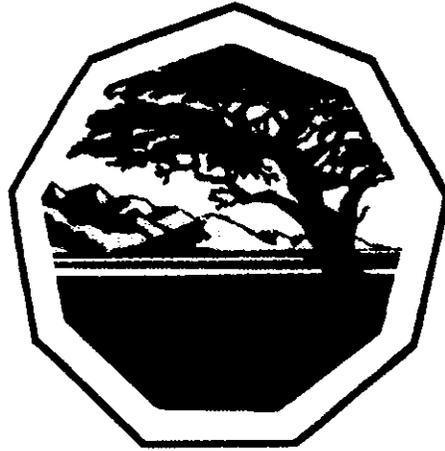


Fort Ord
Reuse Authority



Board Packet
For
Board Meeting
April 11, 2008



Fort Ord Reuse Authority

100 12th Street, Building 2880, Marina, CA 93933

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BOARD OF DIRECTORS MEETING

Friday, April 11, 2008, at **3:00 pm**

FORA Conference Facility/Bridge Center

201 13th Street, Building 2925, Marina (on the former Fort Ord)

AGENDA

1. CALL TO ORDER AND ROLL CALL AT 3:00 PM
2. PLEDGE OF ALLEGIANCE
3. ACKNOWLEDGEMENTS
4. LEGISLATIVE SESSION PRESENTATIONS PRESENTATIONS
 - Congressman Sam Farr (17th Congressional District)
 - Senator Jeff Denham (12th State Senate District)
 - Senator Abel Maldonado (15th State Senate District)
 - Assembly Member John Laird (27th State Assembly District)
 - Assembly Member Anna Caballero (28th State Assembly District)
5. 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.
6. CONSENT AGENDA ACTION
 - a. February 8, 2008 board meeting minutes
 - b. FORA/Carpenters' Site Grading Reimbursement Agreement
 - c. Environmental Services Cooperative Agreement
Contract Change Order #3
7. OLD BUSINESS INFORMATION
 - a. Habitat Conservation Plan approval process INFORMATION
 - b. Environmental Services Cooperative Agreement - update INFORMATION
 - c. Water Augmentation Program – Regional Plenary
Oversight Group (REPOG) proposal endorsement ACTION

- | | | |
|-----|---|---------------------|
| 8. | NEW BUSINESS | |
| | a. Requests for interim use of water resources | ACTION/ INFORMATION |
| | b. Confirmation of the Chair's appointment to the Legislative Committee | ACTION |
| 9. | EXECUTIVE OFFICER'S REPORT | |
| | a. Administrative Committee report | INFORMATION |
| | b. Executive Officer's travel report | INFORMATION |
| | c. Distribution of FORA Master Resolution (updated February 8, 2008) | INFORMATION |
| | d. Environmental Services Cooperative Agreement - Quality Assurance Oversight Professional contract | INFORMATION |
| | e. 2008 State Legislative Mission to Sacramento (March 27-28) | INFORMATION |
| 10. | ANNOUNCEMENTS AND CORRESPONDENCE | |
| 11. | ADJOURNMENT | |

FORT ORD REUSE AUTHORITY BOARD REPORT

LEGISLATIVE SESSION PRESENTATIONS

Subject:	Legislative Session Presentations	
Meeting Date:	April 11, 2008	PRESENTATIONS
Agenda Number:	4	

RECOMMENDATION:

Receive legislative reports from Congressman Sam Farr, Senator Abel Maldonado, Senator Jeff Denham, Assembly Member John Laird, and Assembly Member Anna Caballero.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority ("FORA") Board of Directors has annually calendared a Legislative Session at one of their spring meetings. The April board meeting was designated this year. These special presentations by federal and state legislators provide the Board with a firsthand opportunity to hear each legislator's agenda as it applies to the FORA mission. Often the legislators offer their observations about the budgetary issues and the political climate in their respective legislative bodies. This event is also an opportunity for board members to ask questions. With the downturn in the national economy this year, there will be keen interest in these presentations.

Letters of invitation were sent to the five federal and state legislative representatives, whose districts include the former Fort Ord. As of the writing of this report, all five electeds, or their representatives, have indicated their intention to participate in FORA's 2008 Legislative Session. We are privileged to be hearing reports from the following: Congressman Sam Farr, Senator Abel Maldonado, Senator Jeff Denham, Assembly Member John Laird, and Assembly Member Anna Caballero.

FISCAL IMPACT:

None

COORDINATION:

Executive and Legislative Committees; staff members from the offices of Congressman Sam Farr, Senators Abel Maldonado and Jeff Denham, and Assembly Members John Laird and Anna Caballero.

Prepared by

Charlotte Ellsworth
Linda L. Stiehl
Linda L. Stiehl

Approved by

Michael A. Houlemard, Jr.
Michael A. Houlemard, Jr.

COMMITTEES
CHAIR, BUDGET
JUDICIARY
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NATURAL RESOURCES

Assembly
California Legislature

JOHN LAIRD
ASSEMBLYMEMBER, TWENTY-SEVENTH DISTRICT



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2008 Laird Legislation – Summaries at Introduction

AB 2174/Eosinophilic Disorder: Eosinophilic disorders and short bowel syndrome affect all age groups, especially children, and can lead to severe food allergies that require the use of a feeding tube and very expensive formulas. This bill would require public and private health plans and insurance policies to provide coverage for the use of amino acid-based elemental formulas, regardless of delivery method, for the diagnosis and treatment of eosinophilic disorders and short bowel syndrome. Prescribing physicians would be required to issue a written order stating that the use of the formula is medically necessary. The goal of this bill is to enable patients with these debilitating conditions access to life-saving formulas.

AB 2175/Water Conservation: Climate change, growing population, local and regional water shortages, and the need to protect California's fish and wildlife make it imperative that the State manage its water resources as efficiently as possible. Increased implementation of urban and agricultural water conservation is estimated to significantly reduce water demands in future years. AB 2175 would set a statewide water conservation target of 3 million acre-feet by 2030, and require urban and agricultural water districts to identify and implement locally cost-effective water conservation measures. AB 2175 seeks to ensure that California manages its water resources as efficiently as possible, thereby reducing energy use and greenhouse gas emissions, protecting aquatic ecosystems, and stretching state and local water supplies.

AB 2270/Water Recycling: Water recycling is a key component of water management and water supply reliability in California. Recycled water provides additional water supplies that are a cost effective and reliable method of helping to meet California's water needs. Existing law establishes a statewide recycling goal of 700,000 acre-feet of water by 2000 and 1,000,000 acre-feet of water by 2010. In 2005, based upon information in the California Water Plan, the State is 20 years behind in reaching its recycling goals. AB 2270 would promote recycled water use by setting and then tracking progress of recycled water targets, and removing barriers and providing incentives for recycled water use.

AB 2300/Medi-Cal Gateway to School Meals: Most children participating in the Medi-Cal program are eligible for free or reduced price school meals, yet some are not enrolled. Many others are enrolled, but have had to fill out substantial paperwork at school to prove that they qualify for a free or reduced price meal, despite having already provided extensive information to the Medi-Cal program. AB 2300 would create a certification system, known as "automatic eligibility," for children enrolled in Medi-Cal but not in the school meal program, thereby increasing participation of eligible children in the school meal program. The bill would address the paperwork process by allowing the State to utilize Medi-Cal data to verify eligibility of families in the school meals program. AB 1385 (Laird, Chapter 361, Statutes of 2005) created a

similar school meal program certification system for children in the CalWORKs or food stamps programs.

AB 2432/Climate Change Planning: The Public Interest Energy Research (PIER) Program, housed within the California Energy Commission, was created to research and develop environmentally sound, safe, reliable, and affordable energy services. As part of this mandate PIER conducts and reviews climate change research, including how to adapt to climate change impacts on the environment. Climate change is expected to have a wide range of impacts on California's natural resources and ecosystems. In order to prepare for these challenges, state resource agencies must have better information about the risks to vulnerable systems and how adaptation can lessen any adverse impacts. AB 2432 would require PIER to work with the Resources Agency and other state land use and resource protection agencies and provide the best available climate change information to assist in planning and adaptation on the California coast.

AB 2440/Medi-Cal Drug Reimbursement: Every year, there are significant delays by the state in updating procedure and diagnostic codes associated with reimbursements to providers for drugs utilized through the Medi-Cal program. Often, providers cannot afford to offer these drugs to their patients without prompt reimbursement. This is often the case for oncologists whose patients benefit from costly cancer drugs that must be administered in a timely manner. AB 2440 requires the state to update these codes within 60 days of the updates published nationally, and if the state fails to do so, the state shall utilize the national updates and allow providers to utilize miscellaneous billing codes.

AB 2455/State Resource Land Acquisitions: Reports in 2004 from the California Performance Review and in 2007 by the Legislative Analyst's Office reviewed the state agency acquisition and appraisal process for natural resource lands and raised concerns regarding inefficient administrative procedures and unnecessary delays, as well as concerns about independent review of land appraisals. AB 2455 sets appraisal standards for acquisition of state conservation lands in order to ensure the efficient and effective use of state bond dollars to achieve public benefits, as well as encourage public confidence in the process.

AB 2466/Renewable Energy/Aggregate Net Metering: This bill authorizes cities and counties to produce renewable energy on one facility/site they own and designate a benefiting account for another facility owned by the same local agency, to receive a bill credit based on electricity generation. Any credit remaining at the end of the billing year shall be reset to zero.

AB 2472/DeLaveaga Park Land Exchange: In 1899, the Legislature authorized a National Guard "camp of instruction" in Santa Cruz and authorized the State to accept donations of land. The City of Santa Cruz and Santa Cruz County donated a portion of the DeLaveaga property to the State for the military's "camp of instruction." In 1967, when the City was adding a golf course to the property, the State and City signed a Lease Exchange Agreement that proposed a transfer of land, which allowed the City to place several holes of the course on state-owned land. Forty years have passed without the Lease Exchange-prescribed transfer occurring. AB 2472 would preserve the ongoing use of the site for military purposes, provide direction for future uses of the land, and facilitate the immediate transfer of recreational land to the City.

AB 2532/Marine Life Management Act—Interim Actions: California’s current “race for fish” (in which fishers catch as much fish as possible, as fast as possible) results in an unprofitable and depleted fishery—which hurts both the fishers and the fishery. Existing law requires the development of Fishery Management Plans (FMPs) to promote sustainable fisheries. Currently the development of FMPs is significantly delayed due to lack of resources and lack of scientific information on which to base changes in fishery management. AB 2532 would authorize additional actions by the Department of Fish and Game to enable the department to move forward with sustainable fishery management by increasing assistance and participation by fishery groups and authorizing interim action plans.

AB 2595/Public Records Protection and Recovery: Existing law provides that it is a crime to steal, destroy or alter public records. However, existing law does not address what happens when a public record is no longer in public custody, because it has found its way into private hands or the marketplace. An example would be historic documents from prison registers that have been located via private online auctions. AB 2595 would establish a procedure by which the Secretary of State, on behalf of the California State Archives, could recover official governmental records that are found in possession of non-governmental entities or persons. Recovery of public documents is important to ensuring open government and preserving government accountability.

AB 2654/Civil Rights Act of 2008: Under current law, there are hundreds of provisions that prohibit discrimination against individuals who are members of specified categories that are known as “protected classes.” The list of protected classes has varied from statute to statute. The variances in anti-discrimination provisions throughout state law have created deficiencies in protection for Californians, in addition to creating confusion for those charged with implementing and complying with these laws. Four previous bills authored by Assemblymember Laird and signed into law by the Governor updated and made consistent 108 of these outdated provisions. AB 2654 covers 13 additional provisions, which apply to health insurance and government programs. The bill would make these nondiscrimination provisions consistent with the provisions in the Unruh Civil Rights Act and Government Code Section 11135, which are the most comprehensive.

AB 2678 (Núñez-Laird)/Time-of-Sale Energy Audits: This bill would require the California Energy Commission, by July 2010, to develop requirements for energy audits of residential and commercial buildings at the time of sale. In setting such requirements, the Commission would be required to consider the ability to require mandatory energy efficiency efforts, the cost of establishing these requirements, the availability of financing for energy efficiency improvements, and the expected value of such requirements. The Commission must also consult with specified groups and hold public hearings prior to adoption of any requirements.

AB 2763/Invasive Pest Planning Act of 2008: This bill would enact the Invasive Pest Planning Act of 2008 as a means to appropriately plan for harmful, non-native invasive animals, plants and insects that could arrive in California. The bill would require the Department of Food and Agriculture (CDFA) to develop a list of harmful invasive insects, plants and animals that could arrive in California. For those on the list, CDFA would develop a written assessment of how to respond, including if the response calls for the use of pesticides, and a discussion of health and

environmental impacts. The department would also be required to seek input from state and local health officials, and hold public hearings.

AB 2844/Food Stamp & CalWORKS Red Tape Reduction: The United States Department of Agriculture estimates that two million Californians (68% of whom are children) are eligible for food stamps, but are not receiving them. AB 2844 would increase access to food by directing the state to move from a 3-month reporting system to a 6-month reporting system for food stamps and CalWORKS. Since over 84% of CalWORKS recipients receive food stamps, continuing to align the reporting systems makes sense for recipients and government. Additionally, taking this action would align programs, reduce administrative errors and remove millions of pages of paperwork from the food stamp process in California.

AB 2921/Williamson Act Improvements: This bill would revise provisions of the Williamson Act, which allows a landowner to pay lower property taxes in exchange for retaining the land in agriculture use or as open space. The bill would (1) specify that the State can collect a portion of certain payments to terminate a contract, (2) allow landowners transferring their contracts to new lands to include protections for habitat or waterways on the new lands, and (3) clarifies that it is the issuance of a “building” permit that is used to determine whether a contract is in material breach, rather than other permits.

AB 2930/Natural Heritage Preservation Tax Credit Extension: This bill would extend the Natural Heritage Preservation Tax Credit, which provides tax credits to landowners who gift environmental property to the state. The bill would also allow cities and counties to use the tax credit mechanism for the purchase of open space or recreational lands, provided the State’s General Fund is reimbursed.

AB 2945/Wilderness Land Designations: This bill would allow state agencies that own designated state wilderness lands to use the same “minimal approach” to management as the federal government has in its very successful federal wilderness program.

AB 2990/Underground Petroleum Storage Tanks: This bill will be amended to provide state grants to owners of single-walled underground petroleum tanks as a means to encourage the replacement of these tanks with modern double-walled tanks, in order to minimize leakage of petroleum products to groundwater.

AB 3033 (Núñez-Laird)/UC-State Contracts: This bill requests the University of California and the State Department of General Services to develop a standard-format state-university research contract in order to save costs and time.

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Assembly California Legislature

JOHN LAIRD

ASSEMBLYMEMBER, TWENTY SEVENTH DISTRICT

COMMITTEES
Chair, BUDGET
JUDICIARY
LABOR & EMPLOYMENT
NATURAL RESOURCES

March 25, 2008

Members of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: DRAFT ORDER TO CAL-AM REGARDING THE CARMEL RIVER

Dear Members of the Board:

I am writing to respectfully request that the Board defer acting on the draft order regarding the Carmel River and Cal-Am Water until at least after the Public Utilities Commission (PUC) issues its draft Environmental Impact Report (EIR) later this year and the PUC's Division of Ratepayer Advocates completes its work on its "seawater intrusion barrier/no once-through-cooling" alternative. I also request that the Board, prior to taking any action, collaborate with the other state entities (including the Coastal Commission, the Department of Fish and Game, and the Air Resources Board) which have significant interests in the various solutions, in order to assist the PUC and the community find a cost-effective and environmentally appropriate solution.

This issue is especially complicated because the legislature put the responsibility for the process of developing a water source in the hands of the PUC, which is considering the next steps in developing a solution. Yet this order would punish the local Monterey Peninsula community for the slow speed at which the PUC has moved to conceive and design a new project—during a period of time when state priorities with regard to water development are changing. What follows outlines why I believe these two requests are necessary and appropriate.

Background

In 1995, the Board determined that Cal-Am was diverting more water from the Carmel River than Cal-Am was permitted under its water rights, with resulting adverse impacts on river flows, habitat and fisheries. The Board then ordered Cal-Am to determine how to end diversions in excess of its rights.

Cal-Am originally proposed a dam, which was subsequently rejected by the voters. In 1998, the Legislature designated the PUC to identify an alternative to the dam. The PUC

ultimately recommended a large desalination plant at Moss Landing, utilizing the “once-through” cooling conduits of the Moss Landing Powerplant. Desalinated water would be conveyed approximately 20 miles to the Monterey Peninsula.

Cal-Am was directed to prepare a preliminary environmental assessment for the desalination operation, which was provided to the PUC in 2005. Since that time the PUC has been working on the draft EIR, and they have indicated it will be released later this year.

A desalination plant at Moss Landing will require approval of the Coastal Commission, which in recent years has indicated that it may no longer support “once-through” cooling. The State Water Resources Control Board also appears to be considering moving toward a policy of ending “once-through” cooling. These positions, taken together with the PUC’s project-level suggestion, indicate a policy conflict among state agencies with regard to this issue.

Through the passage of AB 32, the state has set a goal of reducing greenhouse emissions, with the ARB directed to develop a state plan. A Moss Landing desalination plant and the facilities to pump the water to Monterey will consume large amounts of energy and produce very significant amounts of greenhouse gases. As a result, the PUC proposal is somewhat in conflict with the direction given to the ARB with regard to AB 32.

And with regard to ocean health, the state has provided protections for the Monterey Bay Sanctuary with the purpose of protecting the fishery and other resources of the bay. This task has been given to the Department of Fish and Game and the Ocean Conservancy. Clearly, these state entities have an interest in whatever solution is selected.

Alternative Plans

Seeking an alternative plan, the PUC’s Office of Ratepayer Advocates entered into a contract with UC Santa Cruz to evaluate other options. After a conceptual plan was developed, Cal-Am, Monterey County Water Resource Agency, and the Marina Coast Water District agreed to help fund studies.

Initial indications show that the UCSC-developed plan would be less costly, would not use “once-through” cooling, would use less energy, and would reduce seawater intrusion into Salinas Valley groundwater. Under this three-part plan, (1) tertiary-treated sewage from Monterey (currently discharged to the ocean) would be used to indirectly recharge groundwater in the Salinas Valley, thereby reducing seawater intrusion; (2) groundwater that is partially contaminated with ocean water would be supplied to a desalination plant that would deliver fresh water to Monterey; and (3) the brine (approximately the salinity of seawater) would be discharged to the Monterey Bay via the conveyance currently used to discharge unneeded tertiary-treated water into the bay.

While this plan is still under study, it potentially could provide a better resolution of the various state and local interests than would the existing Moss Landing project.

Additionally, the Monterey Peninsula Water Management District has voted to reopen its EIR to consider a "slant-well" desalination plan. This plan would have the advantage of reduced cost because fewer miles of pipeline would be required and because the use of wells would avoid most of the entrainment concerns with "once-through" cooling.

Lastly, the staff of the Monterey Regional Pollution Control has suggested two other alternative ways to use tertiary-treated sewage, and those are also being evaluated.

Moving forward

If the State Water Resources Control Board proceeds with hearings on the draft order, Cal-Am and the local community—already well-known statewide as leaders in water conservation—may respond by working hard to resist the order because the schedule calls for larger and larger water reductions. It would be better if they could fully focus on the alternatives that will soon be presented to them. In addition, it would be ideal if the various state agencies collaborated and coordinated their expertise to assist the community in selecting the least costly, most environmentally appropriate alternative.

It is difficult to understand why it has been almost 13 years without action since the original Board order. And yet, the draft order effectively proposes to punish residents and businesses in the Monterey Peninsula area (rather than Cal-Am, due to the way PUC rules are structured with regard to profit and Cal-Am's financial investment in the Monterey area) by cutting back on water diversions and thus water deliveries.

At this time, there should be two top priorities. First, the various studies and EIRs being undertaken by the PUC should get completed. In order to allow the community to fully focus on the solutions that will be presented, it would be helpful if the Board could defer consideration of its draft order.

Second, before the Board issues an order, it would be appropriate for the Board to fully coordinate with the other state boards and departments in order to help the community find the least costly and most environmental beneficial solution—one which will meet local and state interests, including restoration of the Carmel River.

We need an innovative solution that restores flows in the Carmel River and effectively considers the many objectives and needs of the local community and the state.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "John Laird". The signature is written in a cursive, flowing style.

JOHN LAIRD, Assemblymember
27th District

MALDONADO 2008 BILL PACKAGE

MALDONADO 2008 BILL PACKAGE

1. **SB 1162** prohibits the sale and/or possession of Lexan plastic knuckles and knuckles made from other materials. Current law prohibits the sale of plastic knuckles, but not the possession. These knuckles are bulletproof and inflict just as much damage as traditional metal knuckles. Possession and or sale of these knuckles will be punishable by imprisonment in a county jail not exceeding one year, or in the state prison.
2. **SB 1163** require that, for crimes committed on or after January 1, 2009, the sentencing court shall order that any person required to register pursuant to Section 290 (as a sex offender) not operate a motor vehicle unless it is displaying a license plate or a sticker, as specified, that indicates that the driver is a registered sex offender. Failure to comply with this provision would be a misdemeanor. Regulations passed under Jessica's Law and other pieces of legislation prohibit registered sex offenders from being near schools and parks. This bill will ensure that law enforcement officials can immediately recognize when an offender is in violation of the law. Moreover, cars are sex offenders' primary tool to lure children.
3. **SB 1209** would authorize a person, registered or licensed as a security guard in another state with substantially equivalent requirements and employed by a private patrol operator in another state to perform certain functions in this state during an emergency declaration. During the recent fires in southern California, the state was not able to meet the demand for qualified security guards. Even though help was offered from other states, the state didn't have the authority to allow out of state guards to perform certain functions in California. This bill clarifies that during emergency declarations, the Bureau of Security and Investigative Services in the Department of Consumer Affairs can authorize security guards from other states with substantially equivalent requirements to work in California.
4. **SB 1228** extends existing law requiring parental supervision from age 14 to age 16. It also requires riders to provide a safety certificate to law enforcement personnel on demand. Riders are certified through an ATV Rider Course taught by a California licensed instructor. The bill would impose specified size restrictions on all-terrain vehicles operated by persons under 16 years of age.
5. **SB 1229** would provide for the issuance of special license plates approved by the Dept. of Motor Vehicles for a disabled veteran.

- ✓ 6. **SB 1230** would, commencing January 1, 2010, prohibit the use, sale, manufacture, or distribution for sale of any cleaning agent, as defined, if that product contains more than 0% phosphorus by weight, except as specified. The bill would provide for the State Department of Health Care Services to authorize by regulation the use of a cleaning agent that contains phosphorus of an amount exceeding 0% upon finding that compliance with these provisions would create a significant hardship on the user or would otherwise be unreasonable because there is no adequate substitute for that cleaning agent.

7. **SB 1277** would require, on or before June 30, 2009, the State Department of Public Health to prepare and make available to the public a health study on the use of crumb rubber within synthetic turf.

- ✓ 8. **SB 1278** would establish the Green Neighborhood Grant Act, to be administered by the State Energy Resources Conservation and Development Commission. Under the act, up to 3 grants would be awarded annually to private developers for development projects that have been certified by the Building Industry Institute as complying with the California Green Builder Program. Each grant would reimburse the developer for up to 1.5% of the total development cost of a certified development project. No more than one grant would be awarded annually to a developer for a development project located in city with a population of greater than 1,000,000. Money for the grants would be paid from the General Fund, upon an appropriation by the Legislature.

9. **SB 1279** would assist the Department of Insurance in its endeavor to remove barriers to becoming a paperless state department. This bill will resolve the need for the Department to collect and maintain records with original signatures, allowing electronic documents and signatures to be accepted.

10. **SB 1280** would revise the composition of the Seed Advisory Board to consist of 7 registered labelers, 2 persons who receive or possess seed for sale in this state, and 2 members of the public. It would also clarify that every labeler of agricultural or vegetable seed to annually register with the secretary for authorization to sell agricultural or vegetable seed.

- ✓ 11. **SB 1463** would provide for the establishment of a tax-exempt charitable trust to receive corporate donations to be used for purposes of state parks. The governing board of the trust would consist of 7 members appointed by the Governor and Legislature. The trust would not be considered a state or governmental agency. In addition to other deductions in computing income subject to taxes under existing law, this bill would allow a deduction for 200% of any charitable contributions made to the trust.
12. **SB 1464** would rename the Resource Agency the Natural Resources Agency, would revise the provision identifying the entities within the agency to reflect its current composition, and would make related changes.
13. **SB 1587** –bill for San Luis Obispo County – would authorize a city or county to extend a tentative map up to two times, if the delay in development is not caused by the developer and no material change has been made to the plans.
- ✓ 14. **SB 1588** – Spot bill – will be used for pre-paid cell phone legislation
15. **SB 1659** authorizes the director of DGS to sell, exchange, or lease for fair market value 2 specified parcels of state property. North Monterey County Fire District
16. **SB 1723** - bill for DPR – will be used to address the statewide problem regarding recycling of empty agricultural and commercial use pesticide containers.
17. **SCR 75** Commemorates AG Day
18. **SCR 82** would declare March 2008 to be Arts Education Month and would encourage all elected officials to participate with their educational communities in celebrating the arts.
19. **SCR 94** would declare the 2nd Saturday in May as “Cook with your Kids Day”.
- ✓ 20. **SCA 23** would eliminate pay raises for state officers if there is a budget deficit.

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California State Senate

SENATOR
JEFF DENHAM
TWELFTH SENATE DISTRICT



SELECT COMMITTEES
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CALIFORNIA'S HORSE RACING INDUSTRY
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CENTRAL VALLEY ECONOMIC DEVELOPMENT
COASTAL PROTECTION AND
WATERSHED CONSERVATION
COLLEGE AND UNIVERSITY ADMISSIONS
AND OUTREACH
GLOBAL ENVIRONMENT
METHAMPHETAMINE ABUSE

JOINT COMMITTEE
FAIRS, ALLOCATION & CLASSIFICATION
CHAIR

Fort Ord Reuse Authority
Legislative Session
April 11, 2008

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SB 1347 – School District liability: School Park Property

Senator Jeff Denham

IN BRIEF

SB 1347 would allow school districts to designate “school park property” for recreational use and allow for limited liability in those areas.

THE ISSUE

Currently, the only people permitted to use school property are large groups or organizations that can afford to buy the liability insurance. This really forbids even a parent and child from flying a kite on a school field.

People benefit when schools and the communities they serve work together. Many communities could use more park space. Many school districts would like the ability to share a greater connection to the communities they serve.

State law requires school districts to regulate use of their facilities or face great liability risks.

EXISTING LAW

California Education Code Sections 38130 - 38139 are cited as the Civic Center Act. These sections outline the use of public schools for recreational purposes. SB 1347 is in keeping with the intent of these sections.

THE SOLUTION

SB 1347 would allow the governing board of a school district to designate all, or a portion of, a field or landscaped area owned by the district to be used for general recreation use for the general public, when schools aren't using that space. The governing board may make a “school park property” designation at a public meeting through a resolution.

This resolution would specify which properties were designated and the times available for general recreation. Signs stating this information would then be posted at these schools.

In addition, the school and its officers would not be held liable for any injury resulting from negligence or wrongful act from a person or group utilizing the “school park property.”

SB 1347 benefits both cities and schools by sharing valuable, limited resources for public recreation while protecting districts from excessive liability.

FOR MORE INFORMATION

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Bill text and status will be posted soon:
www.senate.ca.gov/Denham

SB 1663 – “Waste Tire Hauling”

Senator Jeff Denham

IN BRIEF

There are farms and agricultural related businesses that use many tires each year and wish to properly recycle them. Currently, under the public resources code, farms and agricultural businesses are being penalized for attempting to properly dispose of their used tires. Without proper disposal, tires threaten the health and safety of citizens and the environment. This bill amends the Public Resources code to simply exempt farms and agricultural businesses from the requirement to register as “waste tire haulers” when they are simply taking their own tires to the recycler.

THE ISSUE

The section of code which addresses waste tire hauling does not allow farms and agricultural businesses to haul more than ten of their own used tires without registering as a tire hauling business. Agricultural businesses and farms are being forced into registering as a tire hauler which is inconvenient and unnecessary as they are not making a profit from hauling tires nor are they hauling any other tires but their own. In their attempt at doing the right thing and recycling correctly, the farms and agricultural businesses are actually being penalized. The alternative is to store (up to five hundred) used tires on their property or to pay a waste tire hauling business to take the tires to the recycler for them which is costly and unnecessary.

The Environmental Protection Agency of California warns that a large accumulation of tires poses many dangers to the health and safety of the surrounding areas and those who work or inhabit them. Cal EPA warns that among other negative outcomes, large stockpiles of improperly disposed tires can create health hazards by attracting rodents,

mosquitoes and other pests. Furthermore tire fires are more likely to occur in large stockpiles; the fires are difficult to extinguish and extremely damaging for the environment.

Farms and agricultural businesses are eager to participate in responsible recycling of their used tires.

EXISTING LAW

Section 42954 of the Public Resources code gives seven exemptions for tire hauling. A person is exempt if they are hauling less than ten tires at one time, state vehicles, vehicles traveling through the state, those unknowingly hauling tires combined with other refuse, those hauling waste tires whose value is incidental compared to other cargo, and circumstances which warrant transportation of tires to an amnesty day or event.

There is an exemption listed for agricultural businesses that is both narrow in scope and hampering in nature. The exemption requires that an agricultural business be a company that also recycles or modifies tires so that the agricultural industry can reuse the rubber. Moreover the agricultural businesses that do qualify for an exemption are subject to penalties should they not follow a cumbersome waste tire hauling registration and manifest requirement. The code is meant to regulate tire hauling companies who make a profit from disposing of waste tires. Some agricultural businesses can generate thousands of used tires every year and are penalized for hauling their own used tires for proper disposal.

THE SOLUTION

SB 1663 modifies section 42954 of the Public Resources code to allow the owner or

employee of an agricultural business or farm that does not profit from the hauling of used tires to be exempt from the waste tire hauler requirements when hauling their own tires for proper disposal. This bill will encourage these businesses to recycle their own tires and remove the obstacles facing agricultural businesses and farms to properly dispose of their self-generated waste tires.

FOR MORE INFORMATION

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Jennifer.tannehill@sen.ca.gov

Bill text and status will be posted soon:
www.senate.ca.gov/Denham

SCA 14, 15, 16, SCR 68, 69, SB 1456 – BUDGET REFORM PACKAGE

Senator Jeff Denham

IN BRIEF

The proposed budget reform package would drastically change the current way the state Legislature and the Governor enact (or rather fail to enact) a balanced and on-time state budget.

The proposed budget reforms would amend (if approved by voters) the California Constitution in three distinct ways to create incentive for both the Legislature and the Governor to pass and sign a balanced budget in a timely manner. The two budget reform resolutions will create a more balanced and structured dynamic in budget conference committee selection and voting. SB 1456 will address the problems faced by the entire state when the Legislature and the Governor are incapable of resolving disputes and the budget is delayed.

