (D) of paragraph (1) of subdivision (c) of Section 33492.71 of the Health and Safety Code in an amount necessary to pay the principal and interest or other amounts on that debt. Upon the dissolution of FORA or the retirement of debt as provided in this subdivision, whichever occurs later, any remaining property tax revenues shall be transferred to the auditor-controller of the County of Monterey for appropriate distribution.

If the County of Monterey succeeds to any financial obligation of FORA as a result of the disbursement of remaining revenues or the retirement of debt, that obligation shall not constitute a debt or liability of the county, or any other member agency, but shall be payable solely from the remaining revenues provided for purposes of that obligation in the transition plan.

The County of Monterey may, before disbursing revenues as provided in this section, deduct an amount equal to the reasonable cost of administering this section out of the remaining revenues of FORA to be disbursed. The County of Monterey shall, before disbursing revenues as provided in this section, confer with LAFCO to determine if additional funds are required to permit LAFCO to carry out its responsibilities pursuant to this section, and, if such additional funds are reasonably determined to be required, shall deduct such amount out of the remaining revenues of FORA to be disbursed, and transmit such amount to LAFCO. Any amounts remaining following the full discharge of LAFCO's duties shall be returned to the County for disbursement as provided in this section.

Section 10

Severability

If any term of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, then the remaining terms shall continue in full force unless the rights and obligations of the Parties have been materially altered by such holding of invalidity.

## Section 11 Dispute Resolution

Dispute resolution procedure. If any dispute arises between the Parties under this Agreement, the Parties shall resolve the dispute in accordance with this Section 11.

Duty to meet and confer. The Parties shall first meet and confer in good faith and attempt to resolve the matter between themselves. Each Party shall make all reasonable efforts to provide to the other Party all the information in its possession that is relevant to the dispute, so that both Parties have the information needed to reach agreement. If these negotiations fail to produce agreement after fifteen (15) days from the initial demand, either Party may demand mediation.

Mediation. If meeting and conferring do not resolve the dispute, then the matter shall be submitted for formal mediation to the Mediation Center of Monterey County, the American Arbitration Association, the Judicial Arbitration and Mediation Services, or such other mediation service as the parties may mutually agree upon. Either Party may terminate the mediation if it fails to produce agreement within forty-five (45) days from selection of the mediator. The expenses of such mediation shall be shared equally between the Parties.

Arbitration. If the dispute has not been resolved by mediation, and if both Parties wish to pursue arbitration, then the dispute shall be submitted to arbitration. The decision of the arbitrator or arbitrators shall be binding, unless within thirty (30) days after issuance of the arbitrator's written decision, either Party files an action in court.

- (i) Any potential arbitrator must affirmatively disclose all of his or her potential conflicts of interest, and a description of the nature of his or her past and current law practice (if applicable), before the Parties select the arbitrator. A Party may disqualify any potential arbitrator whom the Party subjectively perceives to have a conflict or bias. Any potential arbitrator must be a qualified professional with expertise in the area that is the subject of the dispute, unless the Parties otherwise agree.
- (ii) The Parties shall jointly select a single arbitrator.
- (ii) Before commencement of the arbitration, the Parties may elect to have the arbitration proceed on an informal basis; however, if the Parties are unable so to agree, then the arbitration shall be conducted in accordance with Code of Civil Procedure Sections 1280 and following, and to the extent that procedural issues are not there resolved, in accordance with the rules of the American Arbitration Association. Notwithstanding the foregoing, the requirements of Section 17 (d)(iv) shall apply.

- (iii) The arbitrator must issue a written decision setting forth the legal basis of the decision, making findings of all relevant facts and stating how the law was applied to the found facts, and the decision must be consistent with and apply the law of the State of California.

Attorney's Fees and Costs. Should the dispute of the Parties not be resolved by negotiation or mediation, and in the event it should become necessary for either Party to enforce any of the terms and conditions of this Agreement by means of arbitration, court action or administrative enforcement, the prevailing Party, in addition to any other remedy at law or in equity available to such Party, shall be awarded all reasonable cost and reasonable attorney's fees in connection therewith, including the fees and costs of experts reasonably consulted by the attorneys for the prevailing Party.

Judicial Resolution. If the dispute is not or cannot be resolved by mediation, and if there is not agreement between the Parties to pursue arbitration, then either Party may commence an action in the Superior Court of Monterey County. The prevailing Party, in addition to any other remedy at law or in equity available to such Party, shall be awarded all reasonable costs and reasonable attorney's fees, including the fees and costs of experts reasonably consulted by the attorneys for the prevailing Party.

Prevailing Party. For purposes of Sections 17(e) and (f), "prevailing Party" shall include a Party that dismisses an action for recovery hereunder in exchange for payment of the sum allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action or proceeding.

Section 12                    Entire Agreement

This Agreement contains the entire agreement of the Parties with respect to Jurisdiction Property. No other statement or representation by any employee, officer, or agent of either Party, which is not contained in this Agreement, shall be binding or valid.

Section 13                    Multiple Originals: Counterparts

This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 14                    Modifications

This Agreement shall not be modified except by written instrument executed by and between the Jurisdictions.

Section 16                    Interpretation

This Agreement has been negotiated by and between the representatives of all Jurisdictions, all being knowledgeable in the subject matter of this Agreement, and each Party had the opportunity to have the Agreement reviewed and drafted by their respective legal counsel. Accordingly, any rule of law (including Civil Code Section. 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived. The

provisions of this Agreement shall be interpreted in a reasonable manner to effectuate the purpose of the Parties and this Agreement.

Section 16                    Relationship of the Parties

Nothing in this Agreement shall create a joint venture, partnership or principal-agent relationship between the Parties unless specifically provided herein.

Section 17                    Waiver

No waiver of any right or obligation of any Jurisdictions hereto 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 either Party 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.

Section 18                    Further Assurances

The Parties shall make, execute, and deliver such other documents, and shall undertake such other and further acts, as may be reasonably necessary to carry out the intent of this Agreement.

Section 29                    Days

As used in this Agreement, the term "days" means calendar days unless otherwise specified.

AS OF THE DATE FIRST WRITTEN ABOVE, the Parties evidence their agreement to the terms of this Agreement by signing below.

Signatories:

FORA

City of Del Rey Oaks

City of Marina

City of Monterey

County of Monterey

TAMC

# **Placeholder for Item 8c**

**"Side-by-Side" CIP/Transition Plan Contrast/Comparison/  
Linkage**

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**This item will be included in the final Board packet.**

**- END -**

**DRAFT  
BOARD PACKET**