THE ISSUE

In the past twenty years the State of California has failed to pass the budget by the June 30th deadline 13 times. An impasse on budget is detrimental to California and there are no explicit laws which guarantee funding to any programs should a budget remain unresolved. There remains no penalties for Legislators should they choose not to pass a balanced budget, nor is there any consequence should the Governor choose to submit an unbalanced budget. Furthermore, partisanship plays a major role in the continual stalemate of Floor votes and committee meetings. These issues will remain unresolved unless they are addressed and amended to reflect a fair and prompt process for the enactment of California's budget.

EXISTING LAW

States that have the most rigorous requirements for a balanced budget are the most likely to balance their budgets. States with less rigorous budgeting requirements predictably make use of them. These outcomes tend to occur even though most states lack strong enforcement mechanisms. Although there is generally no legal mechanism to force compliance, 22 states report the existence of an enforcement provision. Many of them cite the constitutional provision itself as the enforcement mechanism. States with more specific provisions frequently cite statutory requirements that hold certain officials liable for imbalances. Colorado, Georgia, Indiana, Maryland, Michigan, Minnesota, Missouri, New Jersey, Oklahoma, Oregon, Vermont, and Washington have all imposed a salary freeze as a strategy to address budget problems. Furthermore, in Illinois, New Mexico, Washington, Kansas and Iowa the minority leader appoints or has input into appointment of minority party conferees. This effort guarantees that the minority party is fairly represented by Legislators whom have been selected based on their knowledge of the budget. State funding is often disrupted during budget disputes. To directly address the problems created by delayed budgets at least 12 states have various provisions that allow for continuous payment of funds for agencies and services without a current budget.

THE SOLUTION

The budget crisis faced by California is a problem that must be addressed. By amending the Constitution to provide incentive for legislators to pass a balanced budget in a timely manner, the legislature will be more

inclined to comply with negotiating the budget.

Because an unresolved budget creates instability in California, SB 1456 ensures that critical services will remain unobstructed in case of a budget impasse. This measure is imperative as it allows for the continued safety and well being of Californians should the government fail to pass the budget.

To encourage the timely passage of the budget SCA 14 and SCA 16 enact salary freezes for both Houses and the Governor upon an impasse and SCA 15 requires that the Legislators will remain in session 24 hours a day, 7 days a week until discrepancies are resolved and the budget is passed.

In an effort to avoid numerous stalemates on the Floor of both the Assembly and Senate, SCR 68 will increase the budget conference committee membership to ten members, and that of the ten members the Senate President Pro Tem and Speaker will each appoint three members and that the minority caucus in each house will appoint two. Concurrently, because a budget Floor vote requires 2/3's vote, SCR 69 requires that any budget conference committee vote will require 2/3's in order to pass so that Legislators address differences in opinion sooner such as during committee hearings rather than waiting until the issue reaches the Floor.

FOR MORE INFORMATION

Staff: Jennifer W. Tannehill
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(916) 445-0773 [Fax]
Jennifer.tannehill@sen.ca.gov

Bill text and status will be posted soon:
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SALINAS, CA 93901
(831) 759-8476
FAX (831) 759-2981

Assembly
California Legislature

ANNA M. CABALLERO

ASSEMBLY MEMBER, WEST FIFTH DISTRICT



2007-08 Legislation

Authored by

Assembly Member Anna Caballero

Investing in California

AB 1261 – Clarifies Rules for Local Public-Private Partnerships. Clarifies the criteria and types of public-private partnerships that a local governmental agency may enter into to build revenue generating infrastructure projects.

AB 1756 – Creates the Office of Local Public-Private Partnerships at the Business, Transportation and Housing Agency to provide information about public-private partnerships to build local fee-producing infrastructure and assist local agencies interested in entering into "P3" agreements.

AB 2173 – Developer School Fees. Gives school districts the authority to levy higher fees on residential developers to build schools.

Affordable Housing

AB 2182 - Re-introduction of AB 1253. Prop. 84 Planning Funds – Incentives for Affordable Housing. Establishes program within the Office of Planning and Research to allocate portions of \$90,000,000 in planning funds made available by Prop. 84 of 2006.

AB 2187 – Home Foreclosures: Protecting Homeowners. Requires that, prior to foreclosure, lending institutions notify homeowners by mail of their rights in foreclosure process. Provides for reimbursement to cities and counties upon the sale of the property, when local governments maintain vacant properties.

AB 2494 - Re-introduction of original provisions of AB 1252. Creates Incentives for Cities to Build Affordable Housing. Automatically awards park funds to park-poor communities when they approve affordable housing projects from the \$200 million in housing-related parks funding authorized by Prop. 1C (The Housing and Emergency Trust Fund Act of 2006).

AB 2513 – Housing Bonus Points. Provides bonus points in state housing grant applications for jurisdictions that have a good track record of approving housing.

Youth Violence Prevention

AB 1028 – Protects funding for child care and development centers, by clarifying accounting methods for centers that contract with the state.

AB 1029 – Inmate Education. Shifts the budget for the Department of Corrections and Rehabilitation for the operation of various academic and vocational education programs in state prisons from *expected attendance by inmates* to *actual class attendance*.

AB 1033 – Gang Recruitment. Creates new misdemeanor crime for any person who causes or encourages a minor to participate in a gang.

Water

AB 2222 – Groundwater Protection. Requires the State Water Resources Control Board to make policy recommendations to the Legislature on how to protect groundwater quality and quantity, based on the findings of the board's existing Groundwater Monitoring Assessment Program.

Disaster Relief

AB 2327 – Protects disaster victims, by prohibiting emergency workers from asking victims seeking disaster assistance for identity-establishing documents, except where required by federal or state law.

Labor

AB 2263 – Timely Payment for In-Home Support Workers. Establishes expedited procedures for lost paychecks to be re-issued to In-Home Support Providers (IHSP).

Local Government Support

AB 2176 – Federal Energy Funds for Small Cities and Counties. Sets criteria to disburse federal funds authorized by the federal Energy Independence and Security Act of 2007 to cities with a population less than 35,000 and counties with a population less than 200,000.

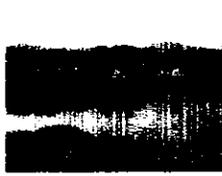
AB 1263 – LAFCO Revisions – Municipal Services. Revises the elements that a local agency formation commission (LAFCO) must cover when it periodically reviews municipal services within the county or other area it serves.

AB 2484 – Special Districts – Services. Modifies a special district's authority to increase, decrease, or eliminate the provision of services or service functions.

AB 2239 – Redevelopment Agencies. Makes technical changes to the state law governing redevelopment agencies' authority to address blight.

AB 2343 – Public Administrators – Small Rural Counties. Establishes rules for the appointment of Public Administrators (PA's) as successor trustees and modifies rules governing PA's in small rural counties.

AB 2411 – Property Tax Refunds. Clarifies the method used to calculate interest on property tax refunds.

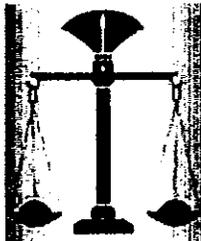


~ Invitation to participate ~

Environmental Health Challenges for the 21st Century

"Environmental Health" & "Green Living" The Last Frontier

A Forum Presented by the Fort Ord Environmental Justice Network, Inc.



**Monterey Beach Resort Hotel...
2600 Sand Dunes Drive...Monterey, CA. 93940
May 31, 2008
Registration 8:30 am**

An All Day Event

Addressing environmental toxins, your health, and possible solutions.

Also " GreenHouse Gas Emissions & Burning"

Featuring Doctors in Environmental Science and Medicine, the Holistic Wellness Community, and Experts on Sustainable Development, the Organic Community, and public policy experts supporting public health care.

List of Potential Participants:

Monterey Bay Unified Air Pollution Control	Dr. Peter deFur, Ph.D
Department of Justice	Dr. Lovell Jones, Onocologist
US Environmental Protection Agency	Bureau of Land Management
Center for Disease Control	Waste Management of Monterey
National Institute of Health	Environmental Justice Water Coalition
California Environmental Protection Agency	Experts on Water Contamination
National Association of Community Health Center	Local Officials
Art Presentation by Local Area Schools	

Please call or email with your interest ASAP to

LeVonne Stone, Executive Director
831-582-0803 - 831-277-5241
ejjustice@mbay.net

Event Co-Coordinator, Mae G. Smith
Ondrea Kahlenberg, Event Advisor
Ada Hynes, Secretary

<http://www.foejn.org>

Request For Sponsors & Donors

FOEJN is a not for profit 501c3 organization open to the public.

***Our Platimun Sponsors – Monterey Bay Unified Air Pollution Control District
Bronze Level – Pebble Beach Golf, Silver Level – Monterey Beach Resort,
Art Project: Marina High School***

Rec'd from Ron
Cheshire at 4/11/08
board mtg. (graduate
of 1st Pre-Apprentice
program)

Information Sheet

Ford Ord Reuse Authority Workforce Development Training Policy

I have read the Ford Ord Reuse Authority Workforce Development Training Policy as adopted by FORA on October 14, 2005.

I hereby submit my name and contact information to be included amongst the individuals eligible to be hired on projects within FORA's jurisdiction as per the policy.

Name: Deea Jannah

Address: 3103 Salinas St. Morina CA. 93933

Phone Number: (831) 384-4471 / 582-9190

Cell Phone Number: (832) 915-9941

E-mail Address: _____

Possible contact person: Antar Jannah (650) 771-1336

Possible other contact number: Sonja Harness (415) 216-7046

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

Instructor's Signature



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Name: Jamie Bailey

Address: 547 Warrelman Ct.

Phone Number: 831) 384-7326

Cell Phone Number: _____

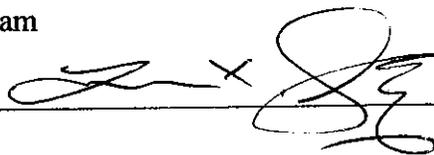
E-mail Address: _____

Possible contact person: Ethel Bailey - 831) 521-5441

Possible other contact number: Mark Moton 831) 383-1755

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

Instructor's Signature



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Name: Daniel Arcegon

Address: 605 Hortnell St Apt R

Phone Number: (831) 214-2130

Cell Phone Number: (831) 214-2130

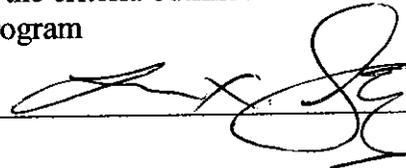
E-mail Address: annachavez3306@shcglobal.net

Possible contact person: Anna Chavez

Possible other contact number: (831) 676-6199

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

Instructor's Signature



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Name: Juan Cordova Villanueva

Address: 1213 EIM AVE. Seaside CA.

Phone Number: (831) 9202025

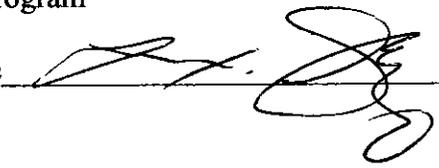
Cell Phone Number: _____

E-mail Address: tigre_95173@hotmail.com

Possible contact person: Maria Isabel

Possible other contact number: (831) 3833692

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

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Name: Richard Andrade

Address: 1120 Kimberly Ct. Seaside, CA 93955

Phone Number: (831) 224-7185

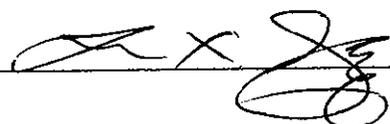
Cell Phone Number: (831) 224-7185

E-mail Address: n/a

Possible contact person: (831) 262-2696

Possible other contact number: (831) 224-3848

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Name: Susan J. Hawthorne

Address: 1752 St. Helena St., Seaside CA 93955

Phone Number: 831 394-7848

Cell Phone Number: 831 402-4762

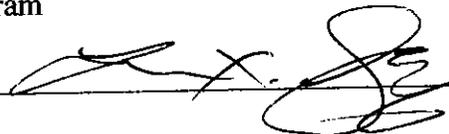
E-mail Address: suejhawthorne@gmail.com

Possible contact person: _____

Possible other contact number: _____

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

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Name: TOWAN Franklin

Address: 50 EAST MARKET STREET Apt. 116

Phone Number: 831-794-7506 or 831-206-9109

Cell Phone Number: 831-794-7506

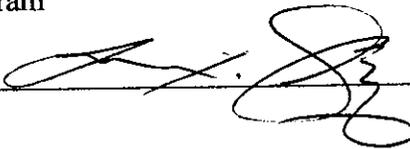
E-mail Address: tazbkz@yahoo.com

Possible contact person: TOWAN Franklin

Possible other contact number: Leah Hill

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

Instructor's Signature



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Name: JAMES M. PAIGE

Address: P.O. BOX 2458 SEASIDE, CA 93955

Phone Number: _____

Cell Phone Number: 478-397-5230

E-mail Address: _____

Possible contact person: NIKKI J. PAIGE 478-909-3909

Possible other contact number: _____

This individual meets the criteria outlined in section 5 of the policy as a graduate of the Pre Apprenticeship program

Instructor's Signature



**ACTION MINUTES
OF THE
FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS' MEETING**
Fort Ord Reuse Authority Conference Facility/Bridge Center
April 11, 2008

APPROVED

1. CALL TO ORDER AND ROLL CALL AT 3:00 PM

Chair/ Mayor Joe Russell called the meeting to order at 3:07 p.m. and requested a roll call.

Voting members present:

Chair/Mayor Joe Russell (Del Rey Oaks)	Mayor Ralph Rubio (Seaside)
Mayor Sue McCloud (Carmel)	Mayor Gary Wilmot (Marina) Councilmember
Dave McCall (Marina)	Mayor Chuck Della Sala (Monterey)
Councilmember Dan Davis (Pacific Grove)	Mayor Pendergrass (Sand City)
Supervisor Ila Mettee-McCutchon (Monterey County)	Councilmember Tom Mancini (Seaside)

Arriving after the meeting was called to order were Supervisor Lou Calcagno (Monterey County), Councilmember Janet Barnes (Salinas), and Jim Cook (Monterey County), alternate for Supervisor Dave Potter.

Ex-Officio members present:

Congressman Sam Farr (17 th Congr. District)	Graham Bice (UCSC)
James Main (CSUMB)	Vicki Nakamura (MPC)
Gail Youngblood (BRAC)	Kenneth Nishi (MCWD)
Assembly Member John Laird (27 th Assembly District)	

Arriving after the meeting was called to order were Brandon Gesicki (15th State Senate District), Dr. Marilyn Shepherd (MPUSD), and COL Pamela Martis (U.S. Army). Absent was a representative from TAMC. Dr. Douglas Garrison (MPC) arrived at 3:25 and replaced Ms. Nakamura at the board table. Michael Gallant represented Monterey-Salinas Transit as an observer.

Also present were Bill Ritz, Sr., representing Senator Jeff Denham (12th State Senate District), and Aline Sanchez, representing Assembly Member Anna Caballero (28th State Assembly District).

With a quorum present, Chair Russell opened the meeting.

2. PLEDGE OF ALLEGIANCE

Chair Russell asked Mayor Wilmot, who agreed, to lead the Pledge of Allegiance.

3. ACKNOWLEDGEMENTS

Chair Russell acknowledged the presence of newly appointed Supervisor Ila Mettee-McCutchon, Councilmember Dave McCall, and John Arriaga, principal of JEA & Associates and FORA's legislative representative in Sacramento.

4. LEGISLATIVE SESSION PRESENTATIONS

- (1) Assembly Member John Laird (27th State Assembly District) opened the Legislative Session opened by reporting he had filed a letter with the State Water Board's Proposed Cease and Desist Order ("C&DO") regarding pumping from the Carmel River, calling attention to one agency's slowness of responding resulting in another agency's penalizing residents of Monterey for the delay. He said he is working to resolve this problem. His second presentation point concerned the Light Brown Apple Moth, which has brought him more public comments than any other item since he's been in office. He said he is supporting legislation that will require the listing of all state pests that are major and invasive and a public process in place in advance of the problems. He said that over 600 people had reported health problems after the spraying, but there is no procedure to assess health impacts. A publicized study drew conclusions from only the 50 people who sought medical help. He said legislation that includes third party review of health impacts must be a priority. His third topic was the state budget. He said the initially reported shortfall was \$14.5 billion, which resulted in mid-year cuts and some payment deferrals. A month later, the deficit had increased to \$16 billion, and the Governor recommended a 10% cut across the board. He said the impacts in Monterey County would be significant. He estimated another \$8 billion in reductions would have to be made and stated there is no way to do responsible borrowing at this time, adding that some temporary tax increases and new revenue sources make the most sense in this economic climate, which the Governor is beginning to realize. The May Revise and decisions made during the next six weeks will be a crucial piece to the overall financial picture.

- (2) Congressman Sam Farr (15th Congressional District – California) opened by stating that the reuse of a military base involves a tripartite effort, consisting of federal, state and local efforts, and it is time for the local communities to petition back for a one-stop place for information on inclusionary, affordable housing. He reported that Fannie Mae and Freddie Mac are now allowed to buy loans up to \$729,750 now. If current proposed legislation passes, the federal housing programs will be expanded. He urged all to apply for the tax rebates recently passed by Congress, which start at \$300 and can be as high as \$1,200. He described other measures to keep home-owners facing foreclosure in their homes, such as accessing financial counseling and the passage of the proposed anti-predatory lending bill making its way through Congress. He said the efforts are focused on keeping people in their homes. Mr. Farr noted the latest "early" ESCA payment to FORA (\$10 million) and said another \$28 million was being scheduled for June 2009. He said he is urging the Army to hasten its cleanup of the Bureau of Land Management ("BLM") property and transfer it to the receiving jurisdiction as soon as it is certified clean. Mr. Farr reminded all that state cemetery grant funds are available and encouraged FORA to keep the local efforts moving forward, while he keeps the California project on the federal priority list. Mr. Farr provided an update on the active duty military dependent health care program, which will be joined with the veterans' health care, in a new enlarged facility in the Residential Communities Initiative (RCI) complex. He reminded all to attend the Army's groundbreaking and demolition ceremony for their new housing project in the military footprint on former Fort Ord, tentatively planned for June 2; this project includes affordable housing for the military, civilians and qualified locals. Supervisor Mettee-McCutchon asked for assistance guaranteeing federal funds for BLM's habitat management plan obligations, and Mr. Farr said he would work on resolving this issue.

- (3) Brandon Gesicki, representing Senator Abel Maldonado (15th State Senate District) distributed a handout of the Senator's 2008 bill package and summarized SB 1230, 1278, 1463, 1588, and SCA 23. He said that the senator has opposed any cuts in the State Parks system and has opposed some of what the Governor proposed in his 10% across-the-board cuts. Executive Officer Houlemard commented that when an entity accepts federal property under a Public Benefit Conveyance, funding for development must be available. Congressman Farr noted that the City of Seaside has allocated \$2.2 million/year to fund the park. Mr. Gesicki remarked that the State Parks cuts could be re-funded in the May Revise. Dr. Bruce Margon asked what the senator is doing to give equal attention to finding new revenue sources, and Mr. Gesicki responded that (1) the state auditor has been asked to identify waste and loophole; (2) more paperless transactions; and (3) the need to hear from constituents to help break the two-party division of interests that blocks passage of important legislation, such as the budget.
- (4) Bill Ritz, Sr., representing Senator Jeff Denham (12th State Senate District) said there had been a foreclosure workshop last night in Salinas, which had been attended by Supervisors Calcagno and Armenta. Some 600 people and Department of Real Estate officials attended. The workshop was deemed a success. Mr. Ritz said the senator was pleased to meet with the FORA delegation last month in Sacramento to discuss his legislation and FORA's requests for assistance. Mr. Ritz reported the senator's support for the veterans' cemetery and summarized several bills in his bill package, including SB 1347 (allowing use of school properties to be utilized for recreational purposes by allowing lower liability requirements in those areas), a change in the processing of waste tire recycling (which amends the public resources code), and six bills proposing budget reforms (SCA 14, 15, and 16; SCR 68 and 69; and SB 1456).
- (5) Aline Sanchez, representing Assembly Member Anna Caballero (28th State Assembly District) distributed a handout and summarized some of the bills on the 2007-08 legislation authored by the assembly member, including support for affordable housing (AB 2182, AB 2187, 2494 and 2513), ground water protection (AB 2222), local government (AB 2176, 1263, 2484, 2239, 2243, and 2411), youth violence (AB 1028 and 2019), disaster relief (AB 2327), and investing in California (AB 1261, 1767 and 2173). Ms. Sanchez agreed with Mr. Ritz' assessment of the foreclosure workshop last night that it was very successful. Mayor Rubio expressed gratitude for AB 2239, which makes technical changes to the state law governing redevelopment agencies' authority to address blight. Executive Officer Houlemard reminded all that the Legislative Committee will be meeting on April 28th to review FORA's legislative matrix and make recommendations to the FORA Board on May 9th to either support, oppose, change or watch the bills.

The legislative presentations ended at 4:20 p.m.

5. PUBLIC COMMENT PERIOD

LeVonne Stone, Executive Director of the Fort Ord Environmental Justice Network ("FOEJN"), said she appreciated the legislative reports and expressed her continuing concern for more affordable housing in Monterey County. She distributed copies of invitations to FOEJN's "Environmental Health Challenges for the 21st Century" forum being held on May 31st. Ron Chesshire presented the Board with the list of graduates from the first pre-apprentice program class, which qualifies them to be put on a list for employment opportunities at former Fort Ord. He announced that applications for the second class are now being accepted.

Mayor Rubio requested that an item in the form of a resolution be added to the agenda. **Motion to add a resolution of appreciation and commendation to Ron Chesshire to the agenda was made by Supervisor Mettee-McCutchon, seconded by Councilmember Mancini, and carried.** Mayor Rubio read the resolution. **A second motion to present Ron Chesshire with this resolution from FORA on the occasion of his retirement (effective April 1st) from the United Carpenters and Joiners of America, was made and seconded by a number of board members and carried.** Mayor Rubio presented the framed original to Mr. Chesshire, who said he had no goodbyes, because "you'll be seeing me later." He also invited all to attend his retirement party at his home on April 25th.

6. CONSENT AGENDA

There were three items on the Consent Agenda: Item 6a (February 8, 2008 board meeting minutes), Item 6b (FORA/Carpenters' Site Grading Reimbursement Agreement), and Item 6c (Environmental Services Cooperative Agreement Contract Change Order #3). Councilmember Mancini called attention to an error in the minutes, namely that Mayor Wilmot's father had died, not his mother. **Motion to approve all three items, including the correction to the minutes, was made by Mayor Pendergrass, seconded by Councilmember Mancini, and carried.** Mayor Rubio abstained from voting on Item 6b due to a conflict of interest.

7. OLD BUSINESS

Item 7a – Habitat Conservation Plan ("HCP") approval process: Director of Planning and Finance Steve Endsley reported that Executive Officer Houlemard and Mayors Russell and Rubio had met with California Resources Agency Secretary, Mike Chrisman, in Sacramento and their message was the Fort Ord HCP is "95% there. The remaining issues consist primarily of the scale of funding, which require assistance from Mr. Chrisman and the legislators. Mr. Endsley said that the U.S. Fish & Wildlife Service is now requesting the local entities to help fund the federal obligations. He emphasized the importance of dialogue between the state and federal agencies. Councilmember Davis asked how realistic FORA's current draft of the timing schedule is, and Mr. Houlemard responded it is very realistic, assuming federal funding of federal obligations can be secured. Supervisor Calcagno asked if the Coastal Conservancy funds, which are administered by the CA Coastal Commission, have been considered (not yet). Dr. Garrison asked if it were possible to change the terms of conveyance so that those entities that are willing and able to fulfill their obligations are not impeded by those unable to do so; Mr. Houlemard responded that previous attempts to do that have been unsuccessful. Dr. Garrison urged that all options be considered now.

Item 7b - Environmental Service Cooperative Agreement ("ESCA") - update: Executive Officer Michael Houlemard, FORA-ESCA Program Manager Stan Cook, LFR Team ESCA Remediation Program Manager Kristie Reimer, and Weston Solutions Remediation Program Manager Linda Temple gave an overview of the FORA ESCA project in the form of a PowerPoint presentation. Each covered topics relevant to their particular responsibilities. The update on the Seaside 1-4 field operations included photos of debris, structure, asphalt and concrete removal, vegetation cutting, new fencing, soil scraping activities, and the visual/instrument-aided inspection component. A list and photos of the MEC items recovered to date were shown, along with the sifting plant operations and equipment. The presenters reported that the roadway work would be completed in June, which will allow work on the road itself to begin. Mr. Houlemard added that coordination with the regulators is "going well."

Item 7c – Water Augmentation Program – Regional Plenary Oversight Group (REPOG) proposal endorsement: Executive Officer Houlemard provided a brief update on the project. Mayor McCloud distributed copies of the resolution Carmel had adopted, supporting the memorandum of understanding for the REPOG plan, providing it included an Environmental Impact Report in the analysis. Representatives from the cities of Pacific Grove and Del Rey Oaks, as well as the Monterey Regional Water Pollution Control Agency, have also endorsed the proposed project. **Motion was made by Mayor Rubio and seconded by Councilmember Mancini to endorse the Division of Ratepayer Advocates Regional Plenary Oversight Group’s proposal, as presented by Lyndel Melton from RMC Water & Environment on February 8, 2008, on the condition that an Environmental Impact Report be part of the project.** There were no public comments. The motion carried.

8. NEW BUSINESS

Item 8a - Request for interim use of water resources: **Motion to pull this item for further consideration by the Administrative Committee was made by Mayor Rubio, seconded by Supervisor Calcagno, and carried.**

Item 8b – Confirmation of the Chair’s appointment to the Legislative Committee: **Motion to confirm the Chair’s appointment of Mayor Gary Wilmot to serve on the Legislative Committee was made by Supervisor Mettee-McCutchon, seconded by Mayor Rubio, and carried.**

9. EXECUTIVE OFFICER’S REPORT

There were five items in this report: Item 9a (Administrative Committee report), Item 9b (Executive Officer’s travel report), Item 9c [Distribution of FORA Master Resolution (updated February 8, 2008)], Item 9d (Environmental Services Cooperative Agreement - Quality Assurance Oversight Professional contract), and Item 9e [2008 State Legislative Mission to Sacramento (March 27-28)]. All reports were informational. Executive Officer Houlemard called attention to the amended Executive Officer’s travel report, which included additional travel information for him and Director of Planning and Finance Steve Endsley. There was no discussion about any of the items.

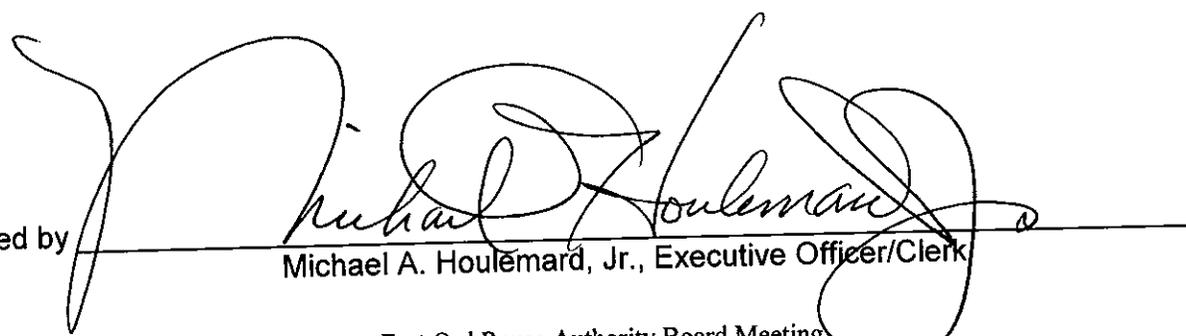
10. ANNOUNCEMENTS AND CORRESPONDENCE - none

11. ADJOURNMENT

There being no further business, Chair Russell adjourned the meeting at 5:13 p.m.

Minutes prepared by Linda Stiehl, Deputy Clerk.

Approved by


Michael A. Houlemard, Jr., Executive Officer/Clerk

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: FORA/ Carpenters' Site Grading Reimbursement Agreement

Meeting Date: April 11, 2008

Agenda Number: 6b

ACTION

RECOMMENDATION(S):

Authorize the Executive Officer to execute the attached reimbursement agreement between the Fort Ord Reuse Authority ("FORA") and Carpenters Local 605 (**Attachment A**), which is consistent with the approved fiscal year ("FY") 07-08 Imjin Office Park ("IOP") budget.

BACKGROUND:

FORA offices are currently located on a portion of a prime opportunity site adjacent to the City of Marina's University Village Specific Planning area. The FORA Board authorized staff to proceed with relocation from the current FORA Compound site by jointly participating with several other entities in the construction of a new office complex - the IOP. The IOP is a four-building-lot commercial office subdivision, which will be developed jointly by FORA, Carpenters Local 605, the Association of Monterey Bay Area Governments, and the Builders Exchange of the Central Coast.

DISCUSSION:

On January 11, 2008, the FORA Board approved the FY 07-08 IOP budget, which limited project expenses to completion of building plans and site grading. The budget included line items "Reimburse Carpenters for Ausonio Preconstruction Services" (\$4,375.00) and "Reimburse Carpenters for Ausonio Site Work" (\$207,981.00), \$212,356.00 in total. The reimbursement agreement between FORA and Carpenters Local 605 allows FORA to implement these two budget items.

FISCAL IMPACT:

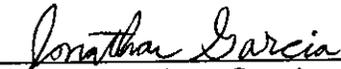
Reviewed by FORA Controller 

The costs related to the reimbursement agreement would not exceed \$212,356.00. Funding for this amount was designated in the FY 07-08 IOP budget on January 11, 2008.

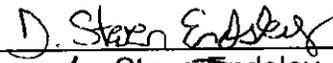
COORDINATION:

Carpenter Local 605, Authority Counsel, Executive Committee, and Administrative Committee

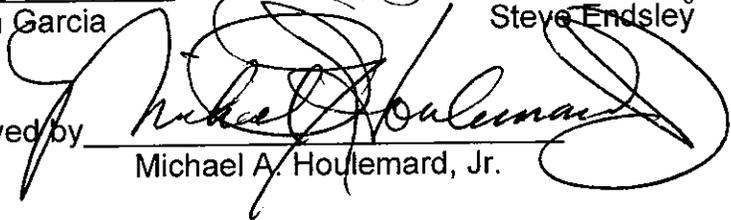
Prepared by


Jonathan Garcia

Reviewed by


Steve Endsley

Approved by


Michael A. Houlemard, Jr.

**MEMORANDUM OF AGREEMENT
BETWEEN THE FORT ORD REUSE AUTHORITY AND THE UNITED BROTHERHOOD OF
CARPENTERS AND JOINERS OF AMERICA CARPENTERS UNION LOCAL 605
CONCERNING REIMBURSEMENT OF FORA'S SHARE OF PRECONSTRUCTION
SERVICES AND SITE GRADING WORK COMPLETED**

THIS MEMORANDUM OF AGREEMENT ("MOA") is made and entered into on _____, 2008 by and between the **Fort Ord Reuse Authority** ("FORA"), a reuse authority created, operated and existing under the laws of the State of California and the **United Brotherhood of Carpenters and Joiners of America Carpenters Local 605**, an unincorporated association.

I. Recitals

1.1 In 2004, FORA, the Builders Exchange of the Central Coast ("Builders Exchange"), Carpenters Union Local 605 and the Association of Monterey Bay Area Governments (collectively known as the "Partners") executed a Memorandum of Agreement ("MOA") to develop the Imjin Office Park ("IOP"). As part of this Agreement, FORA agreed to sell each partner a portion of the Imjin Office Park property so that they can build headquarters for their organization on the site.

1.2 In September 2005, after a competitive selection process, the Partners chose Ausonio, Inc. to negotiate a Construction Services and Administration contract to develop the IOP site.

1.3 In November 2005, the Builders Exchange and Carpenters Local 605 signed a standard form of agreement and general conditions between owner and contractor (where the basis of payment is a Guaranteed Maximum Price with an option for Preconstruction Services) with Ausonio, Inc.

1.4 On April 27, 2007, as part of their preconstruction services, Ausonio, Inc. prepared a cost estimate for IOP site work and construction of individual office buildings. The site work estimate was \$1,386,540 for completion of grading, utility, paving, and landscaping work for the entire IOP site (**Exhibit A** to this MOA).

1.5 On January 11, 2008, the FORA Board approved a Fiscal Year ("FY") 07-08 IOP budget (**Exhibit B** to this MOA) for FORA's portion of project expenses. The budget limited project expenses to completion of building plans and site grading. The budget authorized reimbursement of the Carpenters Local 605 for: 1) 25% of Ausonio Preconstruction services up to \$4,375.00, and 2) 30% of Ausonio's Site Work, estimated to cost \$207,981.00.

1.6 The purpose of this MOA is to ensure that FORA will reimburse Carpenters Local 605 for FORA's share of preconstruction services (not to exceed \$4,375.00) and Site Work (not to exceed \$207,981.00).

II. TERMS AND CONDITIONS

In consideration for the mutual promises contained herein the parties agree as follows:

2.1 Reimbursable Amount. Carpenters Local 605 will submit monthly invoices to FORA for FORA's portion of: 1) preconstruction services not to exceed a total of \$4,375.00, and 2) Site Work up to completion of site grading, not to exceed a total of \$207,981.00. The aggregate total for these items may not exceed \$212,356.00. FORA agrees to pay these invoices within thirty days of receipt.

2.2 Hold Harmless. Carpenters Local 605 agrees to indemnify, defend and hold FORA harmless from any claim arising out of this work except claims based on nonpayment by FORA as provided in this agreement.

III. Term and Termination.

3.1 Term of Agreement. This Agreement shall terminate in one year or when all of the terms and conditions have been met or upon mutual agreement between the parties or their assignees.

3.2 Termination for Breach. If a party commits a material breach, the non-breaching party may terminate this Agreement by giving the party in breach written notice thereof and thirty (30) days in which to cure the breach. If the breach is not cured within thirty (30) days, this Agreement will be terminated upon the breaching party being given notice thereof by the non-breaching party. If the breach is curable, but not within 30 days, the non-breaching party may not terminate the sale so long as the breaching party diligently works to cure the breach. If the breach is incurable within thirty (30) days, the breaching party shall not be considered to be in default so long as it diligently and in good faith continues to cure the breach in a reasonably diligent manner thereafter up to 90 days after the breach.

IV. General Terms.

4.1 Further Actions. Each of the parties agree to execute and deliver to the other such documents and instruments, and to take such actions, as may reasonably be required to give effect to the terms and conditions of this Agreement.

4.2 Modification. This Agreement is not subject to amendment or modification except by a writing signed by the parties hereto.

4.3. Assignment. Neither party may assign all or portions of its rights and obligations under this Agreement without prior written approval from the other party. Any Agents for the parties shall not unreasonably withhold approval of an assignment.

5. Interpretation. This Agreement has been negotiated by and between representatives of the parties hereto and their staffs, all persons knowledgeable in the subject matter of this Agreement, which was then reviewed by the respective legal counsel of each party. Accordingly, any rule of law (including Civil Code §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 affect the purpose of the parties and this Agreement.

6. Attorney's Fees. In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs. Monterey County will be the venue for hearing any disputes.

7. Notice and Correspondence. Any notice required to be given to any party shall be in writing and deemed given if personally delivered upon the other party or deposited in the United States mail, and sent certified mail, return receipt requested, postage prepaid and addressed to the other party at the address set forth below or sent via facsimile transmission during normal business hours to the party to which notice is given at the telephone number listed for fax transmission.

Carpenter Local 605:

President
Carpenters Local 605
P.O. Box 809
Marina, CA 93933
Telephone: (831) 883-3933
Facsimile: (831) 883-1902

FORA:

Executive Officer
Fort Ord Reuse Authority
100 12th St., Building 2880
Marina, California 93933
Telephone: (831) 883-3672
Facsimile: (831) 883-3675

8. **Areas of Non-Responsibility.** Neither party shall be liable for commitments made to a third party by the other party which are:

- a. contrary to this Agreement or
- b. not specifically included within the obligations of the parties hereto.

Each party shall defend, indemnify and hold the other harmless for any claims, costs, damages or other liability arising from such statements, representations or commitments.

9. **No Third Party Rights.** This Agreement shall not create any benefits or rights in third parties.

IN WITNESS WHEREOF, FORA, and Carpenters Local 605, by their duly authorized representatives, have executed this Agreement as of the date first written above.

FORT ORD REUSE AUTHORITY

By: _____
Michael A. Houlemard, Jr., Executive Officer

As to form: _____
Gerald D. Bowden

CARPENTERS UNION LOCAL 605, an unincorporated association

By: _____
John Anzini, President

Exhibit A

Imjin Office Park Site Work Cost Estimate

Imjin Office Partners
 C/o Mr. Stan Cook
 Fort Ord Reuse Authority
 100 12th Street, Bld'g 2880
 Marina, CA 93933

Ausonio Incorporated
 11420 A Commercial Parkway
 Castroville, California 95012
 (831) 633-3371 649-6044 662-0721
 State License No. 682308

Dated: 4-26-2007

Project: Imjin Office Park - SITEWORK

Cost Breakdown

ASSUMES FREE DIRT

ITEM #	ITEM	BALANCE SITE	PER CIVIL DESIGN	LOWER GRADES 2'
1	Surveyor	2,100	2,100	2,100
2	Balance Site	50,894	0	-
3	Per Civil Design	-	167,832	-
4	Lower Grades 2'	-	0	99,456
5	Grading & Paving	335,270	335,270	335,270
6	Curb, Gutter & SW	181,169	181,169	181,169
7	Storm Drainage	87,225	87,225	87,225
8	Water/Sewer Services	73,035	73,035	73,035
9	Fire Service	92,077	92,077	92,077
10	Landscaping	168,525	168,525	168,525
11	Masonry - Retaining Walls	47,377	47,377	47,377
12	Masonry - Site Walls	57,776	57,776	57,776
13	Trash Enclosures	33,600	33,600	33,600
14	Monument Sign	18,375	18,375	18,375
15	Flag Poles	16,704	16,704	16,704
16	Benches	12,600	12,600	12,600
17	Site Lighting	68,250	68,250	68,250
18	Liability Insurance	18,674	20,429	19,403
19	Contingency	63,183	69,117	65,647
20	Fee	59,707	65,315	62,036
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35	Total	1,386,540	1,516,775	1,440,624

DRAFT

DRAFT

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Exhibit B
Fiscal Year 07-08 Imjin Office Park Budget

FY 07-08 IOP Budget	Total Budget	Contract Signed
Previously authorized 07-08 budget items		
PDP - Building Design Work (2 contract amendments)	\$215,859.50	yes
Enovity - IOP LEED Commissioning	\$20,415.50	pending
PDP - Site Design Work (contract amendment)	\$55,828.50	yes
FORA-AMBAG interim financing agreement for site grading	\$150,000.00	yes
FORA-Marina Subdivision Improvement Agreement - Escrow check to Stewart	\$111,000.00	yes
Reimburse Carpenters for Ausonio - Preconstruction Services (FORA's 25%)	\$4,375.00	authorized
<i>Previous 07-08 budget items subtotal:</i>	\$557,478.50	
City Plan Check and Inspection Fees		
Tree Removal Permit and Inspection	\$1,380.00	yes
Demolition Permit and Inspection	\$0.00	yes
Building Permit Coordination	\$1,400.00	yes
Construction Plan Check/Inspection	\$8,080.00	yes
Fire Plan Check/Inspection	\$8,280.00	yes
Infrastructure and Grading Permit and Inspection	\$8,080.00	yes
<i>City Plan Check Fees Subtotal</i>	\$27,220.00	yes
Building Plan Check Fees	\$8,904.72	
<i>City Fees Subtotal</i>	\$36,124.72	
Other Fees		
MCWD Connection Fees (estimate)	\$6,128.00	
PG&E Connection Fees (estimate)	\$40,000.00	
State Water Resources Control Bd NOI	\$365.00	
Other Fees Subtotal	\$46,493.00	
Site Improvements/Construction		
Tree Removal contract (estimate):	\$4,000.00	
Reimburse Carpenters for Ausonio - Site Work (FORA's 30%) (estimate):	\$207,981.00	
Site Improvements Subtotal	\$211,981.00	
Total Proposed Budget	\$852,077.22	
Eligible Reimbursements from IOP Partners	(\$281,723.75)	
Total cost to FORA	\$570,353.47	

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Environmental Services Cooperative Agreement -- Contract Change Order #3	
Meeting Date:	April 11, 2008	ACTION
Agenda Number:	6c	

RECOMMENDATION:

Authorize the Fort Ord Reuse Authority ("FORA") Executive Officer to execute Environmental Services Cooperative Agreement ("ESCA") Contract Change Order ("CCO") #3 for an amount not to exceed \$15,000.

BACKGROUND/DISCUSSION:

The attached **Contract Change Order** authorizes a Storm Water Pollution Prevention Plan for the General Jim Moore Boulevard and Eucalyptus Road corridor work being done in the Seaside ESCA parcels. This storm drainage and erosion control work is not a part of the ESCA munitions and explosives remediation budget and it is specifically excluded from the ESCA CCO #2 which covers the roadway corridor preparation. Contract Change Order #3 will cover the state requirements for a Storm Water Pollution Prevention Plan once this property has transferred from the Army to FORA and falls under state guidelines.

FISCAL IMPACT:

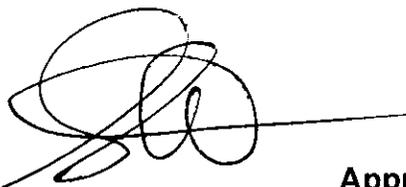
Reviewed by FORA Controller 

Contract Change Order #3 is for an amount not to exceed \$15,000 which will come from Capital Improvement Plan funds that have been earmarked for the improvements to General Jim Moore Boulevard and Eucalyptus Road.

COORDINATION:

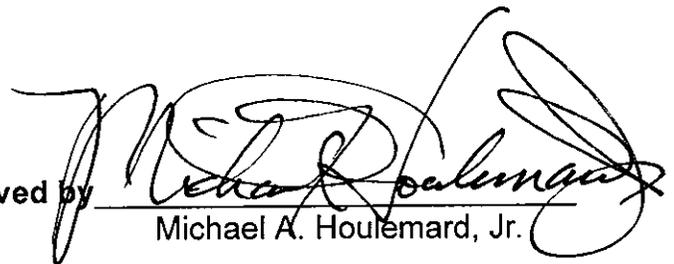
Administrative Committee; Executive Committee; Negotiating Team; Special and Authority Counsel; LFR; Weston Engineers; U.S. EPA; and DTSC.

Prepared by



Stan Cook

Approved by



Michael A. Houlemard, Jr.

CONTRACT CHANGE ORDER REQUEST



CONTRACT CHANGE ORDER NO. 3 STORM WATER POLLUTION PREVENTION PLAN (MAP 8)

in support of
ROADWAY IMPROVEMENTS

Attachment
To Item 6c
FORA Board Meeting, April 11, 2008

for

GENERAL JIM MOORE BOULEVARD AND EUCALYPTUS ROAD

In accordance with Section 8 of the Remediation Services Agreement (RSA), this Contract Change Order Number 3 amends the subject agreement as described below. All other terms and conditions of the RSA remain unchanged.

Agreement/Project:	
Client Name:	Fort Ord Reuse Authority (FORA)
RSA Effective Date:	March 29, 2007
Change Order Date:	March 27, 2008
LFR Project/Section #:	_____

Period of Performance:	
Start Date:	March 29, 2007
End Date:	March 29, 2014 (est.)

Scope of Work (and including other documents attached by reference below):
<p>This change order request covers scope and cost changes to the original contract incurred associated with the Storm Water Pollution Prevention Plan for the vegetation removal in the General Jim Moore Boulevard (GJMB) and Eucalyptus Road corridors both located within the Seaside MRA parcels, designated in the Remediation Services Agreement as the Map 8 Parcels. The changes in base scope, generally include the following:</p> <ul style="list-style-type: none">• Completion of the draft Storm Water Pollution Prevention Plan (see the attached), submittal, follow up on SWPPP, <i>notice of intent</i>, and <i>notice of termination</i> - \$3,500• Site Monitoring requirements - estimated at a <i>not to exceed amount of \$565 per monitoring activity</i> - costs would be incurred on a T&M basis <i>for actual costs</i>.<ol style="list-style-type: none">1. Wet Season through 4/15 - weekly monitoring plus preparation of report (<i>up to 6 events</i>) <i>not to exceed an amount of \$3,390</i>2. Dry Season after 4/15 through 7/15 - bi-weekly monitoring plus preparation of report (<i>up to 8 events</i>) <i>not to exceed an amount of \$4,520</i> <p>Implementation of SWPPP conditions on an event need basis per FORA direction- hourly T&M rate = \$355 per hour (CM, 2 equipment operators) + \$500 equipment rental if <i>LFR/Weston does not have</i></p>

CONTRACT CHANGE ORDER REQUEST



equipment on site. Minimum charge would be 4 hours.

Compensation:

Contract Change Order No. 3:	Total CCO-3: NOT TO EXCEED \$ 15,000
Previous Contract Change Orders:	CCO-1: \$ 24,999.00 CCO-2: \$3,272,479.00
Total Contract Change Orders:	\$3,312,478.00

This Contract Change Order No. 3 is effective as of the above date and duly executed by authorized representatives of Client and LFR Inc.

By FORA:

By LFR Inc.:

By: _____
 Printed Name: **Michael Houlemard**

Title: **Executive Officer**

Date: _____

Approved as to Form By: _____
 Printed Name: **Gerald D. Bowden**
 Title: **Authority Counsel**
 Date: _____

By: _____
 Printed Name: **Frank Lorincz**

Title: **Chief Executive Officer**

Date: _____

cc: Kristie Reimer, LFR
Randy Brandt, LFR
Cris Jespersen, Weston Solutions

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Habitat Conservation Plan approval process	
Meeting Date:	April 11, 2008	INFORMATION
Agenda Number:	7a	

RECOMMENDATION(S):

Receive a status report regarding preparation of Habitat Conservation Plan ("HCP") and State of California 2081 Incidental Take Permit ("ITP") Process.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority ("FORA") completed a Draft HCP on January 23, 2007 covering topics necessary to submit the HCP to California Department of Fish and Game ("CDFG") and an application for a basewide State 2081 ITP. Upon completion of this document, budget authority for the biological HCP consultant was fully expended. The Draft HCP was circulated to U.S. Fish and Wildlife Service ("USFWS"), CDFG, FORA's land use jurisdictions, and other prospective habitat managers participating in the program. USFWS provided written comments on the Draft HCP in March and July 2007. CDFG provided written comments in April 2007.

To define necessary steps to obtain CDFG approval of a basewide State 2081 Permit, FORA's legislative representatives met with key stakeholders in CDFG, California Department of Parks and Recreation ("State Parks"), and the Governor's Office on April 30, 2007. Subsequent meetings were held with Mike Crisman, State of California Resources Secretary, and John McCamman, CDFG Chief Deputy Director (at the time). These discussions identified several steps for FORA and CDFG to take to secure a successful 2081 permit. The representatives and stakeholders identified a need for a larger scope for the work, requiring FORA to redistribute a Request for Qualifications ("RFQ") containing a larger budget than previously included in the March 2007 RFQ. In return, key stakeholders in Sacramento gave assurances they would perform required work on their end and support a "final" process. In response to the need for an expanded scope of work, at its May 11, 2007 meeting, the FORA Board directed staff to redesignate unused HCP funds in Fiscal Year ("FY") 06-07 for HCP consultant work and directed staff to enter into a contract, not to exceed \$150,000, with an HCP consultant to conduct the larger scope of work.

FORA staff received several responses to its RFQ and selected Jones & Stokes, Inc. ("Jones & Stokes") for the contract, which gives FORA the expertise to respond to USFWS and CDFG comments on the draft HCP. Jones & Stokes successfully completed comparable HCP's in Northern California and is the author of the 1997 Fort Ord Habitat Management Plan. The initial contract was for \$85,445 and covers revisions to Draft HCP chapters, resulting from agency comments and FORA staff concurrence. An amendment to this contract for additional tasks and budget to recombine State and Federal HCP's was approved at a previous Board meeting. The approved FY 06-07 and FY 07-08 budgets included additional funding for this purpose.

Jones & Stokes have identified a window of opportunity to expedite permit issuance. As noted, Jones & Stokes have proposed recombining the truncated State and Federal HCP processes into one HCP document and one combined public review period, which would result in a shorter timeframe for federal and state permit issuance and a stronger HCP document. Significant progress on the State HCP made in the last year should allow Jones & Stokes to complete the necessary federal HCP chapters on an expedited basis. This allows FORA to use the HCP document for both Federal National Environmental Policy Act ("NEPA") and State of California Environmental Quality Act ("CEQA") permit applications.

On May 23, 2007, FORA hosted an HCP working group meeting among Jones & Stokes, FORA, CDFG, USFWS, University of California ("UC"), Bureau of Land Management ("BLM"), and State Parks to discuss agency comments on the Draft HCP Funding Chapter. The HCP working group identified issues and discussed probable solutions to improve the Draft HCP funding section. A follow-up conference call occurred May 31, 2007. To expedite agency review of the Draft HCP, Jones & Stokes suggested that USFWS and CDFG prepare comment letters on Draft HCP chapters reviewed to date and that the agencies offer oral comments on the remaining chapters. This approach was well received and was discussed in further detail during a strategy session among FORA, USFWS, and CDFG held in early June. On July 12, 2007, the HCP working group met, reviewed past comments received from USFWS and CDFG, reviewed Jones & Stokes' technical memo proposing revisions to the draft HCP, and reviewed Jones & Stokes' draft costing model. On August 29, 2007, the HCP working group held another meeting, in which the group: provided additional feedback on the draft costing model, requested feedback from working group members on Draft HCP sections, addressed questions on the Early Transfer/ Environmental Services Cooperative Agreement, and asked for feedback from USFWS and CDFG on inclusion of the proposed alignment of the Multi-Modal Corridor along Intergarrison Road in lieu of a previous alignment bisecting the UC Fort Ord Natural Reserve. On November 15, 2007 the working group reviewed a draft HCP Implementing Agreement, a required HCP document.

On October 1, 2007, Mayors Russell, Mettee-McCutchon, and Rubio met with State of California Resources Secretary Mike Crisman and CDFG Interim Director John McCamman and, as a consequence, a letter was drafted demonstrating CDFG support for FORA's Early Transfer/ Environmental Services Cooperative Agreement activities. In December 2007 Jones & Stokes personnel met with USFWS in Ventura regarding staff transition and other issues. Jones & Stokes presented the revised draft HCP Funding Chapter, costing model, and HCP development schedule to the HCP working group on February 28, 2008. The latest draft HCP development schedule is attached to this report under **Attachment A**. The next working group meeting is scheduled for April 10, 2008.

In addition, FORA Chair/Mayor Russell, 1st Vice Chair/Mayor Rubio, and Executive Officer Houlemard met with State of California Resources Secretary Mike Crisman on March 28, 2008 to confirm commitments made on April 30, 2007 to a "final" process. Secretary Crisman confirmed prior commitments to employ sufficient staff and resources within CDFG to meet review schedules and resolve outstanding issues.

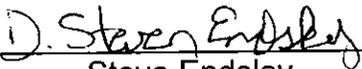
FISCAL IMPACT:

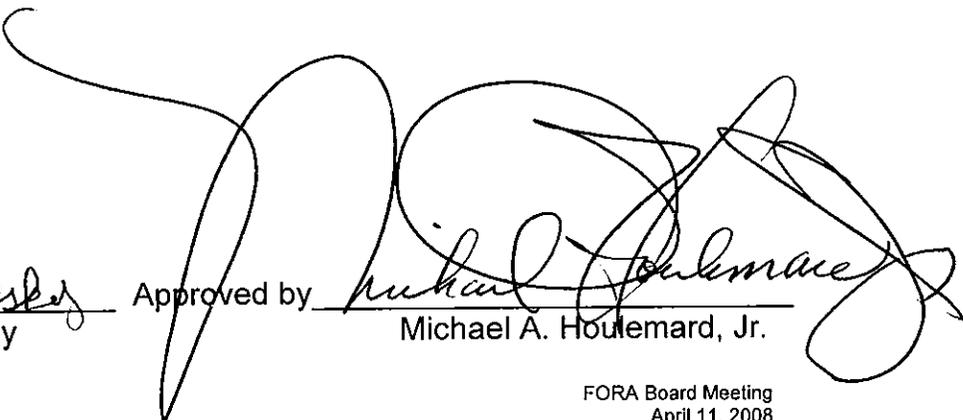
Reviewed by FORA Controller 

In September 2007, the FORA Board amended the initial \$85,445 Jones & Stokes Contract resulting in a combined budget authority not to exceed \$236,550. Funding for this amount was designated in the fiscal year 06-07 and 07-08 budgets.

COORDINATION:

Executive Committee, Administrative Committee, Legislative Committee, Coordinated Resources Management and Planning Team, City of Marina, County of Monterey, U.S. Army, USFWS and CDFG personnel, Jones & Stokes, Denise Duffy & Associates, UC, BLM, and various development teams.

Prepared by 
Steve Endsley

Approved by 
Michael A. Houlemard, Jr.

DRAFT

DRAFT

ATTACHMENT A
Item 7a
FORA Board, April 11, 2008

Draft HCP Development Schedule

- | | |
|------------------------------|------------------------|
| 1. Receive Agency Comments | February 2007 |
| 2. Draft JPA and IA | May 2008 |
| 3. Complete Cost Model | May 2008 |
| 4. Submit revised draft HCP | June 2008 |
| 5. Agency Review and Comment | June - July 2008 |
| 6. Prepare public review HCP | August 2008 |
| 7. Public Review of HCP | October 2008 (90 days) |
| 8. Prepare Final HCP | January 2009 |
| 9. Permits Issued | June/ July 2009 |

Steps to Issuance of Take Permits

1. Resolve Key Issues
2. Complete HCP Revisions
3. Agency Accepts Public Draft
4. Submit Application Materials
5. Prepare CEQA/NEPA document (concurrent)
6. Public Review
7. Revise HCP
8. Agencies prepare decision documents
9. Agencies issue permits

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Environmental Services Cooperative Agreement – update	
Meeting Date:	April 11, 2008	INFORMATION
Agenda Number:	7b	

RECOMMENDATION:

Receive a status report on the Fort Ord Reuse Authority ("FORA") Environmental Services Cooperative Agreement ("ESCA") Remediation Program ("RP").

BACKGROUND:

In Spring 2005, the Army and FORA entered into negotiations to execute an Army-funded Environmental Services Cooperative Agreement leading to the Early Transfer ("ET") of 3,500 acres of former Fort Ord property prior to regulatory environmental sign-off. In early 2007, the Army awarded FORA a \$100 million ESCA Grant to perform munitions cleanup on the ESCA parcels and FORA also entered into an Administrative Order on Consent ("AOC") with U.S. Environmental Protection Agency ("U.S. EPA") and California Department of Toxic Substance Control ("DTSC"), defining conditions under which FORA assumes responsibility for the Army remediation of the parcels. FORA then entered into a Remediation Services Agreement ("RSA") with LFR, Inc. to provide Munitions and Explosives of Concern ("MEC") remediation services and for Pollution Legal Liability and Cost-Cap insurance policies for this remediation work. FORA will receive the property after U.S. EPA approval and concurrence by the Governor.

DISCUSSION:

Since the ESCA work began in early 2007, FORA and its MEC remediation team (LFR/Weston/Westcliffe) have been working and meeting with Regulators, the Army and the Jurisdictions on the necessary documentation and site preparation to commence ESCA MEC field work and conduct public outreach to the community. Site work commenced east of the existing General Jim Moore Boulevard in January 2008. The ESCA activities for the last Quarter are detailed in **Attachment A, the ESCA Quarterly Grant Report.**

Noteworthy items in this report are the following:

- FORA ESCA RP team has engaged in approximately 122 Technical and 61 Community Outreach tasks and activities.
- Fieldwork for Change Order # 2: commence scraping of Special Case Areas ("SCAs") and set up of sifting plant operation to process soils.
- Discovery and safe removal of: 75mm MK-1, Smoke Grenade, 2.36 Practice Rocket during LFR site work.
- Hiring the ESCA Quality Assurance Oversight Professional (see item 9d)

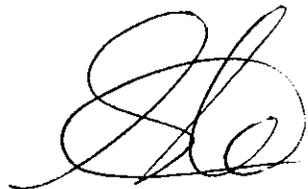
FISCAL IMPACT:

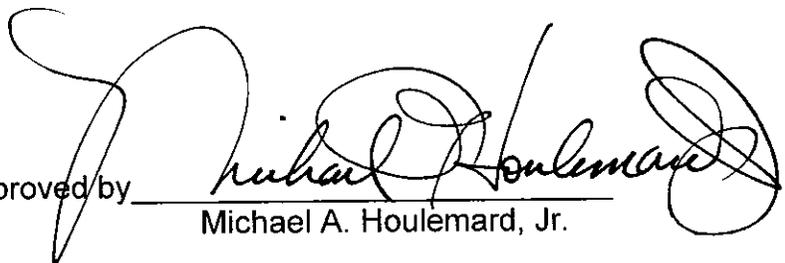
Reviewed by FORA Controller 

No fiscal impact. All ESCA work is covered by approved budget items and/or the grant award from the U.S. Army.

COORDINATION:

Administrative Committee; Executive Committee; Negotiating Team; Special and Authority Counsel; LFR; Weston Engineers; U.S. EPA; and DTSC.

Prepared by 
Stan Cook

Approved by 
Michael A. Houlemard, Jr.

QUARTERLY PROJECT REPORT

Environmental Services Cooperative Agreement

Report No: 1

Reporting Period: January 1, 2008 to March 31, 2008

Grant Recipient: Fort Ord Reuse Authority

Agreement No: W9128F-07-2-0162

PR No: W59XQB70879961

Effective Date: March 30, 2007

Grant Officer: Doug Hadley
Contracting Officer/Grants Officer
U.S. Army Corps of Engineers, Omaha District
Phone: 402-221-3045
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Compiled by: Stan Cook
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Submitted to: Gail Youngblood
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This report is submitted per the requirements in the Cooperative Agreement Award, Attachment E.1, Technical Services and Requirement Statement, Section 3.1. Project Progress Reports.

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Background/Scope and Purpose

Background.

The Federal Government, for and on behalf of the citizens of the United States of America, acts as the steward of certain real property on which it operates and maintains military facilities necessary for the defense of the United States of America. Certain military facilities are no longer required for that mission, and the Department of Defense (DoD) closed and plans to dispose of certain real and personal property at those facilities in accordance with the authority of the Defense Base Closure and Realignment Act of 1990, Public Law 101-510 (10 U.S.C. Section 2687 note, as amended). DoD is authorized to dispose of real and personal property on the former Fort Ord to the Fort Ord Reuse Authority (FORA). Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9620(h)(3)(C), federal property may be transferred prior to the completion of all remedial action necessary to protect human health and the environment. Under this early transfer authority, DoD may transfer portions of Fort Ord to the FORA, which may assume responsibility for certain environmental response activities (Environmental Services).

The property to be transferred and the geographic area in which work will be performed under the ESCA are identified herein as the Areas Covered by Environmental Services, (ACES). The environmental response activities required of the FORA under the Environmental Services Cooperative Agreement (ESCA) are identified herein as the Environmental Services. The ESCA provides the funding, specifications and requirements for the FORA's performance and completion of the Environmental Services in the ACES. Cleanup of the ACES is governed by CERCLA, the National Contingency Plan (NCP), the Administrative Settlement Agreement and Order on Consent (AOC), and other applicable laws and regulations. The Army has conducted investigations and site characterization under its own authorities under CERCLA, the Defense Environmental Restoration Program (DERP), and other applicable laws and regulations, and has identified both contaminated areas as well as uncontaminated areas. Additional site characterization and investigations are to be performed. Following the early transfer of the ACES, FORA will be obligated to comply with the AOC under the oversight of the United States Environmental Protection Agency (US EPA) and the Department of Toxic Substances Control (DTSC). As provided in the ESCA, the Parties agree that the FORA's performance of the Environmental Services must satisfy certain obligations of the Army under CERCLA and the NCP. If inconsistencies are found between the ESCA and the AOC after the ESCA has been signed, the Parties will work toward a resolution, in accordance with Section D.9 of the ESCA. The ESCA is of mutual benefit to the Army and FORA because it will facilitate early transfer and the immediate reuse of the ACES by allowing FORA to perform the Environmental Services in conjunction with redevelopment activities. The ESCA, executed in anticipation of an early transfer, will allow FORA full access to the ACES in order to implement the Environmental Services and redevelop the ACES. The ESCA does not reduce or alter in any way the responsibilities and obligations of the Army

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under CERCLA, the NCP, or Section 330 of Public Law 102-484 ("Section 330"), except as otherwise provided in the ESCA.

Purpose.

The provisions of the ESCA establish the terms and conditions necessary for the completion of the Environmental Services required to obtain Site Closeout and the execution of Long-Term Obligations associated with Site Closeout. The AOC and Technical Specifications Requirements Statement (TSRS) establish the process for obtaining Site Closeout within the ACES. By execution of the ESCA, the Army and FORA concur with the AOC and TSRS. The ESCA in no way restricts the Parties from modifying the Covenant to Restrict the Use of Property (CRUP) or the Environmental Protection Provisions (EPP), and documents referenced therein, before or after the Environmental Services at the ACES have begun. However, any such modifications shall not eliminate or change FORA's or Army's obligations under the ESCA unless a concurrent modification is made to the ESCA in accordance with Section D.21.

Scope.

FORA shall cause to be performed the Environmental Services, in consideration of the payment of a fixed sum by the Army in accordance with and subject to the provisions of the ESCA. The Environmental Services, to the extent required to be performed under the ESCA, shall satisfy the requirements of CERCLA and the NCP by satisfying the requirements provided in the AOC and TSRS. The Environmental Services will be performed in furtherance of the FORA's approved Reuse Plan and integrated with redevelopment activities, all as more particularly described in the TSRS.

The AOC establishes the process for obtaining Site Closeout within the ACES. By the execution of the ESCA, the Army concurs with the process set forth in the AOC, and all documents and approvals referenced therein; however, this concurrence in no way limits the FORA's ability to complete Environmental Services that go beyond the requirements of CERCLA and Resource Conservation and Recovery Act (RCRA) for the ACES by satisfaction of the AOC. Furthermore, the ESCA in no way restricts the parties to the AOC from modifying the AOC and documents referenced therein, pursuant to the terms thereof, before or after the Environmental Services at the ACES have begun; however, any such modifications will be coordinated with the Army and shall not eliminate or change FORA's or Army's obligations under the ESCA unless otherwise agreed in a writing signed by the Parties. In addition to providing the specified funding, the Army will retain the responsibilities and liabilities specified within the ESCA and attachments. The Army's program oversight shall ensure that the remedies implemented by the FORA pursuant to the AOC and TSRS are consistent with CERCLA and the NCP, Department of Defense Explosives Safety Board (DDESB) requirements, and other applicable laws and/or regulations. The Parties agree that the implementation of the AOC must be consistent with remedy requirements of CERCLA, the NCP, and other applicable laws and regulations, and that future modifications to the AOC will likewise be consistent with such remedy requirements. FORA agrees to achieve Site Closeout and perform the required remedial actions in accordance with and subject to the provisions of the ESCA. In accordance with 42 U.S.C.

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9620(h)(3)(C)(iii), after all response actions necessary to protect human health and the environment on the ACES, or portions thereof, have been taken, the Army will grant to the FORA the CERCLA warranty that all necessary response actions have been taken.

Document Technical Progress or Work Completed

In this Quarter, FORA and FORA's Remediation Team (LFR, Weston Engineers & Westcliffe Engineering) began: Program Management including mobilization and equipment procurement; initiated preparation of the Community Involvement Outreach Plan (CIOP), in consultation with the EPA, DTSC, and Army; prepared the Program Management Plan based on input from the Scoping Meeting; prepared the Summary of Existing Data Report (SEDR) based on input from the Scoping Meeting; created ESCA Independent Third-Party Quality Assurance Surveillance Program and Quality Assurance Surveillance Program Implementation Plan; hired ESCA Independent Third-Party Quality Assurance Professional; and, initiated data collection and analysis for preparation of the Remedial Investigation Work Plan Amendment for the Seaside 1 – 4 parcels.

FORA's critical dates, technical progress, or work completed within this Quarter are:

January 3, 2008: Communication with signage vendors to secure quotes and final details for prices on signage for ESCA property access corridors.

January 3, 2008: Teleconference with FORA Remediation Team to discuss progress in selecting an ESCA Quality Assurance Oversight Professional. Reviewed and sent out clarification to the Request for Proposal (RFP) for an ESCA Quality Assurance Oversight Professional.

January 4, 2008: Teleconference with FORA Remediation Team and regulators to discuss ESCA MEC field work progress.

January 4, 2008: Request an amendment to the existing Army/FORA Ammo Supply Point Right of Entry allowing the storage of donor-explosives for use in ESCA MEC remediation work.

January 4, 2008: Teleconference with FORA Remediation Team to discuss lease for their use of the Ammo Supply Point to support the ESCA MEC remediation work.

January 4, 2008: Meeting with FORA Remediation Team to discuss progress with hiring the ESCA Quality Assurance Oversight Professional and the impact on the MEC remediation schedule.

January 4, 2008: Meeting between FORA Remediation Team and Army to discuss the gates on the fence that will border the inland ranges in the Seaside 1-4 parcels.

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January 4, 2008: Meeting between FORA Remediation Team to discuss the Habitat Management Plan (HMP) as it relates to ESCA MEC work progress in the future.

January 4, 2008: Update from FORA Remediation Team regarding traffic management plan for General Jim Moore Boulevard during MEC remediation work.

January 4, 2008: FORA Remediation Team requests that the Regulators allow for 6" soil removal and stockpiling in preparation for the Digital Geophysical Mapping DGM work before the Quality Assurance Oversight Professional is in place.

January 4, 2008: Sent email to the Army regarding the approval for Explosives Safety Submittal with the request that the explosives storage bunkers be added to the existing Army/FORA Ammo Supply Point Right of Entry.

January 7, 2008: FORA Executive Officer reviews details for securing the Quality Assurance Oversight Professional.

January 7, 2008: Summarized the ERRG proposal for a Quality Assurance Oversight Professional outlining field visits, document reviews, programmatic and cost information.

January 7, 2008: Received comments from regulators regarding the ESCA Quality Assurance Surveillance Plan (QASP) for revision in the next draft.

January 7, 2008: Sent a copy of the ESCA Quality Assurance Oversight Professional proposal summary to regulators for their review and comment.

January 8, 2008: Received and reviewed complied daily field reports from FORA Remediation Team.

January 8, 2008: Preparation and document review for monthly meeting with Regulators.

January 8, 2008: On-site meeting at Aquifer Storage Recharge well site with Monterey Peninsula Water Management District, Army, Monterey Peninsula Engineering and FORA Remediation Team to discuss coordination of site work and potential conflicts.

January 8, 2008: Communication with Army and FORA Remediation Team about gate security at the inland range.

January 10, 2008: Teleconference with FORA Remediation Team and regulators clarifying site preparation work and Special Case Areas (SCAs) in Seaside 1-4.

January 10, 2008: Teleconference from Army to discuss insurance requirements and request insurance certification for FORA Remediation Team subcontractors.

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- January 10, 2008: Forwarded ESCA Grant Quarterly Report to Army BRAC for their information and files.
- January 11, 2008: Received and reviewed comments provided by Army on the Seaside 1-4 Site Specific Work Plan.
- January 11, 2008: Discussions with the Regulators to coordinate and finalize concurrence letter on aspects of the roadwork preparation work at Munitions remediating sites Seaside 1-4.
- January 11, 2008: Shared final draft of Regulator's concurrence letter clarifying aspects of the Army/FORA Right of Entry for roadwork preparation at Seaside 1-4 and agreements regarding Special Case Areas (SCAs) and non-SCAs (only with General Jim Moore Boulevard and Eucalyptus Road corridors).
- January 14, 2008: Received and reviewed Regulator comments on the Quality Assurance Surveillance Plan and the Seaside 1-4 Site Specific Work Plan Amendment documents.
- January 14, 2008: Received and reviewed compiled field reports submitted by FORA Remediation Team.
- January 14, 2008: Weekly Teleconference meeting between FORA and FORA's Remediation Team updating field activities and community relations/public outreach.
- January 15, 2008: Regulators provided an example of the Residential Quality Assurance protocol that the City of Del Rey Oaks is utilizing as the basis for a pilot program in the ESCA residential parcels.
- January 15, 2008: Regulators approved the ESCA Organizational Chart for inclusion in the Seaside 1-4 Site Specific Work Plan Amendment.
- January 15, 2008: Received and reviewed compiled field inspection reports submitted by FORA Remediation Team.
- January 17, 2008: Advised Regulators and Army of munitions found (75 mm shell) north of Eucalyptus Road while engaged in site preparation activity.
- January 17, 2008: Teleconference with regulators and Army to advise of munitions found (75 mm shell) on a non-ESCA site, north of Eucalyptus Road while engaged in site preparation activity.
- January 18, 2008: Weekly Teleconference meeting between FORA and FORA's Remediation Team updating field activities and administrative coordination.

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January 22, 2008: Meeting with FORA Remediation Team and Regulators to debrief and discuss UXO item found in the area north of Eucalyptus Road and next steps for field work.

January 24, 2008: Communication with Army advising that BRAC and Presidio of Monterey Fire Department are in agreement with the proposed location of the gates along the fence at the interface between the inland ranges and Seaside 1-4.

January 25, 2008: Forwarded the Final Seaside 1-4 Work Plan Amendment to the Army and regulators for review.

January 28, 2008: Communication with regulators regarding the Seaside 1-4 Site Specific Work Plan Amendment and suggested revisions and clarification of language.

January 28, 2008: Weekly Teleconference meeting between FORA and FORA's Remediation Team regarding comments and review of final draft of Summary of Existing Data Report (SEDR).

January 29, 2008: Communication with Regulators confirming Army approval to hire the ESCA Quality Assurance Oversight Professional.

January 29, 2008: Received and reviewed the draft SEDR and returned with comments.

January 30, 2008: Created the draft contract to hire for the ESCA Third-Party Quality Assurance Oversight Professional team (ESCA Quality Assurance Oversight Professional).

January 30, 2008: Teleconference with regulators and Army to advise of munitions found (57 mm round) north of Eucalyptus Road while engaged in site preparation

January 30, 2008: EPA received approval letters from DTSC and the Army on the final Seaside 1-4 Site Specific Work Plan Amendment.

January 30, 2008: Meeting with the County of Monterey to provide an update on the status of ESCA and the proposed timetable/schedule for transfer of properties.

January 31, 2008: Teleconference with Regulators and Army to advise of discarded military munitions found (smoke and practice grenades) north of Eucalyptus Road while engaged in site preparation activity.

February 1, 2008: Preparation of Scope of Work for the contract to hire the ESCA Third-Party Quality Assurance Oversight Professional.

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February 1, 2008: Sent a copy of the latest ESCA schedule and projected breakdown hours needed for a Quality Assurance Oversight Professional to FORA Remediation Team for the first year of the project for analysis with field work load in the ESCA schedule.

February 1, 2008: Communication with FORA Remediation Team geophysicist regarding the details of the expectations for services in the role of/or assisting the Quality Assurance Oversight Professional.

February 1, 2008: Received the final DDESB approval of the ESCA Program to store donor explosives for use in demolition of UXO items found during MEC remediation activities.

February 1, 2008: Received "Lessons Learned" from Regulators based on Regulators' experience with their work with hiring Third-Party Quality Assurance Oversight Professionals on other MEC remediation sites.

February 4, 2008: Hand-delivered a copy of the approval letter along with the Right-of-Entry from DDESB to the FORA Remediation Team for FORA for explosives storage at the former Ammo Supply Point facility.

February 4, 2008: Communication with FORA Remediation Team requesting they finalize their modifications to the Ammo Supply Point lease as it will need to be in place before FORA Remediation Team can store explosives on-site.

February 4, 2008: Weekly teleconference with FORA Remediation Team to discuss and provide updates on community outreach efforts, progress on Seaside 1-4 field work, project schedule and weekly construction reporting.

February 5, 2008: Received and reviewed the proposal and Scope of Work for the contract to hire the ESCA Third-Party Quality Assurance Oversight Professional.

February 5, 2008: Teleconference with Regulators advising FORA Remediation Team that their contractor will be visiting the FORA office to meet with the FORA Remediation Team to request clearance to visit the munitions response area where field work is occurring.

February 5, 2008: Teleconference with FORA Remediation Team to request a meeting with FORA Remediation Team biologist and Army biologist to discuss using the Army's volunteer biologist/botanists to assist with habitat management requirements after the ESCA properties transfer to FORA.

February 5, 2008: Final lease (that includes the conditions stipulated by the Army in the Right-of-Entry and Amendment) for the former Fort Ord Ammo Supply Point facilities to FORA Remediation Team for their use in storing their field equipment and donor explosives for MEC demolition work.

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February 5, 2008: Meeting with Laguna Seca race officials to discuss the upcoming year's race events and coordination as it relates to ESCA cleanup work and the impacts of the LUCs on their use of the ESCA properties.

February 5, 2008: Reviewed the draft example road use letter and map of access corridors with Laguna Seca race officials.

February 5, 2008: Meeting with the County of Monterey's Fort Ord Development Team to review the ESCA schedule and their proposed plan to manage the Parker Flats habitat.

February 6, 2008: Meeting with Regulators, FORA Remediation Team and ESCA Third-Party Quality Assurance Oversight Professional.

February 6, 2008: Meeting with Regulators and their contractor regarding the scraping of the surface soils in the Special Case Areas in Seaside 1-4 and the protocol previously used for working with the Army to remove MEC items discovered.

February 6, 2008: Executed the lease for the former Fort Ord Ammo Supply Point facilities to FORA Remediation Team for their use in storing field equipment and donor explosives for MEC demolition work.

February 7, 2008: Sent a copy of the Qualifications of the ESCA Third-Party Quality Assurance Oversight Professional to the Regulators.

February 12, 2008: Attended the Army's Fort Ord Munitions Cleanup yearly Site Security/Safety Meeting.

February 12, 2008: Meeting with Army and Bureau of Land Management (BLM) to discuss maintenance of the fence between the inland range and the ESCA properties after the ESCA installs a new fence and removes the old fence. BLM has historically maintained the old fence and will continue to maintain the new fence for the Army to protect the inland ranges.

February 12, 2008: Discussion with FORA Remediation Team and Bureau of Land Management (BLM) regarding habitat management of ESCA lands. BLM will forward a proposal to FORA Remediation Team to manage aspects of the ESCA habitat requirements similar to the work that they do for the Army.

February 13, 2008: Meeting with FORA Remediation Team to discuss draft of the ESCA Third-Party Quality Assurance Surveillance Plan that incorporated the Regulators' comments and the refinement to the ESCA Third-Party Quality Assurance Oversight Professional Scope of Work.

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February 13, 2008: Requested that all FORA Remediation Team invoice packages to American Insurance Group (AIG) be uploaded onto a File Transfer Protocol (FTP) site for greater ease in downloading and archiving FORA ESCA Remediation Team files.

February 14, 2008: Sent the field report to the Regulators for last week and this week.

February 14, 2008: Sent FORA Remediation Team the information on the upcoming Bureau of Land Management sponsored Invasive Weed Control Meeting notice. The meeting will address a base-wide approach to invasive weed management and attempt to identify all the entities/new owners needed to approach weed control on a base-wide effort.

February 14, 2008: Received and reviewed FORA Remediation Team's proposed revisions to the ESCA Third-Party Quality Assurance Oversight Professional documents based upon the Regulators' comments and returned the revised versions to the FORA Remediation Team.

February 15, 2008: Sent an email version of the final draft of the ESCA Third-Party Quality Assurance Oversight Professional documents with a Summary of Response to Comments and a cover letter to the Regulators. The Regulators will begin to receive a hand-delivered hard copy of the package to them at the monthly ESCA Regulators meeting on 2/21/08.

February 14, 2008: Forwarded a copy of the Quality Assurance Surveillance Plan to FORA Remediation Team via email.

February 19, 2008: Teleconference with FORA Remediation Team to discuss and provide updates for community outreach efforts, ESCA website development, Seaside 1-4 Work, documents distributed (Summary of Existing Data Report and Community Involvement and Outreach Plan), and Quality Assurance Surveillance Plan Implementation Plan.

February 21, 2008: Attended the monthly ESCA Regulators Meeting. Items discussed included updates for community outreach efforts, Seaside 1-4 Work, document distribution (Summary of Existing Data Report and Community Involvement and Outreach Plan), and Quality Assurance Surveillance Plan.

February 21, 2008: Conducted site visit of ESCA properties for Regulators to update them on recent remediation activities.

February 21, 2008: Meeting with FORA Remediation Team and FORA Engineering Department to provide them with a status report on the roadwork corridor portion of the ESCA properties in Seaside 1-4.

ESCA Quarterly Report:

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February 22, 2008: Attended monthly Munitions Response: Base Cleanup Team (MR-BCT) Meeting.

February 22, 2008: Hand-delivered hard copy of latest ESCA Quarterly Report to the Regulators and Army at the MR-BCT Meeting.

February 22, 2008: Received and reviewed letter from Fort Ord Environmental Justice Network requesting a 30-day extension to the Summary of Existing Data Review (SEDR) comment period. Drafted and finalized response letter and sent to FOEJN via registered email and registered mail on this date.

February 25, 2008: Site visit and meeting with Regional Water Quality Control Board regarding Storm Water Pollution Prevention measures and storm water monitoring for the roadway along General Jim Moore Boulevard and Eucalyptus Road.

February 25, 2008: Meeting with FORA Engineering Department to discuss Storm Water Pollution Prevention Plan for the General Jim Moore Boulevard and Eucalyptus Road work.

February 25, 2008: Weekly teleconference with ESCA Quality Assurance Oversight Professional's work and discussed the Quality Assurance Surveillance Plan review with Regulators.

February 25, 2008: Weekly teleconference with FORA Remediation Team to discuss and provide updates for community outreach efforts, Seaside 1-4 field work, project schedule and weekly construction reporting.

February 26, 2008: Meeting with FORA Engineering to develop a Storm Water Pollution Prevention Plan for the General Jim Moore Boulevard and Eucalyptus Road work.

February 26, 2008: Meeting with Regulators, Quality Assurance Oversight Professional and FORA Remediation Team to discuss scope of work for the ESCA Quality Assurance Oversight Professional.

February 26, 2008: Teleconference with Regulators, FORA Executive Officer and FORA Remediation Team to discuss scope of work for the ESCA Quality Assurance Oversight Professional.

February 27, 2008: Teleconference with Regional Water Quality Control Board regarding ESCA Remediation Program Storm Water measures.

February 27, 2008: Teleconference with Regulators regarding request for copy of DDESB final approval. FORA ESCA Remediation Team sent copy of DDESB via email.

ESCA Quarterly Report:

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February 28, 2008: Sent memorandum to FORA Controller regarding invoice from Bunker and Sons for erosion control work in the General Jim Moore Boulevard Phase III area (at the intersection of General Jim Moore Boulevard and Eucalyptus Road).

February 28, 2008: Received a copy of a letter from Monterey Regional Parks District requesting that FORA transfer the parks parcel in the FOSET 5 (ESCA) directly to Parks when appropriate.

February 29, 2008: Teleconference with Regulators and FORA ESCA Remediation Team to discuss outstanding Quality Assurance Surveillance Plan/Quality Control Oversight Professional questions and issues.

March 3, 2008: Received and reviewed comments from the Army on the Summary of Existing Data Report.

March 3, 2008: Received, reviewed and revised Quality Assurance Oversight Professional Scope of Work and contract.

March 3, 2008: Received and reviewed Storm Water Pollution Prevention Plan (SWPPP). Final revisions to SWPPP in progress.

March 3, 2008: Weekly conference call with FORA Remediation Team to discuss and provide updates on community outreach efforts, progress on Seaside 1-4 field work, QASP Implementation status, project schedule and weekly construction reporting.

March 4, 2008: Teleconference with DTSC, EPA, FORA Remediation Team and ERRG to discuss Quality Assurance Oversight Professional contract, Seaside Work Plan and geophysical prove out site construction.

March 5, 2008: Communication with ERRG to review and revise cost/price for geophysicists' portion of Quality Assurance Oversight Professional's specifications.

March 5, 2008: Received and reviewed spread sheet and memorandum from FORA Remediation Team regarding revision of ERRG contract.

March 7, 2008: Teleconference with FORA Remediation Team to discuss signage along General Jim Moore Boulevard, habitat management tasks, field schedule and Storm Water Pollution Prevention Plan.

March 10, 2008: Teleconference with Army regarding plant survey requirements to satisfy ESCA.

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- March 10, 2008: On-site meeting between FORA Remediation Team, Regulators and Quality Assurance Oversight Professional to review field work, review Geophysical Test Plot Plan and test analog and DGM equipment.
- March 10, 2008: Teleconference with FORA Remediation Team and Regulators to discuss Geophysical Test Plot Plan and Special Case Area DGM work.
- March 10, 2008: Weekly conference call with FORA Remediation Team to discuss and provide updates on community outreach efforts, progress on Seaside 1-4 field work, project schedule and weekly construction reporting.
- March 10, 2008: On-site meeting with Quality Assurance Oversight Professionals to discuss DGM preparation and verify burial of MEC-like seed items.
- March 11, 2008: Sent copy of the Quality Assurance Surveillance Plan and Geophysical Test Plot Plan to Quality Assurance Oversight Professional via email and U.S. mail.
- March 11, 2008: Communication with Quality Assurance Oversight Professional regarding Geophysical Test Plot Plan and discussed Scope of Work, field schedule and Quality Assurance DGM resurveying work.
- March 11, 2008: Early morning on-site meeting with Regulators and Quality Assurance Oversight Professionals to review DGM equipment and personnel tests for the Geophysical test plot.
- March 11, 2008: On-site meeting with Quality Assurance Oversight Professionals and FORA Remediation Team to verify that DGM equipment is functioning properly and that field personnel are qualified to perform DGM.
- March 12, 2008: Multiple communications with Quality Assurance Oversight Professional regarding Geophysical Test Plot Plan field activities.
- March 12, 2008: Received and reviewed Covenant Restricting Use of Property from Army for the ESCA (FOSET 5) parcels. Forwarded copies to the relevant jurisdictions.
- March 12, 2008: Teleconference with Regulators and FORA Remediation Team to discuss the Quality Assurance Surveillance Plan and assurance that Quality Assurance work will meet the same level of quality assurance as the Army provides.
- March 12, 2008: Teleconference with FORA Remediation Team, Regulators, the Army and Quality Assurance Oversight Professionals to discuss Geophysical Test Plot Plan, Blind Seeding Program, Quality Assurance Surveillance Plan and sifting plant operations.

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- March 12, 2008: Meeting between FORA Remediation Team and Regulators to discuss Quality Assurance Oversight Professional's role and to identify the Army Corps of Engineers' level of quality assurance at the former Fort Ord.
- March 12, 2008: Communication with FORA Remediation Team to forward request for additional information on the FORA Remediation Team's blind seeding program.
- March 13, 2008: Sent copy of summary of telecon meetings with Regulators and forwarded listing of proposed modifications to the Scope of Work/level of effort to the Quality Assurance Oversight Professional.
- March 13, 2008: Teleconference with City of Seaside to follow up on repairs to road/curb at General Jim Moore Boulevard and Broadway Street.
- March 13, 2008: Attended monthly Munitions Response: Base Cleanup Team (MR-BCT) Meeting.
- March 14, 2008: Forwarded request by Army for a map and location of Site 39 to confirm that it does not lie in ESCA property so that FORA can properly respond to the FOCAG letter with their concerns about Site 39.
- March 14, 2008: Teleconference with FORA Remediation Team to discuss strategy and direction in supporting the Quality Assurance Oversight Professional and finalizing the Quality Assurance Surveillance Plan.
- March 14, 2008: Meeting with FORA Remediation Team to prepare for Regulators meeting in EPA Region 9 headquarters in San Francisco on 3/19/08.
- March 17, 2008: Received and reviewed email communication from Regulators approving the Quality Assurance Surveillance Plan.
- March 17, 2008: Weekly conference call with FORA Remediation Team to discuss and provide updates on community outreach efforts, progress on Seaside 1-4 field work, project schedule and weekly construction reporting.
- March 17, 2008: Sent copy of suggested revisions for the ESCA Munitions Response Areas (MRAs) to FORA Remediation Team.
- March 18, 2008: Received and reviewed comments to Summary of Existing Data Report (SEDR) from Regulators.
- March 18, 2008: Meeting with Army and FORA Remediation Team to discuss Residential Quality Assurance (RQA) success criteria.

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- March 19, 2008: Attended the monthly ESCA Regulators Meeting at EPA Region 9 headquarters in San Francisco. Among the items discussed included Residential Quality Assurance Pilot Program (RQA), field work activities and schedule and public outreach efforts.
- March 20, 2008: Sent copy of suggested revisions to the Scope of Work and Level of Effort to Quality Assurance Oversight Professional for review and use in revising contract.
- March 21, 2008: Letter to Quality Assurance Oversight Professional explaining the revisions to the Scope of Work, Level of Effort and cost of the ESCA Quality Assurance Oversight Professional.
- March 24, 2008: Weekly Quality Assurance conference call with FORA Remediation Team and Regulators.
- March 24, 2008: Weekly conference call with FORA Remediation Team to discuss and provide updates on community outreach efforts, progress on Seaside 1-4 field work, QASP Implementation status, project schedule and weekly construction reporting.
- March 25, 2008: Meeting with FORA Remediation Team and Army biologist to discuss Habitat Management requirements on ESCA properties (plant surveys on ranges 43-48 this coming Spring).
- March 25, 2008: Meeting with FORA Remediation Team to discuss upcoming plant surveys, weed control and other habitat management requirements in preparation for upcoming Bureau of Land Management Invasive Weed Control meeting and Army plan survey meeting.
- March 25, 2008: Received and reviewed Army amendment to selected remedy for site 39 Inland Ranges.
- March 26, 2008: Preparation of a draft Contract Change Order #3 for the Storm Water Pollution Prevention Plan (SWPPP) document, submittal, management and Best Management Practices work. Forwarded to FORA Remediation Team for review.
- March 26, 2008: Attended the Bureau of Land Management's Invasive Weed Abatement meeting to discuss upcoming plant surveys, weed control and other habitat management issues on ESCA properties.
- March 26, 2008: Teleconference with Regulators to provide a status of Regulator comments to the Summary of Existing Data Report (SEDR) and Residential Quality Assurance (RQA) Pilot Program success criteria.

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March 27, 2008: Meeting with Army and FORA Remediation Team to discuss the upcoming plant surveys for Range 43-48 which are due next month (April).

March 31, 2008: Weekly Teleconference meeting between FORA and FORA's Remediation Team updating field activities and community relations/public outreach.

March 31, 2008: Weekly Quality Assurance conference call with FORA Remediation Team and Regulators.

ESCA Grant Funds Spent- This Quarter- Total to date

See the attached Financial Report form 272.

Upcoming work for the next reporting Quarter

In the upcoming Quarter FORA and FORA's Remediation team will:

1. Continue Program Management including office mobilization, equipment procurement, cost, scope, and schedule tracking and control;
2. Preparation of Community Involvement and Outreach Plan and submit for review and comment;
3. Completion of the Summary of Existing Data Report;
4. Completion of Draft Program Management Plan;
5. Complete Remedial Investigation Workplan for Seaside parcels;
6. Continue field work for MEC Remediation in Seaside 1-4;
7. Commence sifting of soils from Special Case Areas (SCA) in Seaside 1-4;
8. Prepare RI/FS for ESCA portion of Parker Flats; and
9. Receive ESCA properties from U.S. Army.

Technical or Regulatory issues that may impact project schedule

N/A

Status of comments submitted by Army on documents submitted by FORA

N/A

Status coordination of MEC documents with DDESB

N/A

Corrective Measures Implementation Reports

N/A

Corrective Measures Effectiveness Report

N/A

Needed Notifications in accordance with the ESCA

N/A

Changes to the AOC

N/A

Summary of public participation – This Quarter- Next Quarter

Public Participation during this Quarter was extensive including continued preparation of the draft Community Involvement and Outreach Plan and preparing an ESCA fact sheet to support outreach. Participated with the Army Fort Ord Environmental Cleanup (BRAC office) Open House and Bus Tour.

FORA's critical outreach dates and public participation completed within this Quarter are:

January 3, 2008: Review examples of insurance certificates and insurance requirements from Bureau of Land Management (BLM) and Sea Otter Classic for their upcoming cycling event through ESCA properties.

January 3, 2008: Coordination with FORA Remediation Team and community relations consultant to address opening pedestrian gates at Eucalyptus Road on weekends for through bike and pedestrian traffic.

January 4, 2008: Confirm weekend access through pedestrian gates for members of the public at Eucalyptus Road.

January 7, 2008: Participated in Seaside 1-4 site visit with FORA Remediation Team community relations consultants in preparation for Community Involvement Workshop.

January 7, 2008: Meeting with interim users (cyclist) to discuss schedule of events for their organization and their plan for testing a new course route through ESCA property in March.

January 8, 2008: Delivered presentation on the status of ESCA Remediation Program and field work in Seaside 1-4 Special Case Areas to Fort Ord Veterans Administration Clinic staff.

January 8, 2008: Communication with East Garrison Partners regarding working together to assist the Monterey Horse Park find a staging area and access to Bureau of Land Management lands that do not require use of ESCA property.

January 9, 2008: Participated in the Army Community Involvement Workshop held at the Holiday Inn Express, Marina. Presented an update on the FORA ESCA RP field work, upcoming documents and public meetings, and the next publication date for the FORA ESCA RP Newsletter.

ESCA Quarterly Report:

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January 10, 2008: Technical Review Committee Meeting 10-12 p.m. (TRC) – Presented an update on the FORA ESCA RP field work, upcoming documents and public meetings, and the next publication date for the FORA ESCA RP Newsletter

January 10, 2008: Meeting with Public Safety providers. Provided updates on the FOSET approval and schedule of property transfer, Seaside field work on General Jim Moore Boulevard (work schedule, safety plan and outreach), and a report on the December Users Working Group meeting.

January 10, 2008: Received a complaint, forwarded by Mayor of Seaside, from a Seaside resident about noise and dust along General Jim Moore Boulevard by work crews. FORA staff contacted resident and began research to determine the cause of the disturbance.

January 11, 2008: Provided the FORA Board with the ESCA Quarterly Grant Report, and an update on the ESCA RP including field activities. Distributed public outreach and engagement items: stress ball grenades with the ESCA Point-of-Contact and ESCA Hotline information, ACCORD outreach principles and latest ESCA newsletter.

January 14, 2008: PowerPoint presentation for National Governors Association Federal Facilities Tour of Former Fort Ord (1/29).

January 14, 2008: Teleconference with Public Information Officer from CSUMB to prepare an article for the CSUMB student/faculty/staff monthly newsletter for the Spring semester.

January 14, 2008: Met with CSUMB student offering the information on the ESCA RP as the basis for their Capstone class project. The student plans to create an integrated series of GIS maps that bring together the ESCA Access Corridor system, the Bureau of Land Management and Army road/trail systems into one overall map. The deliverable and final graduation project will be used to educate CSUMB students, recreational users and the general public on access through the ESCA parcels for the life of the ESCA Program.

January 15, 2008: Communication and coordination with National Training and Advisory Review Committee (NATRAC) an analysis of their trail routes for a 33-mile horse ride/competition for a summer fundraising event.

January 16, 2008: Site visit with Army in establishing a Fort Ord bus tour route for their upcoming Open House and Bus Tour of the Munitions Response sites (2/23/08)

January 16, 2008: Final draft of Community Involvement and Outreach Plan to FORA Executive Officer for review and comment.

ESCA Quarterly Report:

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January 16, 2008: Review and revision of presentation for National Governors Association Center for Best Practices, Federal Facilities Environmental Issues Panel tour of Former Fort Ord.

January 16, 2008: Communication from National Training and Advisory Review Committee (NATRAC) advising they will be postponing their summer fundraising event until later in 2008 due to staffing issues.

January 17, 2008: Communication with Seaside resident to follow up on complaint (forwarded by the Mayor of Seaside) about noise and dust in her neighborhood. Conclusion after investigation: The noise and dust were not caused by the ESCA field work.

January 17, 2008: Received request from a local homeowners association to submit an informational article on ESCA RP activities for their monthly newsletter.

January 18, 2008: Communication with Army to coordinate participation with FORA and the regulators in a presentation to the National Governors Association on Hazard Remediation on the former Federal Facilities.

January 22, 2008: Monthly meeting with Users Working Group. Provided an update on the status of the transfer of ESCA property, field activities, cleanup efforts and regulatory approval of access corridors.

January 22, 2008: Coordinating meeting with Monterey Horse Park, County of Monterey and Bureau of Land Management for an equestrian ride/competition in the summer of 2008.

January 22, 2008: Coordinating meeting with event representatives from Laguna Seca, Sea Otter Classic, Bureau of Land Management, and FORA ESCA RP for a cycling event in April 2008.

January 22, 2008: Coordinating meeting with event representatives from Laguna Seca, Sea Otter Classic, Bureau of Land Management, and FORA ESCA RP for a cycling event in April 2008.

January 23, 2008: Received a map from Monterey Horse Park that outlines the proposed route for their upcoming ride/competition in the summer of 2008.

January 23, 2008: Created a draft example letter for use in providing permission for Special Events to utilize the ESCA roadways and will list FORA requirements such as notices, insurance, traffic control, and security. This draft example letter was also forwarded to the City of Seaside, Bureau of Land Management and County of Monterey for comment.

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- January 28, 2008: Coordinate proposed bus tour route with FORA Remediation Team for the National Governors Association Center for Best Practices, Federal Facilities Environmental Issues Panel.
- January 28, 2008: Field trip with FORA Remediation Team to finalize bus tour route the National Governors Association Center for Best Practices, Federal Facilities Environmental Issues Panel.
- January 29, 2008: Delivered the National Governors Association Tour of the ESCA parcels, Seaside 1-4 worksite and provided a PowerPoint presentation on the ESCA and other cleanup hazards on the former Fort Ord.
- January 29, 2008: Interview with reporter from The Salinas Californian newspaper about the ESCA project.
- January 31, 2008: Received a request from a veterans group, through the Army, to be escorted to Range 19 so they can video-interview one of their members on Range 19.
- January 31, 2008: Meeting with representatives from Monterey Horse Park to discuss an alternate location for their proposed equestrian event to occur off the future ESCA properties due to the timing of property transfers scheduled to occur in the summer of 2008 and potential impacts of the State regulatory Land Uses Covenants (LUCs).
- February 1, 2008: Received a request forwarded to FORA ESCA Remediation Program from BRAC regarding a veterans group requesting to be escorted to Range 19 for the purpose of video-interviewing one of their members on Range 19. They have also requested the old "Range 19" sign for their future activities.
- February 1, 2008: Created a map for the Monterey Horse Park for the purpose of determining if their proposed horse park in the areas of their site later (2009?). This is an area that will soon have a Record of Decision in place.
- February 7, 2008: Meeting with Public Safety providers. Provided updates on the FOSET approval and schedule of property transfer, Seaside field work on General Jim Moore Boulevard (work schedule, safety plan and outreach), and a report on the January Users Working Group meeting.
- February 8, 2008: Received and reviewed the draft Community Involvement and Outreach Plan (CIOP).
- February 8, 2008: Communication with Regulators advising of munitions found (M-18 practice grenade) north of Eucalyptus Road while engaged in site preparation activity.

ESCA Quarterly Report:

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February 13, 2008: Sent out letter and email notice to stakeholders that received a copy of the Summary of Existing Data Review (SEDR) for review. Comment period is 30 days and ends on March 14, 2008.

February 14, 2008: Developed the Agenda for the upcoming Fort Ord Users Working Group Meeting.

February 20, 2008: Meeting with Central Coast Cyclo-Cross (CCCX) to discuss phasing his Cyclo-Cross events for 2008 with the ESCA property transfer and to discuss his suggestions for placement of informational "kiosks" to inform recreational users of the ESCA access corridor system and how best to access Bureau of Land Management recreation properties on the former Fort Ord. This information and the suggestions will be presented to the Users Working Group at the next meeting scheduled for 2/26/08.

February 22, 2008: Site visit to location of Fort Ord Environmental Cleanup Open House and Bus Tour to set up FORA booth for event scheduled on the following day (2/23/08).

February 26, 2008: Monthly meeting with Users Working Group. Provided an update on the status of the transfer of ESCA property, field activities, cleanup efforts and regulatory approval of access corridors.

February 27, 2008: Meeting and teleconference with Regulators' mediation contractor and FORA ESCA Remediation Team to investigate community participation process.

February 28, 2008: Meeting with Fort Ord Environmental Justice Network, Inc., Regulators and FORA ESCA Remediation Team. FOEJN provided a presentation and discussion about community involvement.

February 29, 2008: Sent copies of correspondence to Fort Ord Environmental Justice Network, Inc. and Fort Ord Citizens Advisory Group to FORA ESCA Remediation Team to submit to Administrative Record.

February 29, 2008: Received request from American Insurance Group to visit ESCA site to photograph ESCA parcels and development on the former Fort Ord for their annual report.

March 3, 2008: Sent copy of latest ESCA Newsletter to Army to insert into their monthly newsletter for distribution.

March 5, 2008: Letter to Fort Ord Citizens Advisory Group (FOCAG) responding to their position paper on the ESCA.

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March 5, 2008: Communication and coordination with DTSC regarding response to FOCAG position paper.

March 5, 2008: Off-site visit, tour and interview for Bay Watch, Channel 5 (San Francisco) off ESCA parcels for their road television show of San Francisco and the Central Coast. Interview on the background of the base and the plans for the redevelopment and reuse of the former Army base.

March 14, 2008: Received and reviewed a letter from the Fort Ord Citizens Advisory Group stating their position on the ESCA.

March 17, 2008: Received and reviewed Fort Ord Environmental Justice Network's comments on the Community Involvement and Outreach Plan.

March 17, 2008: Communication with and coordination of teleconference with Regulators to discuss their comments on the Community Involvement and Outreach Plan.

March 17, 2008: Received and reviewed a copy of the Army's revised "Munitions Response Sites Numbering System", then provided comments to the local BRAC office. The Army has been directed to provide a briefing to the public on the new numbering system.

March 18, 2008: Meeting with the County Laguna Seca Parks Department staff to discuss the final coordination for the Sea Otter Classic Bicycle event scheduled for April 2008.

March 25, 2008: Monthly meeting with Users Working Group. Provided an update on the status of the transfer of ESCA property, field activities, cleanup efforts and regulatory approval of access corridors.

March 25, 2008: Received and reviewed Fort Ord Environmental Justice Network's comments on the Summary of Existing Data Report (SEDR). Forwarded a note acknowledging receipt of their comments.

March 25, 2008: Received and reviewed additional comments to the Community Involvement and Outreach Plan (CIOP) from Regulators.

March 27, 2008: Received and reviewed draft Community Involvement Workshop PowerPoint presentation and made suggestions for revisions.

Below is a listing of the total number of ESCA Hotline telephone calls received at (831) 883-3506 and ESCA-dedicated email for the first quarter of 2008. Members of the community called/emailed with questions regarding traffic congestion and impacts to General Jim Moore Boulevard, questions about potential trail closures

ESCA Quarterly Report:

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and access to Eucalyptus Road, requests to be placed on the ESCA email distribution list and inquiries regarding employment on the former Fort Ord.

<u>ESCA Hotline</u>		<u>ESCA e-mail</u>
January 2008:	4	16
February 2008:	9	22
March 2008:	6	25
TOTAL:	19	63

Project Updates to Coordinated Resource Management Planning (CRMP) meeting

FORA's critical dates, CRMP updates completed within this Quarter are:

N/A

FORA
Environmental Services Cooperative Agreement
Remediation Program

FORA Board Update

Presentation by:

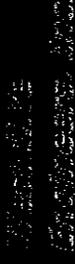
Michael Houlemard – Executive Officer

Stan Cook – FORA - ESCA Program Manager

Kristie Reimer – LFR Team ESCA RP Program Manager

April 11, 2008

1



ESCA Properties



FORT ORD MILITARY RESERVATION



WESTON

Community Involvement and Outreach Program ACCORD

Acknowledge

DIVERSE VIEWS AND VOICES

Communicate

REGULARLY WITH STAKEHOLDERS

Comprehensive

EDUCATION AND INFORMATION

Oppportunity

FOR ACTIVE COMMUNITY PARTICIPATION

Responsive

TO PERSONAL COMMUNICATION AND INQUIRIES

Dedicated

TO INCLUSIVE COMMUNITY INVOLVEMENT AND OUTREACH

First Quarter Community Outreach

- Fort Ord Users Group
- FORA/ Fort Ord Environmental Justice Network Meetings
- Emergency Services Providers
- Veterans Clinic
- Monterey County Horse Park
- Habitat Meeting
- Dedicated telephone and email increasing



DEPARTMENT OF DEFENSE
FORT ORD, CALIFORNIA

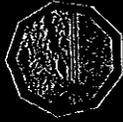
DEFENSE

WESTON

WESTON
CONSTRUCTION

Quality Assurance

- Quality Assurance Surveillance Program
 - Geophysical mapping procedures
 - UXO Field Procedures
- Quality Assurance Oversight Professional
 - Geophysicist – Digital geophysical mapping
 - ✓ Confirm equipment functions and readings
 - ✓ Review collected geophysical data
 - UXO Tech 3
 - ✓ Seed MEC simulates
 - ✓ Crew Procedures
 - ✓ Confirms LFR/Weston Quality Control



Upcoming Meetings and Events

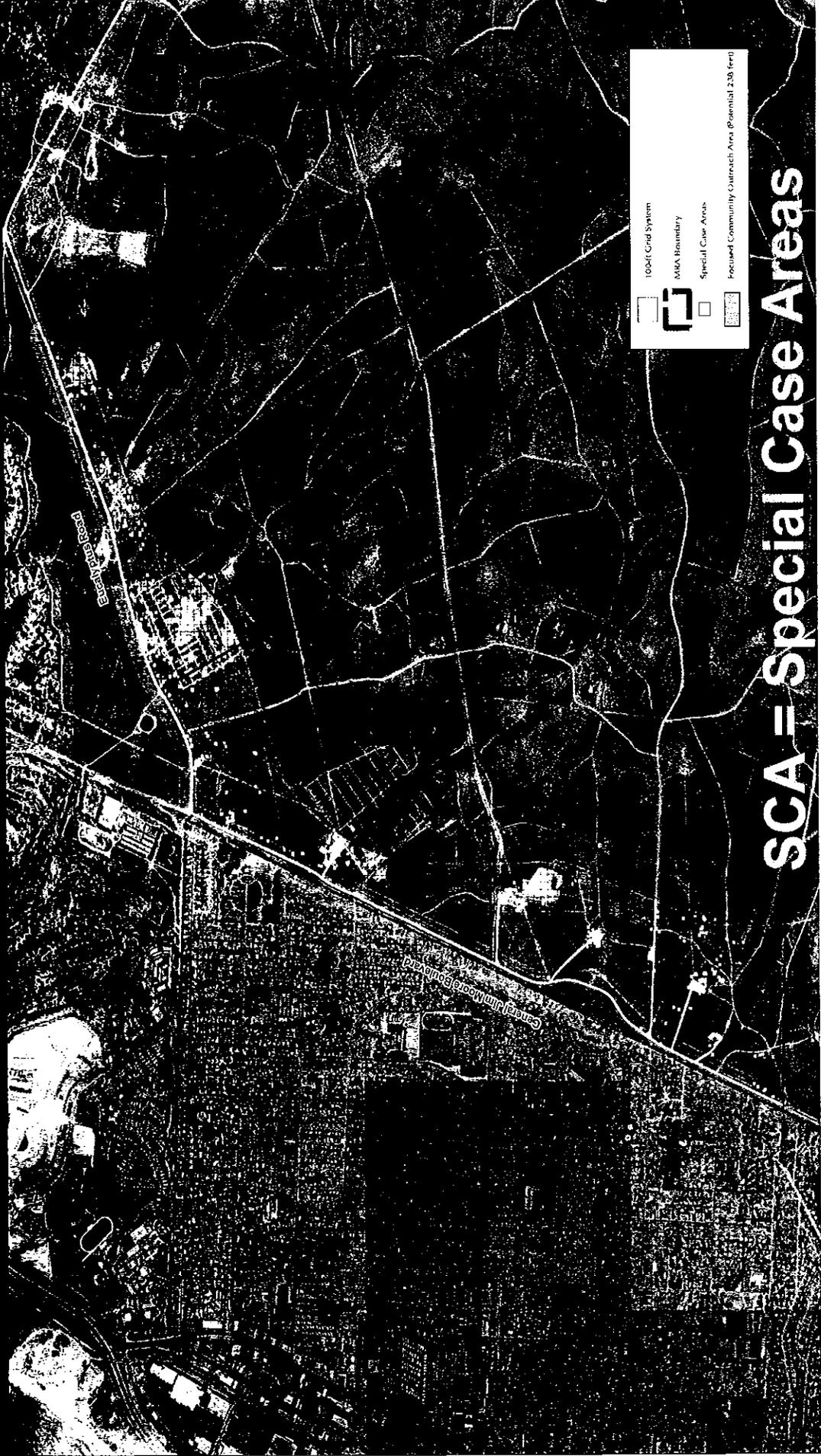
MEETINGS	DATES
Monterey Institute of International Studies – Earth Day Event	April 21
FORA ESCA Overview – Group One RI/FES Work Plan (<i>date tentative</i>)	May 13
FOEJN Community Workshop	May 31
FORA Community Workshop	June 19
Army Open House and Bus Tour	June 21
Army CIW Meeting	July 9
Monterey Country Fair	August 14 – 16



Resources

- FORA ESCA Quarterly Newsletters
- FORA ESCA Technical Fact Sheets
- Weekly Updates: FORA ESCA Hotline
(831) 883-3506
- Maps showing access routes
- Email: esca@fora.org
- Website: www.fora.org
 - Follow ET/ESCA Information link

Seaside 1-4 SCA



SCA = Special Case Areas



Fort Ord
Reuse Authority



Westcliffe
Engineers, Inc.

Seaside 1-4 SCA Field Update

- First quarter field accomplishments:
 - Brush removal: 33 acres
 - Soil scraping: 72,000 cubic yards
 - Demolition activities – building demolition and disposal, asphalt and debris removal
 - MEC visual surface and instrument aided inspection
 - Instrument verification of SCA point removal
 - UXO escort for subcontractors
 - Qualified Biologists field monitoring for CTS and erosion control within SCAs
 - Fence replacement: 1,500 linear feet



Debris, Structure, Asphalt & Concrete Removal

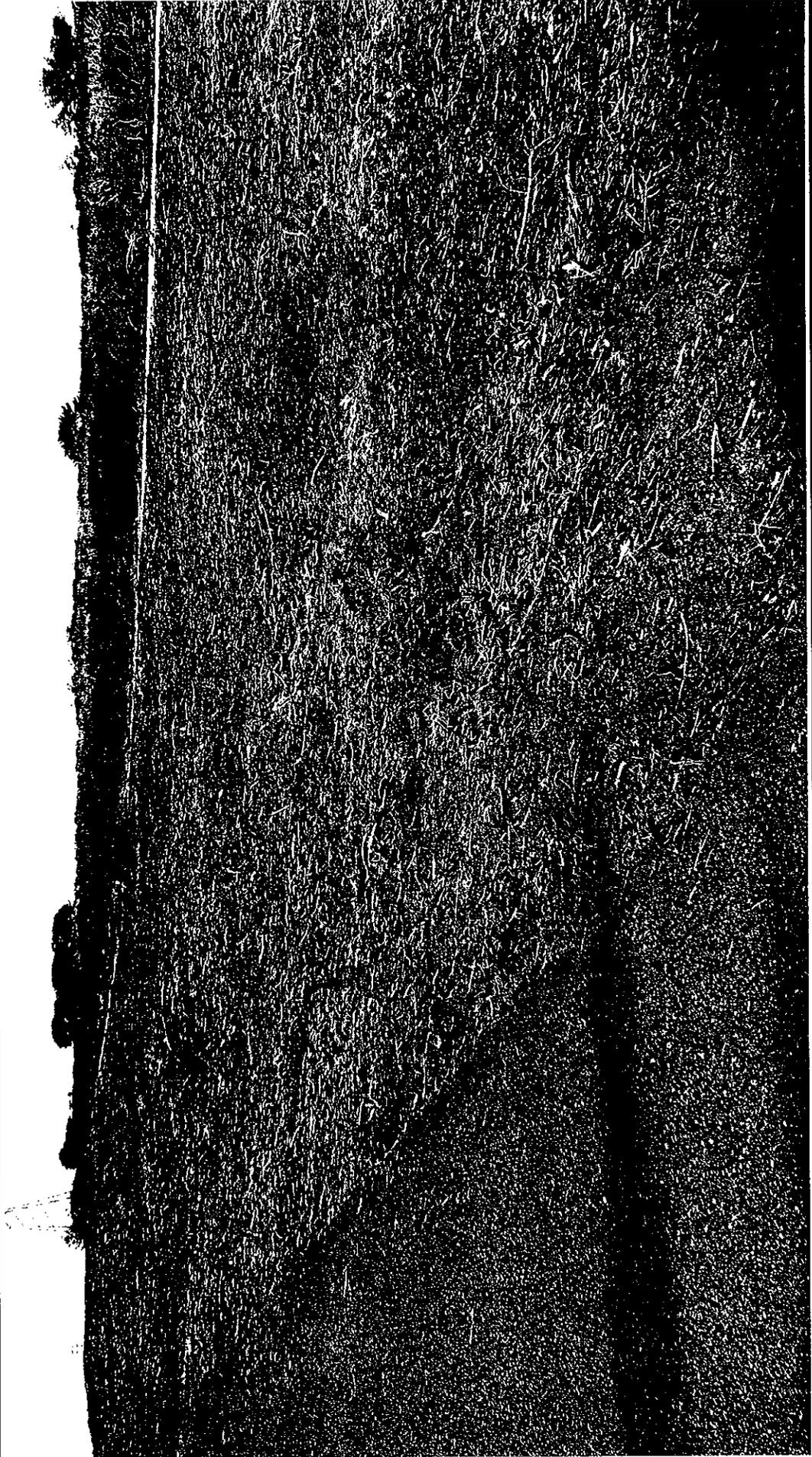


Fort Ord
Reuse Authority



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Engineers, Inc.

Vegetation Cutting



Fort Ord
Reuse Authority



Westcliffe
Engineers, Inc.

Typical Fence



Fort Ord
Reuse Authority



Westcliff
Engineers, Inc.

Soil Scraping Activities



Fort Ord
Reuse Authority



Westcliffe
Engineers, Inc.

Asphalt Removal Activities

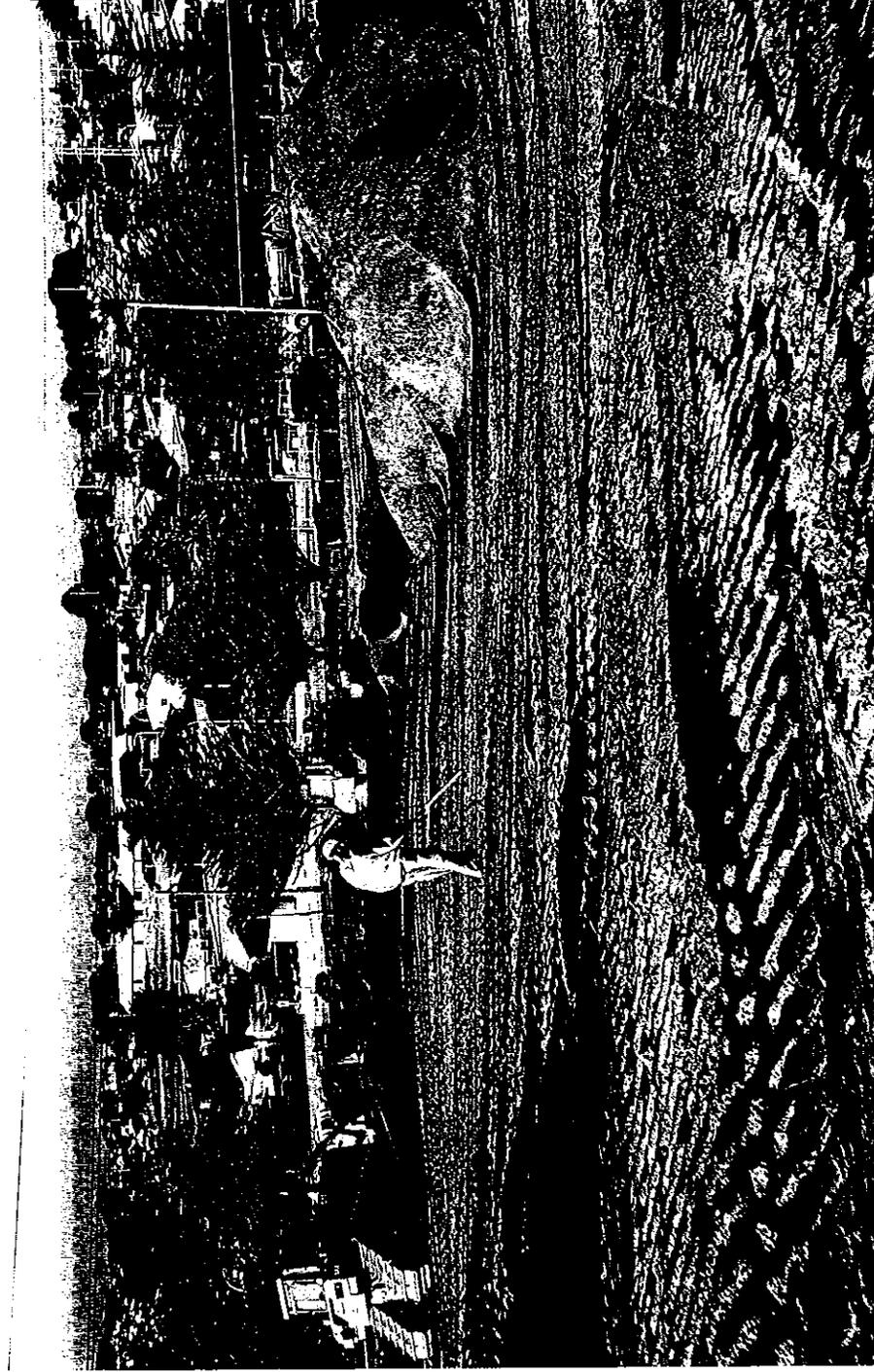


Fort Ord
Reuse Authority



*Westcliffe
Engineers, Inc.*

Visual/Instrument Aided Inspection

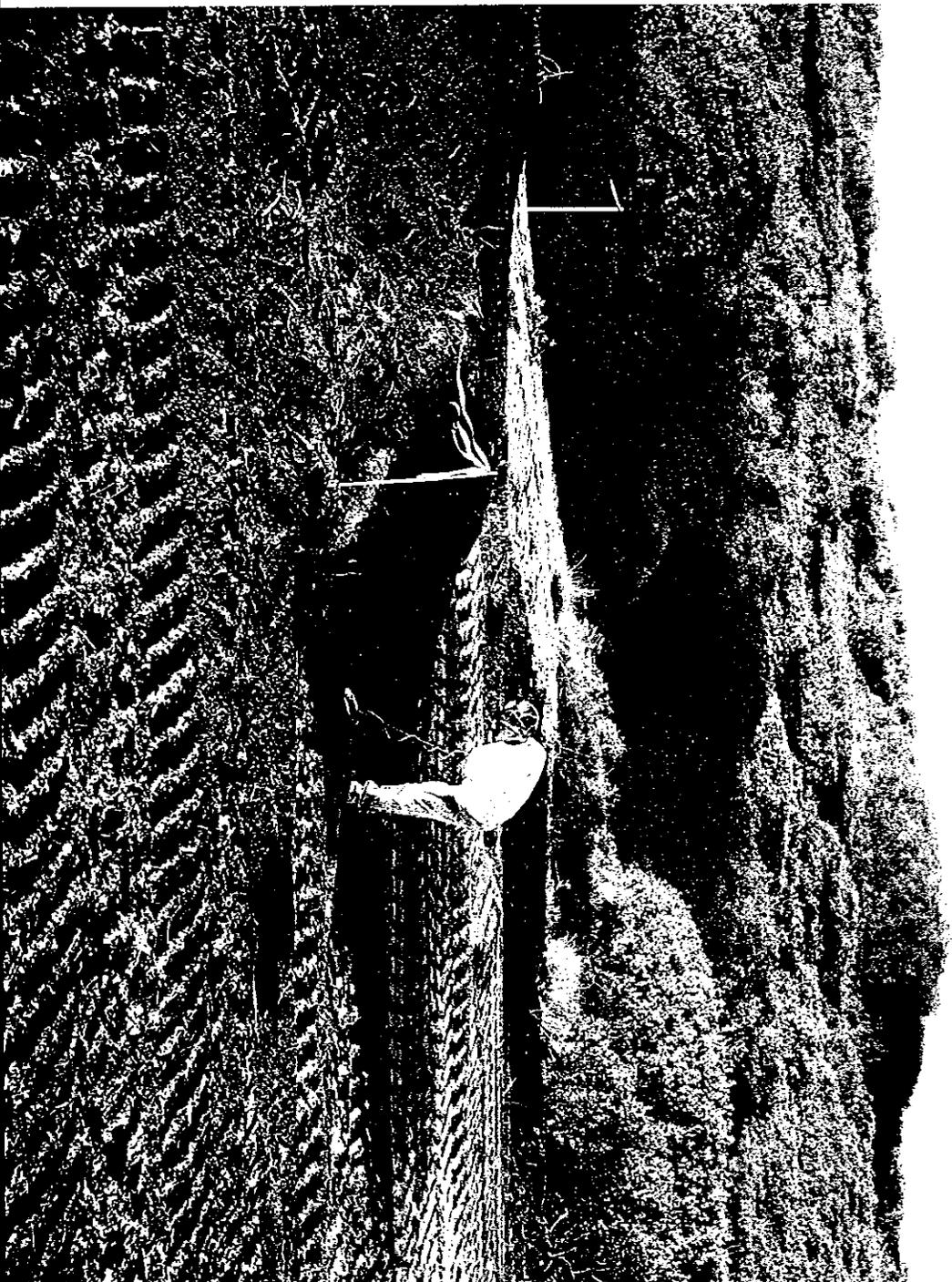


Fort Ord
Reuse Authority



Westcliffe
Engineers, Inc.

Instrument Verification of Point Removal



Seaside 1-4 SCA Remediation Activities

- Field Team and Equipment Prove Out
 - ✓ Geophysical equipment accuracy confirmation
 - ✓ Field team operations testing
 - ✓ Regulatory oversight
 - ✓ Summary Report with Regulatory Approval
 - ✓ Quality Assurance Sign Off
- Digital Geophysical Mapping
- Anomaly excavation
- Quality Control/Quality Assurance
- Documentation of work performed



MEC Items Recovered to Date

- MEC items recovered during site preparation and survey activities:
 - 60mm mortar = 1
 - M18 smoke grenade = 2
 - M69 practice grenade = 2
 - 2.36" rocket = 9
 - 57mm = 1
 - 75mm shrapnel = 1
- ✓ ESCA Remediation Team contacted Army
- ✓ Army removed items for safe disposal



Environmental
Protection Agency



Department of
Defense

WESTON

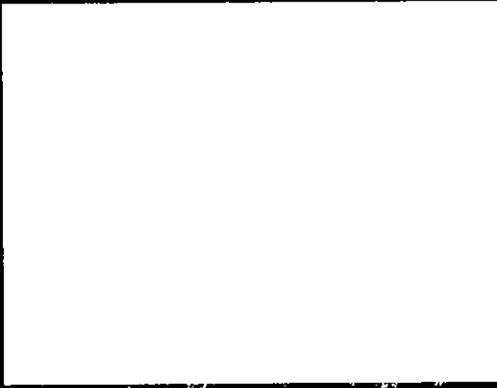
Environmental
Remediation
Services

MEC Items Recovered to Date



M-69

Practice Grenade



MK-2

Practice Grenade

M-18

Smoke Grenade

19



Fort Ord
Reuse Authority

DLFR

WESTON

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Engineers, Inc.

MEC Items Recovered to Date



75mm
Shrapnel MK 1



57mm projectile, unfuzed,
filler suspected to be inert,
projectile body deformed.

2.36 rockets – HE and
Practice – Discarded Military
Munitions
Safety Pins in Place



Fort Ord
Reuse Authority



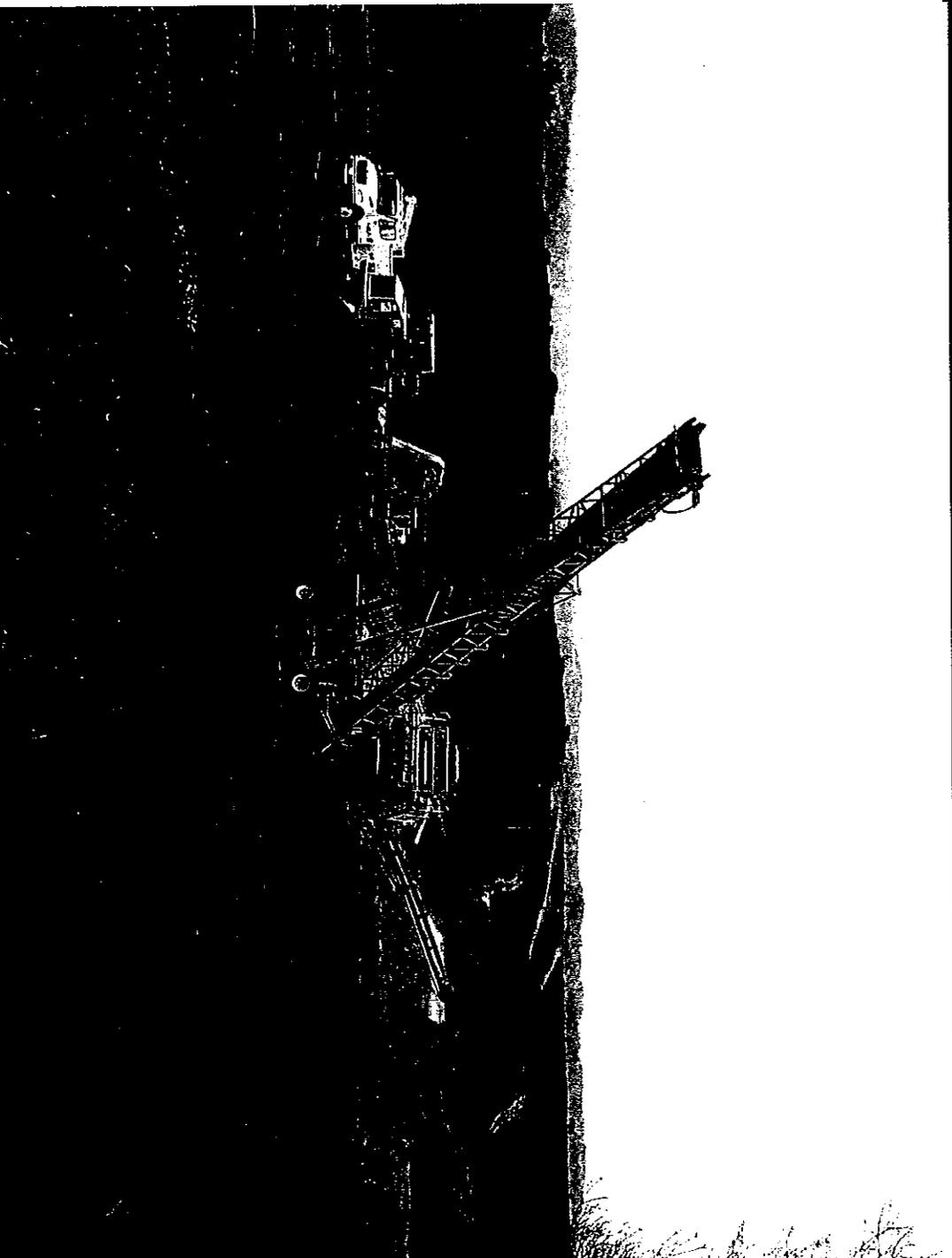
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Sifting Plant Operations

- Regulatory Approval of Standard Operating Procedures
- Site Selection, Preparation and Erosion Control Activities
- Dust Control and Monitoring
- Set Up and Plant Shake Down
- FORA Quality Assurance Oversight
Professional Field Check

Production Levels – 1300 to 2000 cy / day

Sifting Plant Equipment



Fort Ord
Reuse Authority

BULFR

WESTON

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Sifting Plant Location/Operations



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FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Water Augmentation Program – Regional Plenary Oversight Group (REPOG) proposal endorsement	
Meeting Date:	April 11, 2008	ACTION
Agenda Number:	7c	

RECOMMENDATION(S):

- 1) Receive a status report and
- 2) Endorse the Division of Ratepayer Advocates Regional Plenary Oversight Group's ("DRA REPOG") proposal – as presented by Lyndel Melton from RMC Water & Environment (**Attachment A**) on February 8, 2008.

BACKGROUND/DISCUSSION:

The DRA REPOG, formerly referred to as the Monterey Regional Water Supply Reliability Collaboration, was formed during a process begun by the DRA of the California Public Utilities Commission (CPUC), with the assistance of the University of California Santa Cruz (UCSC). DRA and UCSC are engaged in a project with the goal of developing a comprehensive water resource plan for the Monterey Region. To accomplish this goal, DRA has been facilitating a series of meetings, or dialogues, with all interested parties over the past year. The objective of the dialogues is to achieve consensus through collaboration among the various interested parties on a solution, or perhaps several complementary solutions, to supplying the water needs of the Monterey Region in a cost-effective and sustainable way.

Lyndel Melton from RMC Water & Environment presented the DRA REPOG proposal to the FORA Administrative Committee on January 30, 2008 and FORA Board on February 8, 2008. The proposal's approach depends on regional cooperation among the various water management entities and land use jurisdictions in the Monterey Region to develop a Regional Water Supply Plan that is sustainable, pragmatic, publicly and politically acceptable, and more cost effective than other alternatives.

The proposal is congruent with the Fort Ord Reuse Authority ("FORA") and Marina Coast Water District ("MCWD") Boards of Directors' "Hybrid Alternative" (June 10, 2005) to augment Fort Ord water resources, which directed their respective staffs to scope this two-component project. Since that time, MCWD and FORA have proceeded with the Hybrid program, which includes both recycled water and desalinated water. MCWD has completed California Environmental Quality Act ("CEQA") documentation for this augmented water program. The REPOG proposal has the potential to offer substantial savings to FORA, MCWD, jurisdictional developers, and other users and is compatible with prior work accomplished on the FORA hybrid project.

Regarding the current version of the FORA/ MCWD hybrid project, on February 14, 2007, the MCWD Board certified Amendment 2 to the Project Environmental Impact Report, increasing the Recycled Water Project ("RWP") size from 1,500 acre-feet per

year (AFY) to 1,727 AFY, the greatest capacity the RWP can provide for the former Fort Ord without adding storage, which would require additional environmental review. On May 11, 2007, the FORA Board of Directors adopted Resolution 07-10, allocating 1,427 AFY of recycled water for the Ord Community. The remaining 300 AFY would be reserved to the Monterey Peninsula pending further discussions between FORA and those entities. A final agreement between MCWD and the Monterey Regional Water Pollution Control Agency has not been reached, which has delayed bidding and construction for this project. MCWD continues to install portions of this pipeline when streets are open for other construction, including one mile of pipeline recently completed in Marina Heights and a half-mile segment under construction in CSUMB.

The Desalination Plant Basis of Design Report is complete, and the Main Garrison Wastewater Treatment Plant was recommended as the preferred location for the new Seawater Desalination Facility. The cost of this facility is approximately \$42,000,000, mainly due to the high cost of disposing of the waste brine. MCWD is considering obtaining other sources of potable supply or other locations for a desalination plant that may be lower in overall cost before initiating the final design for the desalination plant. These cost estimates may be significantly downsized should the REPOG proposal be adopted.

FISCAL IMPACT:

Reviewed by FORA Controller



Significant savings could be realized by FORA, jurisdictional developers, and other water users should the REPOG proposal ultimately be selected as the preferred alternative.

COORDINATION:

DRA REPOG, Marina Coast Water District, Executive Committee, and Administrative Committee

Prepared by Jonathan Garcia
Jonathan Garcia

Reviewed by D. Steven Endsley
Steve Endsley

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

Attachment A
To Item 7c
FORA Board Meeting, April 11, 2008

Sustainable Water Supply Program for Monterey County

February 2008

BMC



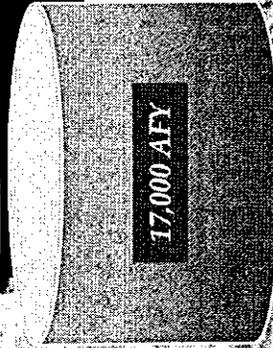
Regional Managers Have Been Meeting with the Following Results....

- A regional plan that is
 - Implementable
 - Sustainable
 - Publicly and politically acceptable
 - Less expensive than a desalination plant at Moss Landing
 - Solves many issues with the same investment

Regional Water Supply Plan Addresses Gaps in Northern Monterey County Water Supplies



MPWMD



Moss Landing



Pajaro-Sunny Mesa



North County

Castroville



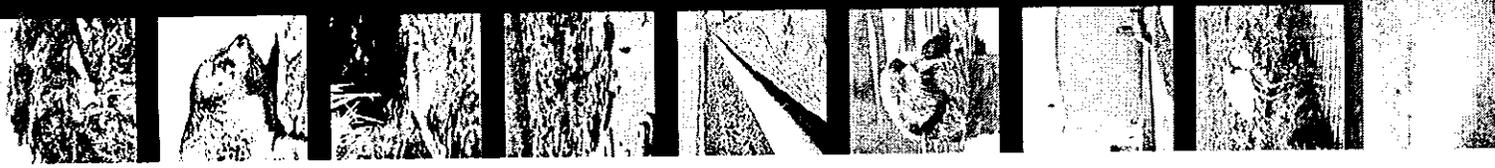
MCWD



U.S. Army



70%

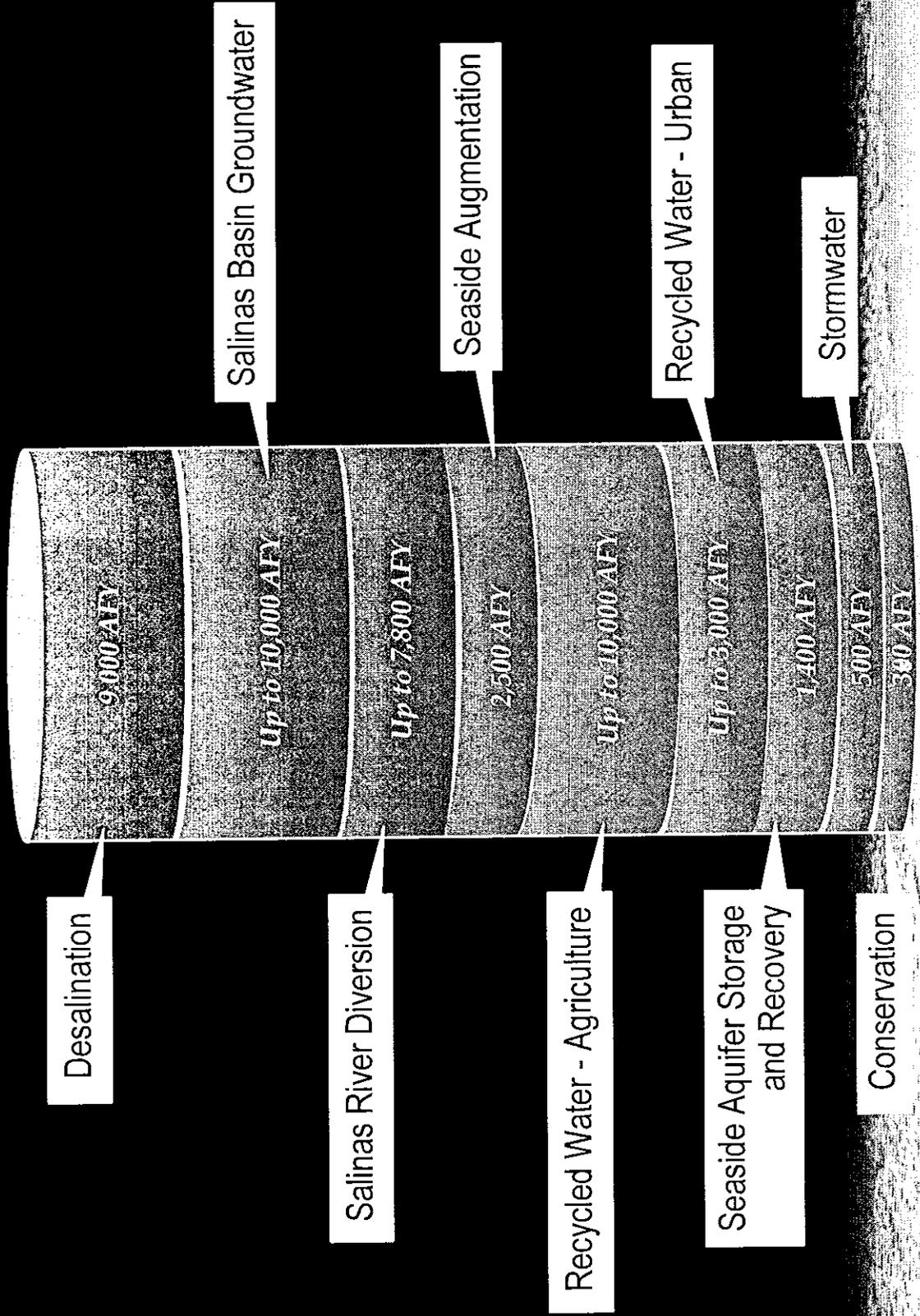


Recommended Program Builds Upon Previous and On-Going Efforts

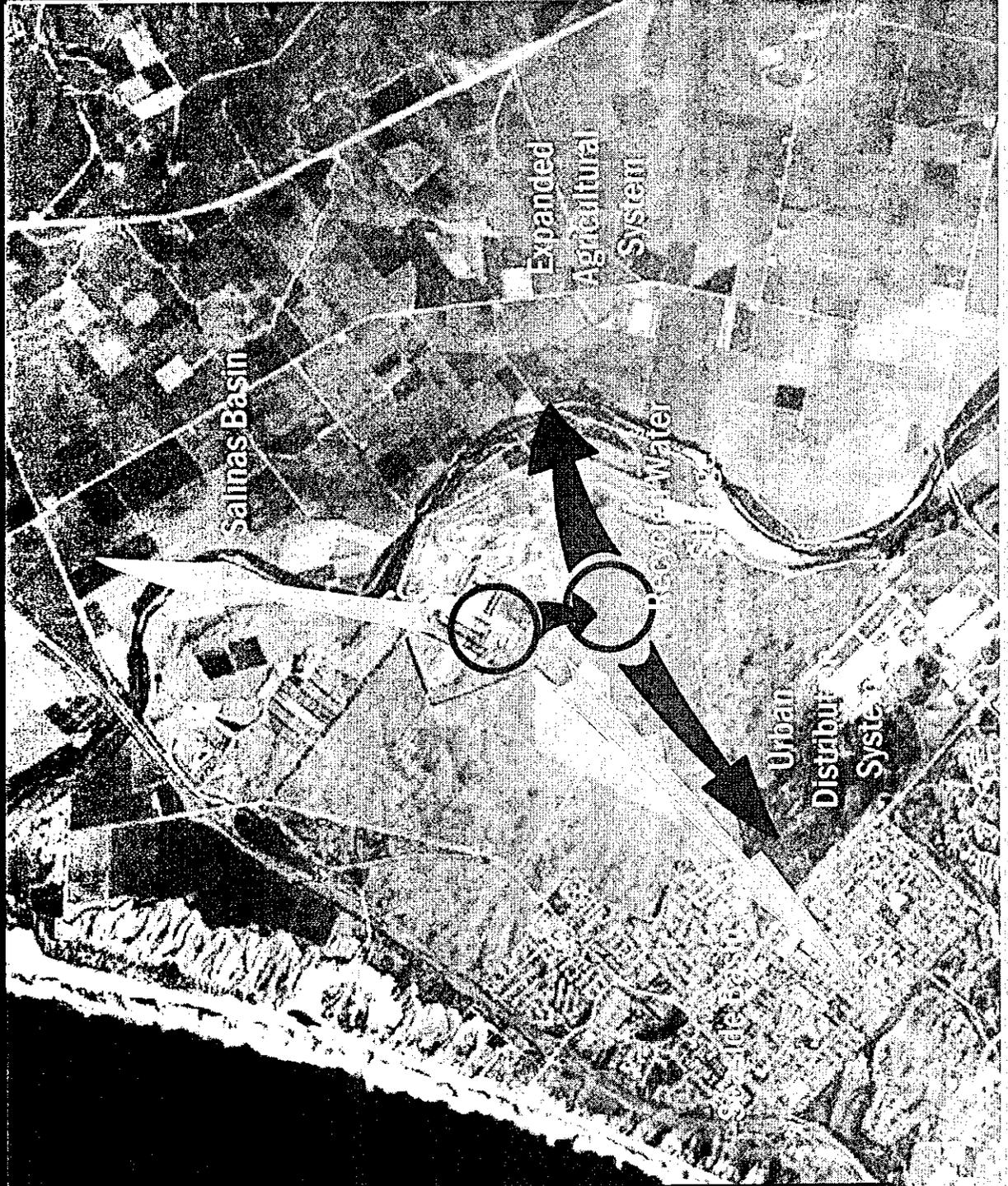
- Seaside ASR
- City of Sand City Desal
- Marina Coast Desal
- Seaside ASR/ILR
- ▬ Recycled Water
- Salinas Basin GW
- ▲ Seaside Replenish
- Salinas River
- Diversion
- Regional
- Desalination



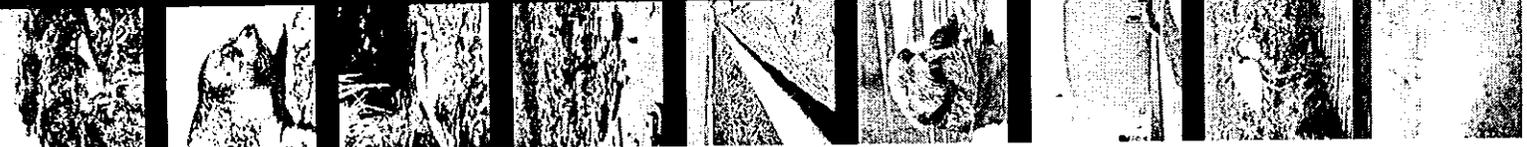
Recommended Program Provides Incremental Implementation, Building on Early Successes



Total Program Makes Highest Use of All Available Recycled Water Supplies



Total Program Provides a Sustainable Supply that Meets Regional Needs



Use of Existing Outfall Saves Ratepayers

Existing
Outfall

Beach Disposal

- 4 (brackish source) to 10 (ocean source) wells
- Requires treated effluent strategy due to coastal erosion
- Estimated cost: \$1.5M (brackish source)
- Estimated cost: \$1.5M (ocean source)

Outfall Disposal

- Requires re-licensing
- RWPCA outfall
- Estimated cost: \$2.5M

Desalination
Facility



Seawater has Intruded a Significant Portion of Salinas Groundwater Basin

Monterey Bay

Seawater Intrusion in the 180 Foot Aquifer



Seawater has Intruded a Significant Portion of Salinas Groundwater Basin

Monterey Bay

Seawater Intrusion in the 180 Foot Aquifer

Seawater Intrusion Reduced thru Regional Plan



Use of Landfill Cogeneration Provides Sustainable, Reliable Power Supply





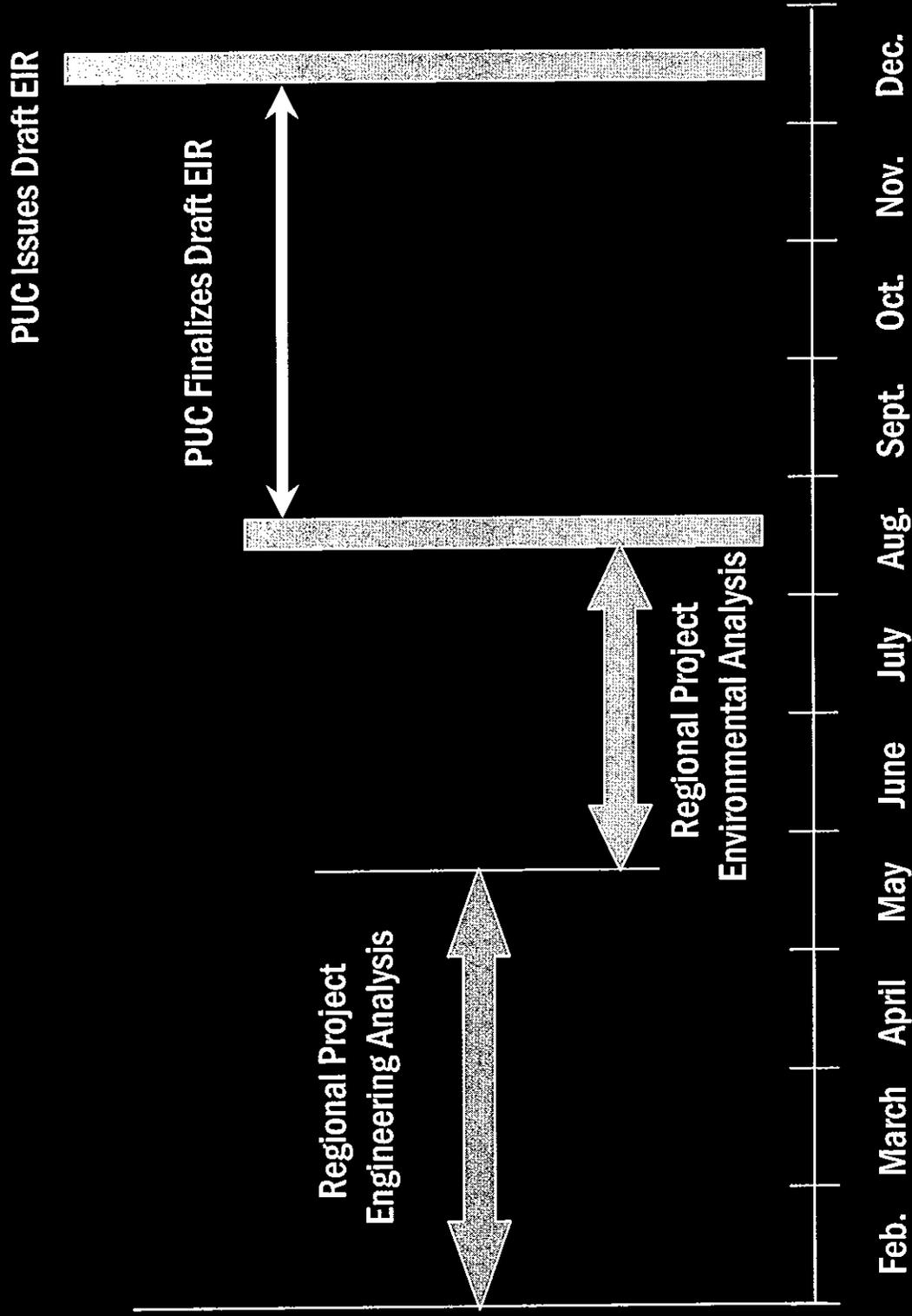
The Regional Program Provides Significant Regional Water Benefits...

- Meets urban water supply needs
- Improves agricultural water supplies
- Enhances protection of Salinas Groundwater Basin
- Utilizes 100% of available recycled water
- Utilizes available surface water

..While Enhancing Regional Sustainability

- **Potential to create Environmental Park**
- **Reduces nutrient discharge to Monterey Bay National Marine Sanctuary**
- **Reduces environmental impacts**
- **Reduces incremental cost of water**
- **Predictable energy supply from Regional Landfill**
 - **Reduces costs and emissions**
 - **Creates a locally controlled energy supply**
- **Reduces carbon footprint**

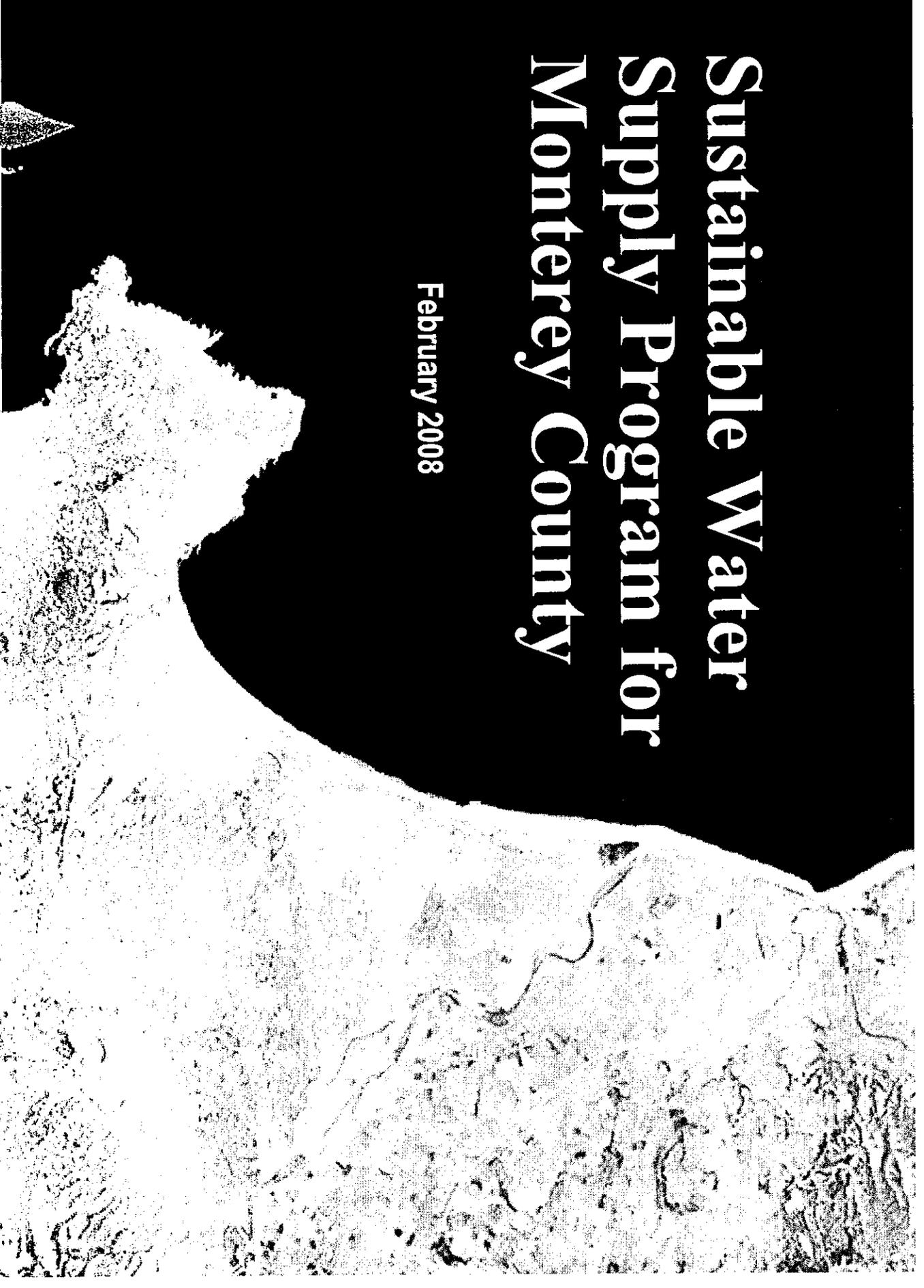
What Are The Next Steps?





Sustainable Water Supply Program for Monterey County

February 2008



RMC

Center for Integrated Water Research

**CITY OF CARMEL-BY-THE-SEA
CITY COUNCIL
RESOLUTION NO. 2008 – 26**

**A RESOLUTION OF THE CITY OF CARMEL-BY-THE-SEA SUPPORTING THE
MEMORANDUM OF UNDERSTANDING FOR THE
MONTEREY REGIONAL WATER PLANNING PROJECTS**

WHEREAS, in January 2007, the Division of Ratepayers Advocates for the California Public Utilities Commission established the Regional Plenary Oversight Group (REPOG); and

WHEREAS, REPOG is a collaboration of public agencies, stakeholders, and citizens charged with developing a regional water supply planning strategy; and

WHEREAS, project components include, but are not limited to: use of recycled water, reprogrammed use of Salinas Basin ground water, water from the Salinas River diversion program, a regional desalination facility, use of the publicly owned MRWPCA outfall and existing water distribution systems, collection of stormwater for community use as well as on-going water conservation; and

WHEREAS, the regional projects and water management programs from the REPOG regional dialogue process appear to be cost effective for ratepayers, have great regional benefit and result in an acceptable implementation strategy; and

WHEREAS, the regional plan has demonstrated viability, acceptability, and is worthy to be evaluated technically.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARMEL, CALIFORNIA, AS FOLLOWS:

1. The City finds that the Monterey Regional Water Project Plan has a regional benefit resulting in an acceptable implementation strategy.
2. The City finds that supporting the Monterey Regional Water Project Plan shows the City is interested in regional water planning.
3. The City finds that supporting the Monterey Regional Water Project Plan should be included in any environmental impact analysis.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA THIS 3rd day of April, 2008, by the following roll call vote:

AYES: COUNCIL MEMBERS: HAZDOVAC; ROSE; SHARP;
TALMAGE; AND McCLOUD

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

Signed:

ATTEST:

SUE McCLOUD, MAYOR

Heidi Burch, City Clerk

Amended FORA Board Report

FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject:	Requests for interim use of water resources	
Meeting Date:	April 11, 2008	ACTION/INFORMATION
Agenda Number:	8a	

RECOMMENDATION(S):

1. Acknowledge the attached Term Sheet providing for an interim 500 acre feet per year ("AFY") use of groundwater to City of Seaside (**Attachment A**) and
2. Approve attached resolution 08-02 regarding interim water use to the City of Seaside (**Attachment D**).

BACKGROUND/DISCUSSION:

On March 14, 2008, the City of Seaside ("Seaside") requested Interim Use of Potable Water for Golf Course Irrigation from the Marina Coast Water District ("MCWD") (**Attachment B**). Since that time, FORA staff convened a water working group meeting (attended by FORA member agency staff) on March 21, 2008 to discuss Seaside's request. The working group identified that MCWD, the water purveyor for the former Fort Ord, is currently pumping less than half of the available 6,600 AFY. There is pumping capacity to meet Seaside's 500 AFY interim use request. Seaside is specifically requesting an interim water use of up to 500 AFY for the first 3 years, which would be reduced to 400 AFY for years 4 and 5. The interim use would terminate the earlier of the following: five years, a non-potable water source becoming available, or other jurisdictions exercising their allocation right to access this water. As a result of the meeting, FORA staff prepared a Term Sheet (**Attachment A**) to allow an interim 500 AFY use of groundwater to Seaside. The interim use is not considered an allocation to Seaside and does not affect the long-term allocations made periodically by the FORA Board. On April 2, 2008, the FORA Administrative Committee discussed Seaside's interim use request in detail and made explicit as follows the rationale for allowing the interim use:

1. An interim use is not to diminish or affect supply of water to other jurisdictions.
2. Seaside is committing to use Golf Course water to pay use back early if other jurisdictions need their allocations.
3. MCWD estimated that it would be approximately 7 years before water pumping thresholds are reached.
4. Due to the economic slowdown in the housing market, demand for water on the former Fort Ord is not increasing as rapidly as originally predicted.
5. A formal agreement between FORA and Seaside should be required as the next step following FORA Board approval of the term sheet. The formal agreement would be reviewed by the Administrative Committee and Authority Counsel, and would need to be consistent with this action taken by the Board.

The FORA Administrative Committee endorsed the attached Term Sheet and recommended it for FORA Board consideration. The FORA Executive Committee reviewed the Administrative Committee's recommendation and concurred with it. The Executive Committee also reviewed the attached City of Marina memorandum

(Attachment C) and directed staff to respond to the memo's listed issues in a formal agreement to be considered by the FORA Board in May.

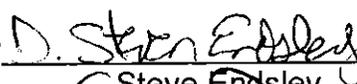
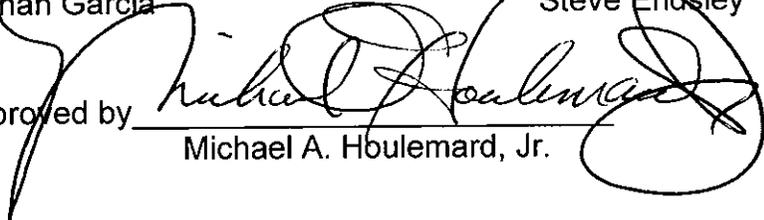
FISCAL IMPACT:

Reviewed by FORA Controller 

Approval of the above recommendations would facilitate economic redevelopment of the former Fort Ord.

COORDINATION:

Water working group, Marina Coast Water District, Executive Committee, and Administrative Committee

Prepared by  Jonathan Garcia Reviewed by  Steve Endsley
Approved by  Michael A. Houlemard, Jr.

DRAFT

DRAFT

**TERM SHEET
FOR INTERIM USE OF GROUNDWATER TO CITY OF SEASIDE**

[March 26, 2008]

This Term Sheet summarizes the principal terms for provision of an interim use of groundwater from the Fort Ord Reuse Authority to the City of Seaside.

Terms

- Amount of Interim Use:** Up to 500 AFY for a 3-year period, reduced to 400 AFY in years 4 and 5.
- Conditions:** The Interim Use is subject to replacement by a non-potable water source or other jurisdictions exercising their allocation right to access this water. Marina Coast Water District is currently pumping less than half of the available 6,600 AFY of groundwater to the Former Fort Ord. If in the future a non-potable water source is not yet available to replace the Interim Use and other jurisdictions' water needs call for the Interim Use water, the City of Seaside agrees to cease consumption of the Interim Use water to allow other jurisdictions to access their water allocations.
- Termination:** Earlier of 5 years, a non-potable water source becoming available to replace the Interim Use, or other jurisdictions exercising their allocation right to access this water, whichever occurs first.
- Extension:** The Interim Use may be extended upon written agreement between the City of Seaside and the Fort Ord Reuse Authority
- Caveat:** This request for support of an interim use of water will not impact basewide availability of water beyond the terms of the use, nor does it impact the long-term allocation that has been adopted by FORA. Explicitly, this interim use is not intended to be and should not be considered an allocation to the City of Seaside. The City of Seaside considers this a separate issue from the long-term allocations made periodically by the FORA Board.

DRAFT

DRAFT
Resolution 08-02

ATTACHMENT D
Item 8a
FORA Board, April 11, 2008

Resolution of the Authority Board)
Regarding interim water use to)
the City of Seaside.)

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

WHEREAS, the Fort Ord Reuse Authority (“FORA”) and Marina Coast Water District (“MCWD”) Boards of Directors approved the recycled/desalinated two component recommendation to implement the Fort Ord Water Augmentation Program (“Hybrid Alternative”) June 10, 2005 at a joint meeting of the Boards, directing their respective staff to scope the project; and

WHEREAS, the FORA Board of Directors is informed by MCWD and the Monterey Regional Water Pollution Control Agency (“MRWPCA”) that they have not yet reached an agreement regarding delivery of the recycled water component of the Fort Ord Water Augmentation Program; and

WHEREAS, construction of the recycled water component is not proceeding on schedule due to the impasse between MCWD and MRWPCA; and

WHEREAS, the City of Seaside has a specific agreement term in its Disposition and Development Agreement with the Seaside Resort developer to provide recycled water to the Bayonet and Black Horse Golf Courses in 2008; and

WHEREAS, due to the delayed recycled water component, the City of Seaside requested five years use of 500 acre feet per year (“AFY”) water from MCWD, reduced to 400 AFY in years 4 and 5; and

WHEREAS, the City of Seaside’s use of 500 AFY water would terminate the earlier of the following: 5 years; a non-potable water source becoming available to replace the interim use; or other jurisdictions exercising their allocation right to access this water; and

WHEREAS, on March 8, 1996, the FORA Board of Directors supported the University of California Santa Cruz in a similar interim water request for agricultural use to promote economic development opportunities; and

WHEREAS, not objecting to the City of Seaside’s interim 500 AFY water use request at this time would support reuse of the former Fort Ord while continuing to work with MCWD and MRWPCA to resolve outstanding issues and reach an agreement on the provision of recycled water resources; and

WHEREAS, MCWD is the appropriate entity to formalize an agreement with the City of Seaside for their interim water use request.

NOW, THEREFORE, BE IT RESOLVED by the FORA Board of Directors that:

1. The attached Term Sheet for interim use of groundwater to City of Seaside (Exhibit A) is acknowledged by FORA.
2. MCWD will formalize an agreement with the City of Seaside regarding their interim use request.
3. The FORA Board of Directors will have an opportunity to review and comment on any MCWD-City of Seaside agreement before it is finalized.
4. The MCWD-City of Seaside agreement will not impact basewide availability of water beyond the terms of the interim use, nor will it impact any allocation that has been adopted by the FORA Board of Directors.

Upon motion by _____, seconded by _____, the foregoing resolution was passed on this ___ day of _____ 2008, by the following vote:

AYES:
 NOES:
 ABSTENTIONS:
 ABSENT:

I, Mayor Russell, Chair of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered under Item ___, Page ___, of the board meeting minutes of _____, 2008 thereof, which are kept in the Minute Book resident in the offices of the Fort Ord Reuse Authority.

_____ 2008

BY _____

Joseph Russell
 Chair, Board of Directors
 Fort Ord Reuse Authority

DRAFT

DRAFT

**TERM SHEET
FOR INTERIM LOAN OF GROUNDWATER TO CITY OF SEASIDE**

[March 26, 2008]

This Term Sheet summarizes the principal terms for provision of an interim loan of groundwater from the Fort Ord Reuse Authority to the City of Seaside.

Terms

- Amount of Interim Loan:** Up to 500 AFY for a 3-year period, reduced to 400 AFY in years 4 and 5.
- Conditions:** The Interim Loan is subject to replacement by a non-potable water source or other jurisdictions exercising their allocation right to access this water. Marina Coast Water District is currently pumping less than half of the available 6,600 AFY of groundwater to the Former Fort Ord. If in the future a non-potable water source is not yet available to replace the Interim Loan and other jurisdictions' water needs call for the Interim Loan water, the City of Seaside agrees to cease consumption of the Interim Loan water to allow other jurisdictions to access their water allocations.
- Termination:** Earlier of 5 years, a non-potable water source becoming available to replace the Interim Loan, or other jurisdictions exercising their allocation right to access this water, whichever occurs first.
- Extension:** The Interim Loan may be extended upon written agreement between the City of Seaside and the Fort Ord Reuse Authority
- Caveat:** This request for support of an interim loan of water will not impact basewide availability of water beyond the terms of the loan, nor does it impact the long-term allocation that has been adopted by FORA. Explicitly, this interim loan is not intended to be and should not be considered an allocation to the City of Seaside. The City of Seaside considers this a separate issue from the long-term allocations made periodically by the FORA Board.



CITY MANAGER
440 Harcourt Avenue
Seaside, CA 93955

Attachment B
To Item 8a
FORA Board Meeting, April 11, 2008

Telephone (831) 899-6701
FAX (831) 899-6211
TDD (831) 899-6207



MMH
JFB
8/23
CM

March 14, 2008

Jim Heitzman, General Manager
Marina Coast Water District
11 Reservation Road
Marina, CA 93933

RE: Request for Interim Use of Potable Water for Golf Course Irrigation

Dear Mr. Heitzman:

This is a follow-up to our previous correspondence requesting potable water for irrigation use at the Bayonet and Black Horse Golf Course. (Attached)

Verbally, you have responded that your Agency would be able to meet our request. We also understand that in order for you to deliver the water, an interim allocation or loan of water from the FORA Board must be approved.

Before we proceed with requesting positive recommendations from the FORA WWOC, Administrative Committees, and final approval from the FORA Board, we would like to have a formal commitment from your agency. A formal agreement and approval from your Board would assist us in our request to FORA.

At your earliest possible convenience, please have the Board consider the temporary allocation of 400 AFY of potable water until recycled water or other replacement water is available, and we assume this water would be available at an appropriate wholesale water rate.

City staff is available to assist in the development of an agreement between our organizations. Please do not hesitate to contact Diana Ingersoll, Deputy City Manager-Resource Management Services, 899-6825.

We look forward to continued cooperation between our entities and a mutually beneficial arrangement on the use of this water.

Sincerely,

Ray Corpuz
City Manager

RC:bc

5



April 2, 2008

Mr. Joe Russell, Chair
Board of Directors
Fort Ord Reuse Authority
100 12th Street, Building 2880
Marina, CA 93933

Dear Chair Russell,

I am writing to you today in connection with a matter that is scheduled to come before the Fort Ord Reuse Authority (FORA) Board of Directors, possibly as early as the next regularly scheduled FORA Board meeting of April 11, 2008 related to requests by the Cities of Seaside and Del Rey Oaks for interim uses of water resources.

The Cities of Seaside and Del Rey Oaks have each made separate requests and have submitted "Term Sheets" to FORA staff for an "interim loan" of potable water resources from the 6,600 acre feet of groundwater currently allocated to FORA land use jurisdictions for redevelopment projects on the former Fort Ord.

Specifically, the City of Seaside has now requested the "loan" of up to 500 acre feet of groundwater for a three (3) year term and up to 400 acre feet of groundwater for a two (2) year term, a total of 500 acre feet of groundwater for up to five (5) year. This request has been made to provide for an "interim use" for golf course irrigation at the Seaside Bayonet and Blackhorse Golf Courses as well as possible use as "construction water".

The City of Del Rey Oaks has now requested the "loan" of up to 280 acre feet of groundwater for a five (5) year term that, as I now understand it, may actually be extended to a twenty (20) year term for the purpose of perfecting its written verification of supply availability (WVS) to comply with SB 221 for its mixed-use hotel resort and golf course project.

These requests have only recently been discussed, once by the FORA Water Working Group on March 21, 2008 and again today, April 2, 2008, at a joint meeting of the FORA Water Wastewater Oversight Committee (WWOC) and FORA Administrative Committee.

The purpose of this letter is to identify and discuss the several significant concerns that the City of Marina has with these separate requests and to request that the Executive Committee of the Fort Ord Reuse Authority recommend to the FORA Board that no action be taken to further consider approving these requests until such time as the procedural and legal impacts of any such approvals be fully and completely understood by all parties and that appropriate documentation and record of any such approvals, should they be made, be memorialized in order to absolutely ensure that water allocations already made to the respective land use jurisdictions will in no way be hindered, delayed or otherwise adversely impacted.

City of Marina Concerns

While the requests by the Cities of Seaside and Del Rey Oaks may appear “simple” enough at face value, the actual short and long-term impacts are unclear at this time and deserve further study and due diligence. The “record” is already “muddied” by inconsistent language and actions taken by both the Marina Coast Water District and the FORA staff.

For example, FORA staff has written in its draft Board report for the FORA Board meeting of April 11, 2008 that “The interim loan is not considered an allocation... and does not affect the long-term allocations made periodically by the FORA Board.” However, in separate actions taken by the Marina Coast Water District (MCWD) Board of Directors at their regular meeting of March 26, 2008, the MCWD Board adopted two (2) resolutions, one for the City of Seaside and one for the City of Del Rey Oaks, approving support of their respective requests for interim uses of potable water and citing in their Board reports that “...the interim *allocation* (emphasis added) of water must be approved by the Fort Ord Reuse Authority (FORA),” and “...the District and Seaside will develop an agreement between the organizations for the temporary *allocation* (emphasis added)...” Is it or is it not an allocation?

The City of Marina is concerned that the potential exists that the use of the “loaned” water could be perceived as a “right” by the City of Seaside and Del Rey Oaks or as an obligation by the City of Marina or by the MCWD to Seaside and Del Rey Oaks once the water goes into use by them.

Further, in the case of the City of Seaside request, as I currently understand it, besides the use of the “loaned” water for golf course irrigation and construction purposes, Seaside also anticipates addressing its legal obligations related to the current adjudication of the Seaside Groundwater Water Basin through the use of the “loaned” water, and its obligations under the Disposition and Development Agreement for the Seaside Resort development project.

In the case of the Del Rey Oaks request, as I currently understand it, the “loaned” water will be used to secure its written verification of supply availability (WVS) to comply with SB 221 for its mixed-use hotel resort and golf course project. Such written verification requires a twenty (20) year supply verification.

In either case, the practicality of assuming or otherwise believing that a “call” on this water by any other land use jurisdiction at any time during the “loan” period can be made by simply “turning off” the supply of the “loaned” water is both short-sighted, highly improbable and possibly illegal.

The issue of future interpretation of the definition of a “loan” of potable water by future policymakers is also highly suspect, notwithstanding written documents and written legal opinions that may exist to the contrary.

The matter of the payment of prevailing wages for Fort Ord redevelopment projects is a prime example. Despite written FORA policy, FORA staff interpretations and opinions by FORA legal counsel that, under certain circumstances, the payment of prevailing wages did not apply to Fort Ord redevelopment projects, the FORA Board acted to revisit and reinterpret past FORA Board policy and provide a “new and updated” interpretation of what prior FORA Boards meant regarding prevailing wages. Clearly, the possibility exists to “reinterpret” this action as well.

It is also important to remain mindful that nothing be done that could be construed as providing a commitment to supply additional water to Seaside and Del Rey Oaks. Any new Water Supply Assessment (SB 610), Written Verification for Supply Availability (SB 221) or Update to the MCWD Urban Water Management Plan (UWMD, due in 2010) would need to include an analysis of the proposed "loans".

While the sufficiency analysis would state that the "loans" have a specific term e.g., five (5) years, sufficient language would need to be provided so as not to diminish supply availability to the City of Marina. This seems like a complex undertaking, especially in consideration of the City of Marina's past experience obtaining WSA's, WVS' and an updated UWMP with MCWD. How would MCWD evaluate this sliding availability of water to any new project(s) that require evaluation? How would the corresponding EIR's for these projects be presented and analyzed?

An issue not addressed by the "term sheets" is what effect the loans would have on infill development in Marina. The position in favor of the loans seems to hinge on the fact that MCWD is currently pumping less than 6,600 acre feet of water per year. Suppose that MCWD might find an advantage to increase its groundwater production or the source of supply could become at risk. What would be the obligation of MCWD and or Marina to continue these loans under a scenario of reduced groundwater availability? Who would be responsible for payment if additional costs are incurred to meet the obligation of the loans e.g., need for more desalinated water to compensate for the loss of groundwater?

The question of whether a decision to make any such "loans" may require some level of environmental review deserves attention as well. Since none has been done specific to this request, some thought may need to be given to an initial study. Otherwise, special interest groups such as Save Our Peninsula and the Sierra Club may leave us all open and vulnerable to legal challenge and/or suit.

Additionally, it is unclear why the City of Seaside does not use water for the golf course projects from its current allocation rather than rely on augmented water through the regional water supply program project or other source when it becomes available for other future development in Seaside. This is what all cities have been doing in water planning on the former Fort Ord and has been the basis of assumptions for future development and water supply assessments granted by MCWD.

Finally, it is also unclear why there is focus on these loans now, when the primary focus should be on securing additional water supply for the region, as has been proposed through the REPOG solution and supported by City Councils, the FORA Board, MCWD, MCWRA, MRWPCA, etc. Granting these loans may have the effect of reducing the emphasis on this regional solution and may damage the ability to enact this important policy. How does this loan affect the adoption of the four-party agreement currently before the Board of Supervisors.?

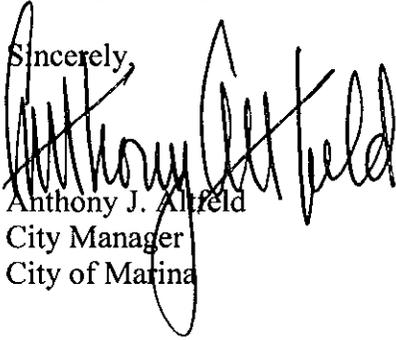
The bottom line is that these requests have not received sufficient level of staff and legal review to ensure that all of the parties in interests are not harmed in any way whatsoever by approving these requests.

The urgency to act without completing a thorough and sufficient level of review to ascertain and ensure that these requests do not adversely affect the interests of both the City of Marina and all affected land use jurisdictions does not exist at this time, therefore, no action to approve these requests needs to be taken at this time.

Instead, the City of Marina requests that the Executive Committee refer this matter back to FORA staff and the members of the FORA Administrative Committee to complete the important and necessary due diligence on this matter.

Thank you for your consideration in honoring this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony J. Alfeld". The signature is written in a cursive style with a large, looping initial "A".

Anthony J. Alfeld
City Manager
City of Marina

FORT ORD REUSE AUTHORITY BOARD REPORT

NEW BUSINESS

Subject:	Confirmation of the Chair's appointment to the Legislative Committee	
Meeting Date:	April 11, 2008	ACTION
Agenda Number:	8b	

RECOMMENDATION:

Confirm the Chair's appointment of Mayor Gary Wilmot to the Legislative Committee.

BACKGROUND/DISCUSSION:

Last month, when Marina Mayor Ila Mettee-McCutcheon was appointed by Governor Schwarzenegger to serve out the remaining term of former Supervisor Jerry Smith, a vacancy was created on the FORA Legislative Committee. On March 25th the new supervisor was appointed by the Board of Supervisors to serve as a primary representative on the FORA Board of Directors and automatically returns to membership on the Executive Committee as Past Chair (Master Resolution 2.03.020). Chair/Mayor Russell has asked City of Marina's Mayor Gary Wilmot, who has agreed, to fill the vacancy on the Legislative Committee and requests confirmation by the full board.

FISCAL IMPACT: None

COORDINATION: Chair Russell

Prepared by Charlotte Ellwood
for Linda L. Stiehl

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

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Administrative Committee report	
Meeting Date: April 11, 2008 Agenda Number: 9a	INFORMATION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The Administrative Committee met on January 30 and adjourned to February 4, March 5 and 19, and April 2, 2008. The minutes of the January 30th and adjourned continuation meeting on February 4th are included in the January 30th minutes. Attached are the approved minutes of the first three meetings. The minutes of the April 2nd meeting have not yet been prepared.

FISCAL IMPACT:

None

COORDINATION:

Administrative Committee

Prepared by Charlotte Ellsworth
Linda L. Stiehl
Linda L. Stiehl

Approved by

Michael A. Houlemard, Jr.
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY

100 12th Street, Building 2880

Marina, CA 93933

(831) 883-3672 (TEL) · (831) 883-3675 (FAX) · www.fora.org

**MINUTES OF THE
ADMINISTRATIVE COMMITTEE MEETING
Wednesday, January 30, 2008**

APPROVED

1. Call to Order

Co-Chair Doug Yount called the meeting to order at 8:20 a.m. The following representatives from the land recipient jurisdictions, representing a quorum, were present:

- *Jim Cook – County of Monterey
- *Dick Goblirsch - City of Del Rey Oaks
- *Ray Corpuz – City of Seaside
- *Bill Reichmuth – City of Monterey
- *Tony Altfeld – City of Marina

Also present, as indicated by the roll sheet signatures, were:

- Keith McCoy – East Garrison Partners, LLC
- Jim Arnold – FORA
- Jim Feeney – FORA
- *Todd Muck - TAMC
- Jim Heitzman - MCWD
- Les Turnbeaugh – City of Monterey
- *Gail Youngblood – BRAC
- Rob Robinson – BRAC
- Doug Yount – City of Marina
- Steve Endsley – FORA
- Michael Houlemard - FORA
- (*) Rich Guillen – City of Carmel
- Ian Gillis -- East Garrison Partners, LLC
- Crissy Maras – FORA
- Tim O'Halloran – City of Seaside
- Bob Holden – MRWPCA
- Bob Schaffer
- Diana Ingersoll – City of Seaside
- Kevin Wolf – Federal
- *Mehul Mody – CSUMB
- *Graham Bice – UC MBEST
- Jonathan Garcia – FORA
- *Vicki Nakamura – Monterey Peninsula College

* indicates a committee member and (*) indicates a FORA voting member but not a land recipient jurisdiction

Voting board member jurisdictions not represented at this meeting were Sand City, Salinas, and Pacific Grove.

Co-Chair Houlemard replaced Co-Chair Yount at this time.

2. Pledge of Allegiance

Co-Chair Houlemard asked Bill Reichmuth, who agreed, to lead the Pledge of Allegiance.

3. Acknowledgements, announcements and correspondence

Co-Chair/Executive Officer Houlemard said members of the Cleanup of Federal Facilities Working Group Committee, a special subcommittee of the National Governors' Association, had their quarterly meeting in Monterey yesterday, January 29th, which included a tour of former Fort Ord followed by a briefing at the FORA Barn. 18 states, including representatives from the Environmental Protection Agency ("EPA"), the Department of Toxic Substances Control, and Region 9 of EPA, were represented. He thanked Gail Youngblood, the Army, and LFR, Inc., for their assistance in coordinating and participating in the tour.

4. **Public comment period - None**

5. **Approval of January 16, 2008 meeting minutes: (a) Administrative Committee and (b) Joint Administrative Committee/Capital Improvement Program Committee minutes: Motion to approve the Administrative Committee minutes was made by Tony Altfeld, seconded by Les Turnbeaugh, and carried. Motion to approve the joint meeting minutes was made by Graham Bice, seconded by Diana Ingersoll, and carried.**

6. **Review of draft February 8, 2008 FORA board meeting agenda**

Co-Chair Houlemard summarized the items on the draft agenda. After the co-chair's remarks about the Habitat Conservation Plan, Jim Cook requested an update report on the endowment fund. Mr. Houlemard also commented that the mid-year budget has projected a balance of about \$60,000 on June 30, 2008, the end of the fiscal year, compared to \$6 million last year on that day.

Co-Chair Houlemard asked if there were any objections to discussing Item 7c at this time. **Motion to move to Item 7c was made by Tony Altfeld, seconded by Bill Reichmuth, and there were no objections.**

7. **Old Business**

Item 7c – FORA review and consideration of the revised business terms and potential participation in the Disposition and Development Agreement ("DDA"), recently approved by the City of Marina, between Marina Redevelopment Agency and Marina Community Partners ("MCP"), LLC, re The Dunes on Monterey Bay (2nd Implementation Agreement) – FORA's financial analysis: Executive Officer Houlemard reviewed the five recommendations in the draft board report. Director of Planning and Finance Steve Endsley followed with the presentation that had been seen and discussed by the Finance Committee. He closed by reminding all that the Executive Committee had requested a recommendation by the Administrative Committee regarding The Dunes project. Tony Altfeld remarked that FORA staff had not provided adequate time to respond to the points covered in the presentation or to ask any questions, and Doug Yount added that significant information from Marina needed to be presented to the Committee. **Mr. Altfeld moved that the Committee adjourn to a special Administrative Committee meeting to be held before 5:00 p.m. on February 1st, so all of the information and responses could be reviewed beforehand, but this motion was not seconded.** Discussion followed. Rich Guillen remarked that the Finance Committee would not have the benefit of hearing and discussing all the "new" information, which would mean the two recommendations would be based on different information. Mr. Altfeld encouraged the members to honor Marina's request to schedule the special meeting. Jim Cook requested that a legal analysis of tax increment use for this purpose be provided to the members and also important FORA finance policy questions and answers be provided by staff. Mr. Houlemard stated that Authority Counsel

Bowden would be asked to research is researching these points. There were no objections to extending the discussion and meeting past 9:00 a.m., the time certain for adjournment. **Mr. Altfeld's motion was amended as follows: (1) to adjourn the meeting to a special meeting of a working group to be held on Friday, February 1st; (2) that the staff board report, and possibly the board packet, if the Executive Committee concurred, be delayed for distribution on Monday, February 4th; and (3) that all new information be provided to the Finance Committee before the February 8th board meeting. This motion was seconded by Dick Goblirsch and Mr. Altfeld accepted the changes. The motion passed unanimously.** The working group meeting was set for 8:30 a.m. on Friday, February 1st (later changed to Monday, February 4th) in the Monterey Bridge Center, if available. The members had no objection to continuing Items 7a and 7b to the joint meeting that followed.

8. **New Business** - None

9. **Adjournment:** Chair Houlemard announced a five-minute break before the joint meeting would be called to order and adjourned the meeting at 9:15 a.m. to time certain for both meetings.

Minutes prepared by Linda Stiehl, Executive Assistant

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Items 7a (Draft California State University, Monterey Bay, Environmental Impact Report) and 7b (Water Augmentation: (1) Review of the Division of Ratepayer Advocates Regional Plenary Oversight Group's (DRA REPOG's) proposal – presentation by Lyndel Melton (RMC Water and Environment)) were discussed during the Joint Administrative Committee and Capital Improvement Program Committee meeting that followed the Administrative Committee meeting and will be reported in those minutes.

~ ~ ~ ~ ~

The FORA Executive Committee met at 4:00 p.m. on January 30th and directed staff to distribute the February board packet on Friday, February 1st. When it was known that Executive Officer Houlemard could not be present at the special Administrative Committee working group meeting if it were held on February 1st, the Executive Committee agreed to a rescheduling on Monday, February 4th, provided a second distribution of the board report and supporting documentation regarding the matter discussed in Item 7c above could be arranged soon after that meeting. The Administrative Committee meeting on February 4th was held in the Monterey Bridge Club/FORA Conference Facility and scheduled to start at 8:30 a.m.

**CONTINUATION OF THE JANUARY 30, 2008 ADJOURNED
ADMINISTRATIVE COMMITTEE MEETING
AT 8:30 A.M. ON FEBRUARY 4, 2008**

1. **Call to order**

Co-Chair Michael Houlemard called the meeting to order at 8:37 a.m. The following representatives from the land recipient jurisdictions, representing a quorum, were present:

*Jim Cook – County of Monterey
*Dick Goblirsch - City of Del Rey Oaks
*Diana Ingersoll – City of Seaside

*Les Turnbeaugh – City of Monterey
*Tony Altfeld – City of Marina

Also present, as indicated by the roll sheet signatures, were:

Doug Yount – City of Marina
Jim Feeney – FORA
Jonathan Garcia - FORA
*Don Bachman – TAMC
Jim Arnold – FORA
Steve Endsley – FORA
David Gazek – Federal Development
Michael Houlemard – FORA

Bob Schaffer
*Graham Bice – UC MBEST
*Vicki Nakamura – Monterey Peninsula College
Bridgit Koller – Urban Community Partners
Debby Platt – City of Marina
(*) Rich Guillen – City of Carmel
*Jim Heitzman – Marina Coast Water District

* indicates a committee member and (*) indicates a FORA voting member but not a land recipient jurisdiction

Voting board member jurisdictions not represented at this meeting were Sand City, Salinas, and Pacific Grove.

2. Pledge of Allegiance

Co-Chair Houlemard asked Jeff Cataneo, who agreed, to lead the Pledge of Allegiance.

3. Acknowledgements, announcements and correspondence

Co-Chair Houlemard reported the following: (1) an appeal from the Labor Council requesting a consistency determination on the amended business terms in the Disposition and Development Agreement (“DDA”), recently approved by the City of Marina, between Marina Redevelopment Agency and Marina Community Partners, LLC, re The Dunes on Monterey Bay (2nd Implementation Agreement) had been received late January 31st but was stamped in at FORA on February 1st; (2) Steve Matarazzo, Sand City’s Community Development Director and Assistant City Administrator, was welcomed; and (3) numerous comments had been received regarding The Dunes’ DDA, as well as articles published in the media, and he urged the members to consider the issues objectively.

4. Public comment period - none

5. Old Business

Item 5a – FORA review and consideration of the revised business terms and potential participation in the Disposition and Development Agreement, recently approved by the City of Marina, between Marina Redevelopment Agency and Marina Community Partners, LLC (“MCP”), re The Dunes on Monterey Bay (2nd Implementation Agreement): Director of Planning and Finance Steve Endsley identified the issues that had been raised and called attention to Authority Counsel Bowden’s legal interpretation of the law covering FORA’s use of its RDA Tax Increment (“TI”) revenue, which had been sent in an email and included in the meeting packet. He asked the City of Marina to make the

first comments. Doug Yount called attention to a letter dated January 30, 2008, from Marina City Manager Tony Altfeld to the Administrative Committee members; a letter dated January 28, 2008, from Marina's redevelopment attorney, Karen Tiedemann, to Debby Platt; and a marked up version of FORA's slides Mr. Endsley had discussed at the January 30th Administrative Committee meeting. Mr. Yount said that due to the many comments, Marina would like to withdraw its original request that FORA apply TI from the project areas other than The Dunes' project to it. He said he would reserve comment on Authority Counsel's opinion regarding the use of RDA funds, because it had been his understanding that a precedent had been set by the East Garrison project. He requested that FORA staff work with Marina to identify some assistance using TI funds for The Dunes project, such as taking a credit on the Community Facilities District ("CFD") fees and injecting TI back into the CFD at a later date. He requested further clarification on several points to reach a better understanding of the project. Debbie Platt followed Mr. Yount with a point-by-point discussion of the comments in the previously mentioned slides, which had been marked for changes by Marina staff. She urged that the project be considered as a whole, noting all the construction and permanent jobs it would create. Mr. Yount noted that not all of the tables in FORA's Capital Improvement Program ("CIP") have been updated to include essential information and added that Marina's projects will generate most of the CIP dollars. He suggested that a credit of Marina's CIP fees be considered to keep the project moving forward now. Mr. Endsley remarked that Marina's gesture to modify their original request was significant and responded to each of Marina's changes in the slides. He underscored the importance of receiving CIP funds in a timely manner in order to fund FORA's basewide obligations when they are needed. He added that TI funds backstop FORA's financial obligations in the CIP. Controller Ivana Bednarik clarified FORA's position regarding use of land sale credits against building removal as specified in the memorandum of agreement between the parties. Executive Officer Houlemard stated that FORA had originally estimated \$75 million for basewide deconstruction costs, with \$53 million coming from The Dunes project minus the Public Benefit Conveyances (about \$7 million), which brought the total to \$46 million for this project. MCP Managing Director for The Dunes project, Scott Hilk, thanked all for the time spent considering Marina's requests but said the project needs more TI in order to move forward in the present housing market. Jim Cook expressed concern about funding for the Habitat Conservation Plan after FORA sunsets in 2014, since this is a legal liability. Mr. Houlemard responded that with the 80% decrease in current revenues, reliable projections for funding FORA's obligations are hard to predict at this time. Assistant Executive Officer Jim Feeney clarified that FORA's projections extend to 2020/21. Discussion followed concerning how and when the funding necessary for all projects would be available. It was agreed that the timing remains critical. Graham Bice, a member of the FORA Finance Committee, said there were not enough funds to cover all of FORA's obligations and there are also no guarantees that MCP will build houses if no market exists. Ms. Bednarik remarked that the assumed TI dollars have been allocated to pay off FORA's line of credit, the balance of which is currently \$9 million, with only a \$160,000 reserve estimated in FORA's accounts on 6/30/08. She also noted that the 2007/08 budget had not been finalized yet. Mr. Bice asked what would happen if the developer defaults, and Mr. Yount replied that the property would revert back to the City. He added that Marina was contributing \$70 million of its TI to keep the project moving forward. Jim Cook asked for a clarification of Phase 1 construction, and Mr. Yount responded that the commercial would be built first, then housing. Co-Chair Houlemard asked if the Committee could make a recommendation for the Board to consider by the February 8th board meeting and called for a five-minute break.

The meeting was reconvened at 10:15 a.m. Tony Altfeld thanked everyone for participating in the discussion, requested that the item be pulled from the February 8th board agenda, and that the group

meet again before the next Administrative Committee (March 5th). He asked how the Building Trades Council appeal impacts the project, and Authority Counsel Bowden explained the consistency determination issue, commenting that if the FORA Board takes no action, the appeal remains a Marina decision. **Motion to pull the item from the February 8th board agenda for both action and information and direct FORA staff to meet with Marina staff to discuss a “mutually satisfying” solution was made by Tony Altfeld and seconded by Jim Heitzman.** Jim Cook asked that adequate outreach to the public be a priority, and Executive Officer Houlemard said staff would prepare a memo to the Board today and make sure that it was widely disseminated. He said that the item must go back to the Finance Committee so the members could consider the “new” information that the Administrative Committee had received. Dick Goblirsch suggested that the working group meet next Wednesday at FORA. There were no objections but Executive Officer Houlemard and FORA’s financial consultant Annette Yee said they could not attend. **The motion carried.**

6. **New Business** - none

7. **Adjournment**

Co-Chair Houlemard adjourned the meeting at 10:30 a.m.

Minutes prepared by Linda Stiehl, Executive Assistant

FORT ORD REUSE AUTHORITY

100 12th Street, Building 2880

Marina, CA 93933

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APPROVED

**MINUTES OF THE
ADMINISTRATIVE COMMITTEE MEETING
Wednesday, March 5, 2008**

1. Call to Order

Acting Chair Jim Feeney, FORA's Assistant Executive Officer, called the meeting to order at 8:17 a.m., in the absence of both co-chairs. The following representatives from the land recipient jurisdictions, representing a quorum, were present:

*Jim Cook – County of Monterey
*Christi Dilorio – City of Marina

*Dick Goblirsch - City of Del Rey Oaks
*Ray Corpuz – City of Seaside

Also present, as indicated by the roll sheet signatures, were:

Jeff Cattaneo – MCWD
*Gail Youngblood – Army BRAC
Rob Robinson – BRAC
Jonathan Garcia – FORA
Jim Arnold – FORA
*Jim Heitzman - MCWD
Bob Schaffer
(*Heidi Burch – City of Carmel

Terry Tumey – Brooks Street
Bridgit Koller – Urban Community Partners
*Mehul Mody – CSUMB
*Graham Bice – UC MBEST
Bob Holden - MRWPCA
*Vicki Nakamura – Monterey Peninsula College
David Gazek – Federal Development, Inc.
Nick Nichols – County Redevelopment Agency

* indicates a committee member and (*) indicates a FORA voting member but not a land recipient jurisdiction.

Voting board member jurisdictions not represented at this meeting were Monterey, Sand City, Salinas, and Pacific Grove.

2. Pledge of Allegiance

Acting Chair Feeney asked Jonathan Garcia, who agreed, to lead the Pledge of Allegiance.

3. Acknowledgements, announcements and correspondence - none

4. Public comment period - none

5. Approval of January 30, 2008 meeting minutes

Motion to approve the January 30, 2008 meeting minutes of the Administrative Committee and the joint Administrative Committee/Capital Improvement Committee minutes was made by Dick Goblirsch, seconded by Graham Bice, and carried.

6. Review draft January 30, 2008 FORA board agenda

Acting Chair Feeney commented that the March board meeting might be canceled due to a lack of action items on the agenda.

Board agenda item 6a [Habitat Conservation Plan ("HCP") approval process]: Jonathan Garcia, FORA Associate Planner, provided summary comments and an update. He also called attention to the draft HCP development schedule, listing the latest timing estimates for completion of the HCP and the issuance of the 2081 permit, and he outlined the steps to the issuance of this permit. Mr. Garcia also reported on the replacement multi-modal corridor and said it appears to be the best alternative at this time. He will reconvene the Multi-Modal Corridor Working Group for a meeting to work through any issues. Acting Chair Feeney added that this "new" corridor would require release of some parcels by stakeholders and an endorsement by the FORA Board, because it replaces the corridor described in the Base Reuse Plan. He urged the members to report back to their policy makers with this new information. Jim Cook expressed concern about the process used by Jones and Stokes that resulted in a \$40 million estimate to fund the HCP endowment fund, versus the previous estimate of \$13 million. Mr. Feeney commented that some of that cost is the responsibility of the federal government and the new estimate should be considered a work in progress. He said that Steve Endsley, FORA's Director of Planning and Finance, had said the final cost would probably be in the neighborhood of \$16 million. Mr. Garcia remarked that any costs for services not required by the U.S. Department of Fish and Game would be eliminated. He announced that the next meeting of the Multi-Modal Corridor Working Group has been scheduled for April 10th, when the cost model will be discussed. Facts and figures will be distributed to the group before this meeting.

Board agenda item 6b [Environmental Services Cooperative Agreement (ESCA): (1) ESCA Quality Assurance Oversight Professional contract and (2) Update]: Real Property and Facilities Director Stan Cook distributed the draft Technical Progress and Summary of Public Participation reports for January and February and noted that the access issues to the Bureau of Land Management lands are being worked out. He said he would continue to provide monthly reports. He estimated the Governor's concurrence of the ESCA parcel transfers will probably be about April 15th, and it will take about another month for the deeds to be finalized before the parcels can begin to be transferred to the receiving jurisdictions. Fieldwork and scraping operations, as well as work in the special case areas, are continuing in the area east of General Jim Moore Blvd. Mr. Cook said the Quality Assurance Plan has been approved by the regulators and an oversight contractor hired. Geophysical test plots, areas where calibration of equipment is conducted, are being set up. Mr. Feeney asked if any Munitions and Explosives of Concern ("MEC"s) had been found and Mr. Cook described about a half dozen that had been identified. Dick Goblirsch asked about the LFR, Inc. buyout, and Mr. Feeney confirmed this development but noted that it will not have an effect on FORA's ESCA project.

Board agenda item 6c [Water Augmentation Program - Regional Plenary Oversight Group (REPOG) proposal]: Acting Chair Feeney said that this proposal would replace the hybrid alternative at a much reduced cost and the FORA Board will be asked to endorse the concept. He then summarized the draft board report. Mr. Feeney reported that the

environmental document would be published by year's end and be incorporated into the documents transmitted to the Public Utilities Commission. MCWD General Manager Jim Heitzman provided an update on the recent meetings and discussions about the REPOG Memorandum of Understanding, which is being circulated for approval. He said construction could begin as early as 2009 and that \$1 million has already been committed to the project. He added that good support has been evidenced to date. Graham Bice asked if recycled water would be included in the REPOG proposal, and Mr. Heitzman responded that the best and most economical use of the water would be considered. He added that any project that don't get into Phase 1 would be considered for Phase 2, and new ideas would need to be included in the environmental impact report. Mr. Heitzman remarked that there have been virtually no protests regarding the REPOG proposal and much momentum is moving it forward at this time. He said the additional water should be available sometime in 2010 and requested that support in the political arena and at the Public Utilities Commission is needed now. Dick Goblirsch asked when and what kind of water would be available for the Del Rey Oaks project, and Mr. Feeney responded that the regional project would likely meet FORA development needs sooner than the hybrid plan projections. Mr. Goblirsch stated that the agreement with the Del Rey Oaks developers includes the use of potable water until the recycled water is available. Mr. Feeney responded that an interim allocation of water would have to be approved by the FORA Board, that such a plan for interim use had previously been endorsed by the Board for the UC MBEST Center. He added that the regional plan, if it moves forward, would likely be incorporated in the FORA Capital Improvement Program funding, which would provide greater certainty for these approvals.

7. Old Business

Items 7a (Habitat Conservation Plan), 7b (ESCA update) and 7c (REPOG proposal update) were covered during the review of the draft March 14th FORA Board agenda above.

Item 7d – Memorandum of Agreement with Department of Toxic Substances Control ("DTSC") re monitoring of land use covenants – distribution of executed copies: Associate Planner Jonathan Garcia said that the FORA Board had approved this document in September of 2007. He reported that the final signatures were affixed to it last week and one original sent to DTSC inclusion in ESCA deeds packet that will be given to the Governor for final sign-off. He reminded all that FORA would cover the costs of the monitoring for the first two years.

8. New Business - none

9. **Adjournment:** Acting Chair Feeney adjourned the meeting at 9:00 a.m. and announced a five-minute break before the joint Administrative Committee/Capital Improvement Program Committee meeting would be convened.

Minutes prepared by Linda Stiehl, Executive Assistant

FORT ORD REUSE AUTHORITY

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MINUTES OF THE ADMINISTRATIVE COMMITTEE MEETING Wednesday, March 19, 2008

APPROVED

1. Call to Order

Co-Chair Doug Yount called the meeting to order at 8:20 a.m. The following representatives from the land recipient jurisdictions, representing a quorum, were present:

- *Jim Cook – County of Monterey
- *Les Turnbeaugh – City of Monterey
- *Dick Goblirsch - City of Del Rey Oaks
- *Doug Yount – City of Marina
- *Ray Corpuz – City of Seaside

Also present, as indicated by the roll sheet signatures, were:

- *Mehul Mody – CSUMB
- *Colleen Freeman – 27th Assembly District
- Nick Nichols – County of Monterey
- *Todd Muck – TAMC
- *Bill Collins – BRAC
- Jim Arnold – FORA
- Tim O’Halloran – City of Seaside
- Jonathan Garcia – FORA
- Tom Tuttle – Army/RCI
- Jim Feeney – FORA
- (*)Heidi Burch – City of Carmel
- David Gazek – Federal Development, Inc.
- Steve Endsley – FORA
- *Vicki Nakamura – Monterey Peninsula College
- Bob Schaffer
- Bob Holden – MRWPCA
- *Jim Heitzman – MCWD
- *Graham Bice – UC MBEST

* indicates a committee member and (*) indicates a FORA voting member but not a land recipient jurisdiction

Voting board member jurisdictions not represented at this meeting were Sand City, Salinas, and Pacific Grove.

2. Pledge of Allegiance

Co-Chair Yount asked Mehul Mody, who agreed, to lead the Pledge of Allegiance.

3. Acknowledgements, announcements and correspondence

Assistant Executive Officer Jim Feeney called attention to the two letters in the meeting packet, one from the City of Seaside and the other from Del Rey Oaks. Each jurisdiction had requested interim loan allocations of water resources. He said that staff has recommended organizing an ad hoc committee to discuss these requests, which will be agendized for full discussion by the committee at the next meeting.

4. Public comment period - none

5. **Approval of March 5, 2008 meeting minutes**

Motion to approve the March 5, 2008 Administrative Committee meeting minutes and the Joint Administrative Committee/Capital Improvement Program Committee minutes was made by Dick Goblirsch, seconded by Heidi Burch, and carried. Doug Yount, representing the City of Marina, abstained due to absence.

6. **Old Business**

Item 6a – Habitat Conservation Plan (“HCP”)

- (1) HCP timing: Establish working group: Director of Planning and Finance Steve Endsley reported that the CRMP (Coordinated Resource Management and Planning) HCP working group/subcommittee would be meeting to discuss in detail cost and funding issues, which have been recently raised. In addition, he recommended that an HCP ad hoc committee be created to discuss sensitive and strategic issues involving the regulators and report back to the FORA jurisdictions.

Bob Schaffer asked where the HCP was in the process on a scale of one to twenty, and Mr. Endsley replied “about seventeen.” He said the largest and most technical issues have been resolved, only the structure and funding issues remain. He expressed confidence that closure will be timely and reported that the FORA Legislative Mission to Sacramento on March 27-28 includes meetings with the regulators and FORA’s state electeds, who have offered their support. Jim Cook called attention to the new requirements for jurisdictions with parcels bordering habitat conservation areas and indicated support for the strategic issues ad hoc committee. **Motion to create the HCP Strategic Issues Ad Hoc Committee was made by Jim Cook, seconded by both Ray Corpuz and Dick Goblirsch, and carried.** It was decided to schedule the first meeting at FORA from 2:00 – 4:00 pm on April 3rd.

- (2) Report from Multi-Modal Corridor Working Group: Mr. Endsley said there is general agreement on the alternative alignment of this corridor and few issues remain, the primary on being nailing down the landowners’ agreements. He asked the members to inform their policymakers of the need to endorse changes in the land disposition. Jim Feeney urged the members to report back to FORA staff no later than the April 2nd committee meeting regarding these actions, so that FORA staff can prepare a report for the board. Questions about the availability of documentation describing/illustrating these changes were raised and Jim Cook said the County would take the lead drafting the agreement with the affected jurisdictions (Marina, Monterey County, UC, CSUMB, and Golden Gate University). A common map will be circulated to assist the process, and the item will be agendaized for the next committee meeting.

Item 6b – Water Augmentation Program: Regional Plenary Oversight Group (REPOG) proposal – update: Assistant Executive Officer Jim Feeney said he anticipates the FORA Board acting on this proposal and that FORA staff has affirmed moving forward with the REPOG as the preferred alternative. Jim Cook voiced that it might be premature to endorse the RUWAP and the requests for interim water allocations by Del Rey Oaks and Seaside. Director of Planning and Finance Steve Endsley explained that the REPOG would replace the RUWAP, corresponding to FORA’s Phase 1 and 2 hybrid program, although a number of technical and legal issues remain to be resolved at this

point. He also noted that neither this action nor the temporary loan proposals do not change prior allocations and agreements made by the parties. Discussion followed. Marina Coast Water District General Manager Jim Heitzman remarked that the removal of desalinated water will provide more potable water but there is still the question of reallocating the potable water from the REPOG proposal. He also commented that the REPOG program is getting much attention at the state and federal levels and that FORA's progress is being watched. He added that there is a possibility of federal financial support if/when the local entities pass resolutions of support. **Motion to recommend support of the REPOG proposal and move this item to the FORA Board for endorsement was made by Ray Corpuz, seconded by Dick Goblirsch, and carried.**

7. **New Business** - none
8. **Adjournment:** Co-Chair Yount announced a five-minute break before the joint meeting and adjourned the meeting at 9:05 a.m.

Minutes prepared by Linda Stiehl, Executive Assistant

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Executive Officer's travel report	
Meeting Date:	April 11, 2008	INFORMATION
Agenda Number:	9b	

AMENDED REPORT

RECOMMENDATION:

Receive a report from the Executive Officer concerning business travel on behalf of the Fort Ord Reuse Authority ("FORA").

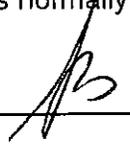
BACKGROUND/DISCUSSION:

~ **2008 State Legislative Mission to Sacramento (March 26-28, 2008):** Chair/Mayor Russell, Mayor Rubio, and Executive Officer Houlemard traveled to Sacramento to attend a number of meetings with legislators, department officials and others to discuss FORA's legislative and development issues and solicit support where needed. FORA will reimburse hotel, mileage, meals and other expenses normally covered by the FORA travel policy.

~ **Association of Defense Communities (ADC)-sponsored trip to Washington, DC (tentatively April 20-24, 2008):** As ADC President, Executive Officer Michael Houlemard has been asked to represent this national organization in a series of meetings with high ranking officials in the Pentagon and on Capitol Hill. His travel and lodging expenses and most, if not all, miscellaneous expenses will be reimbursed by ADC. Any expenses not covered will be reimbursed by FORA according to the FORA travel policy.

The Executive Committee approved combining the ADC sponsored trip for Executive Officer Houlemard with meetings that he will conduct on behalf of FORA regarding the Habitat Conservation Plan, the Environmental Services Cooperative Agreement implementation and funding, and others to replace the 2008 Legislative Mission. They also concurred that the Director of Planning and Finance, Steve Endsley attend these meetings. FORA will split all expenses with ADC for Executive Officer Houlemard and cover expenses normally covered by the FORA travel policy for Steve Endsley.

FISCAL IMPACT:

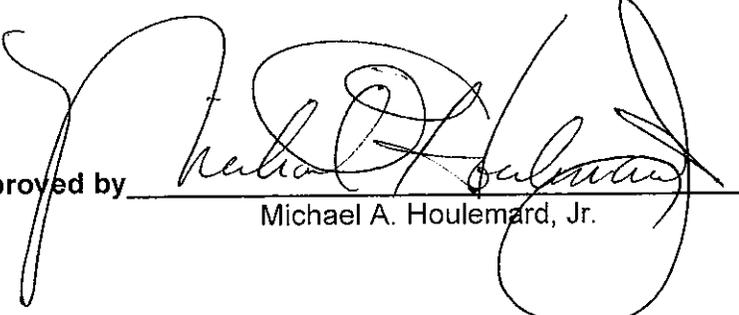
Reviewed by FORA Controller 

Costs described above, and not covered by outside agency reimbursements, are covered in FORA's approved budget.

COORDINATION:

Executive Committee and the FORA Chair

Prepared by 
Sharon Strickland

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: Executive Officer's travel report

Meeting Date: April 11, 2008

Agenda Number: 9b

INFORMATION

AMENDED REPORT

RECOMMENDATION:

Receive a report from the Executive Officer concerning business travel on behalf of the Fort Ord Reuse Authority ("FORA").

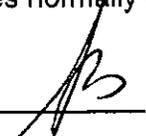
BACKGROUND/DISCUSSION:

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The Executive Committee approved combining the ADC sponsored trip for Executive Officer Houlemard with meetings that he will conduct on behalf of FORA regarding the Habitat Conservation Plan, the Environmental Services Cooperative Agreement implementation and funding, and others to replace the 2008 Legislative Mission. They also concurred that the Director of Planning and Finance, Steve Endsley attend these meetings. FORA will split all expenses with ADC for Executive Officer Houlemard and cover expenses normally covered by the FORA travel policy for Steve Endsley.

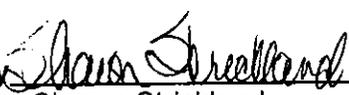
FISCAL IMPACT:

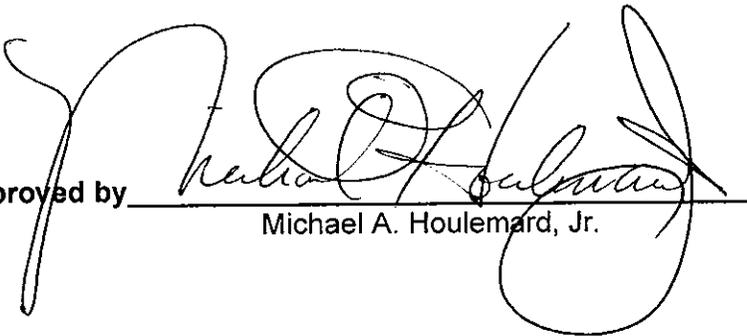
Reviewed by FORA Controller 

Costs described above, and not covered by outside agency reimbursements, are covered in FORA's approved budget.

COORDINATION:

Executive Committee and the FORA Chair

Prepared by 
Sharon Strickland

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Distribution of FORA Master Resolution (updated February 8, 2008)	
Meeting Date:	April 11, 2008	INFORMATION
Agenda Number:	9c	

RECOMMENDATION:

Receive a copy of the Fort Ord Reuse Authority ("FORA") Master Resolution, inclusive of recently approved non-substantive edits.

BACKGROUND/DISCUSSION:

Administrative Coordinator Crissy Maras and Executive Officer Houlemard reviewed the entire Master Resolution and corrected various typographical and non-substantial grammatical misuses.

At the February 8, 2008 FORA Board meeting, the Board approved those minor, non-substantive edits and corrections to the Master Resolution. Those adjustments have been incorporated into the Master Resolution, which is now being distributed for Board Members use.

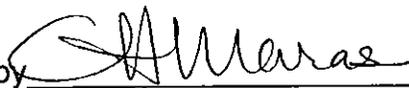
FISCAL IMPACT:

None

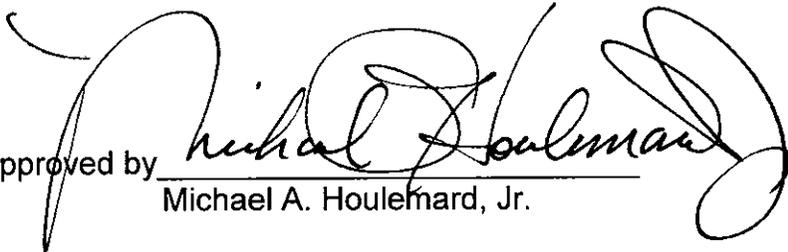
COORDINATION:

Authority Counsel

Prepared by


Crissy Maras

Approved by


Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY

MASTER RESOLUTION

Adopted March 14, 1997

Amended November 20, 1998 [Addition of Chapter 8 and
Amend §1.01.050, Definitions]

Amended February 19, 1999 [Update §2.03, Committees;
Clarify and Add text to §1.02.010(b)(4), Conflict of Interest; and
Amend §2.09.020(a), Responsibilities for Enforcement
(Addition of City of Del Rey Oaks
Police Chief as an enforcement officer)]

Amended January 21, 2000 [Amend §2.03.040, Legislative Advisory Committee, and
§2.03.050, Finance Advisory Committee (Redefine membership)]

Amended January 18, 2002 [Amend §2.03.051, Finance Advisory Committee Duties
(Delete the word "monthly" in reference to Finance Committee meetings)]

Amended February 8, 2002 [Amend §2.03.040, Legislative Advisory Committee (Increase
Legislative Committee membership from 6 to 8 and define voting and ex-officio members)
and Amend §2.03.041, Legislative Advisory Committee Duties
(Delete text that Authority Counsel should attend meetings)]

Amended April 16, 2004 [Amend Chapter 8 by the addition of Sections 8.02.020(t) and
8.02.030(a)(8), which address the jobs/housing balance in consistency determinations]

Amended February 9, 2007 [§2.02.010(a) (start time of board meetings)
and §2.03.051 (duties of the Finance Advisory Committee)]

Amended March 9, 2007 [Repeal of §3.03.100 (Developers of Property Pursuant to
Agreements with FORA), amendment to §3.03.090 (Prevailing Wages), and amendment to
§1.01.050 (addition of definition of "First Generation Construction")]

[Non-substantive changes approved by the Board on February 8, 2008;
see list attached to the FORA Board report for Item 5b.]

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Chapter 1. GENERAL PROVISIONS

Article 1.01. THE MASTER RESOLUTION

1.01.010. SHORT TITLE.

This Master Resolution shall be known and may be cited as the "Fort Ord Reuse Authority Master Resolution" or the "Authority Master Resolution."

1.01.015. EXISTING LAW CONTINUED.

The provisions of this Master Resolution, insofar as such provisions are substantially the same provisions of ordinances relating to the same subject matter and existing at the time of the adoption of this Master Resolution, shall be continued as restatements and continuations of ordinances in existence at the time of the adoption of this Master Resolution and shall not be considered as new enactments.

1.01.020. THE EFFECTS OF PENDING ACTIONS AND ACCRUED RIGHTS.

The adoption of this Master Resolution as well as the provisions of this Master Resolution shall in no way affect the legality or enforceability of any action or proceeding commenced before this Master Resolution takes effect or any right which accrued before this Master Resolution takes effect. All procedures taken after adoption of this Master Resolution shall conform to the provisions of this Master Resolution so far as possible.

1.01.030. RIGHTS UNDER EXISTING LICENSES AND CERTIFICATES.

No rights given by any license, permit or certificate under prior actions of any predecessor or governmental entities are affected by the enactment of this Master Resolution; however, such rights shall be exercised according to this Master Resolution from the effective date of this Master Resolution.

1.01.040. HEADINGS OF PROVISIONS.

The headings of the part, title, chapter, section, and subsection contained in this Master Resolution are intended to indicate the contents of such provisions and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of such provisions.

1.01.050. DEFINITIONS.

(a) In the interpretation and construction of this Master Resolution, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the Authority Board or the context clearly required otherwise:

"Affected territory," means property within the Fort Ord Territory that is the subject of a legislative land use decision or an application for a development entitlement and such additional territory within the Fort Ord Territory that may be subject to an adjustment in density or intensity of allowed development to accommodate development on the property subject to the development entitlement.

"Army urbanized footprint" means the Main Garrison Area and the Historic East Garrison Area as such areas are described in the Reuse Plan.

"Augmented water supply" means any source of potable water in excess of the 6,600 acre-feet of potable water from the Salinas Basin as allowed under the Reuse Plan.

"Authority" means the Fort Ord Reuse Authority ("FORA"), an independent governmental and public entity, organized under the laws of the State of California pursuant to the Authority Act.

"Authority Act" means the provisions of the Fort Ord Reuse Authority Act, Title 7.85, Section 67650, *et seq.*, (also known as Senate Bill 899, Chapter 64 of the 1994 California Statutes) of the California Government Code, as may be amended from time to time.

"Authority Board" or "Board" or "Board of Directors" means the governing body of the Authority as established pursuant to the Authority Act.

"Authority Offices" means the facilities located at 100 12th Street, Buildings 2900, 2901, 2902, 2903, 2880, 2881, 2882, 2883, 2861, and 2862, Marina California.

"Authority Officers" means the officers, officials, agents, employees, departments, and agencies of the Authority.

"Computation of time" The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

"County" or "this County" means the County of Monterey.

"Day" A day is the period of time between any midnight and the midnight following.

"Daytime" means the period of time between sunrise and sunset. The word "nighttime" means the period of time between sunset and sunrise.

"Development entitlements" includes but is not limited to tentative and final subdivision maps, tentative, preliminary, and final parcel maps or minor subdivision maps, conditional use permits, administrative permits, variances, site plan reviews, and building permits. The term "development entitlement" does not include the term "legislative land use permits" as that term is defined in this Master Resolution. In addition, the term "development entitlement" does not include:

- (1) Construction of one single-family house, or one multiple family house not exceeding four units, on a vacant lot within an area appropriately designated in the Reuse Plan.
- (2) Improvements to existing single-family residences or to existing multiple family residences not exceeding four units, including remodels or room additions.
- (3) Remodels of the interior of any existing building or structure.
- (4) Repair and maintenance activities that do not result in an addition to, or enlargement of, any building or structure.
- (5) Installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and development approved pursuant to the Authority Act.

- (6) Replacement of any building or structure destroyed by a natural disaster with a comparable or like building or structure.
- (7) Final subdivision or parcel maps issued consistent with a development entitlement subject to previous review and approval by the Authority Board.
- (8) Building permit issued consistent with a development entitlement subject to previous review by the Authority Board.

“Enforcement” shall mean: the making of investigations as may be required; demanding and signing criminal complaints or civil declarations; appearing as a witness in any prosecution or proceeding when so required; and generally doing all things necessary and proper to enforce and obtain compliance with the provisions of this Master Resolution.

“Entitlement” means any license, permit, authorization, or grant, which is issued, granted, or given by the Authority or any of its officers, officials, agents, employees, departments, or agencies to any person.

“Executive Officer” means and includes the appointed official of the Authority who occupies the position of Executive Officer of the Authority pursuant to the Authority Act or any person designated by the Executive Officer to perform certain duties pursuant to this Master Resolution under the direction of the Executive Officer.

“Ex-Officio Members” means the persons or entities designated in the Authority Act as ex-officio members or such persons or entities as the FORA Board may designate as ex-officio members. Ex-Officio Members include the Monterey Peninsula Community College District, the Monterey Peninsula Unified School District, the Member of Congress from the 17th Congressional District, the Senator from the 15th Senate District, the Assembly Member from the 27th District, the United States Army, the Chancellor of the California State University, the President of the University of California, the Transportation Agency of Monterey County, the Monterey-Salinas Transit Authority and Marina Coast Water District.

“First Generation Construction” means construction performed during the development and completion of each parcel of real property contemplated in a disposition or development agreement at the time of transfer from each member agency to a developer(s) or other transferee(s) and until issuance of a certificate of occupancy by the initial owners or tenants of each parcel.

“Fort Ord Territory” means all territory within the jurisdiction of the Authority.

“Goods” means and includes wares or merchandise.

“Habitat Management Plan”, means the Fort Ord Installation-Wide Multi-Species Habitat Management Plan dated April 1997.

“Land use agency” means a member agency with land use jurisdiction over territory within the jurisdiction of the Authority Board.

“Legislative land use decisions” means general plans, general plan amendments, redevelopment plans, redevelopment plan amendments, zoning ordinances, zone district maps or amendments to zone district maps, and zoning changes.

“Master Resolution” or “this Master Resolution” means the Authority Master Resolution.

"Member Agencies" means the Cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Salinas, Sand City, and Seaside and the County of Monterey.

"Month" means a calendar month.

"Noticed public hearing" means a public hearing noticed in the following manner:

- (1) Notice of the public hearing shall be posted on the public meeting room at the FORA office at least 10 days before the date of the hearing; and
- (2) Notice of the public hearing shall be mailed or delivered at least 10 days prior to the affected land use agency, to any person who has filed an appeal, and to any person who has requested special notice; and
- (3) Notice of the public hearing shall be published at least 10 days before the date of the hearing in at least one newspaper of general circulation within the area that the real property that is the subject of the public hearing is located.

"Oath" means and includes an affirmation.

"Officers, officials, departments, and other agencies" individually and collectively means officers, officials, departments, board, commissions, and employees referred to in this Master Resolution who serve as the officers, officials, departments, boards, commissions, and employees of the Authority unless the context clearly indicated otherwise.

"Official" means any officer, official, agent, or employee of the Authority whose duties are specifically delineated in this Master Resolution.

"Official time" means whenever certain hours are named in this Master Resolution, they mean Pacific Standard Time or Daylight Saving Time, as may be in current use in the Authority.

"Operate" means and includes carry on, keep, conduct, or maintain.

"Owner" applied to a building or land, means and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

"Person" means and includes any person, firm, association, organization, partnership, business trust, corporation or company, and any municipal, political or governmental corporation, district, body or agency other than this Authority.

"Personal property" means and includes every species of property, except real property.

"Preceding" and "following" mean next before and next after, respectively.

"Property" means and includes real and personal property.

"Real Property" means and includes lands, tenements, and hereditaments.

"Reuse Plan" means the plan for reuse and development of the territory within the jurisdiction of the Authority, as amended or revised from time to time, and the plans, policies, and programs of the Authority Board, including the Master Resolution.

"Sale" means and includes any sale, exchange, barter or offer for sale.

"Week" A week consists of seven consecutive days.

"Writing" means and includes any form of recorded message capable of comprehension by ordinary visual means.

"Year" means a period of 365 days, except where otherwise provided. The added day of a leap year, and the day immediately preceding if they occur in any such period, shall be reckoned together as one day.

(b) Words and phrases are to be construed according to the context and the approved usage of the language. Technical words and phrases, and such other terms as may have acquired a peculiar and specific meaning in the law, or are specifically defined herein, are to be construed in accordance with such peculiar and specific meaning or definition.

1.01.060. TERRITORIAL LIMITATION.

This Master Resolution refers only to the omission or commission of acts within the territorial limits of the Authority and to that territory outside of the Authority over which the Authority has jurisdiction or control by virtue of the state constitution, any state law, the Authority Act, or by reason of ownership or control of property.

1.01.070. DISTRIBUTION AND MAINTENANCE OF THE MASTER RESOLUTION.

(a) Not less than one copy of this Master Resolution shall be filed for use and examination by the public in the office of the Executive Officer. Copies thereof shall be distributed to the members of the Authority Board, the alternates, the member agencies, and the ex-officio members.

(b) The Executive Officer shall keep and maintain this Master Resolution together with all amendments as may be adopted by the Authority Board. The Executive Officer on a timely and recurring basis shall publish and distribute such amendments.

1.01.080. NOTICES – SERVICE PROCEDURE.

(a) Notice required to be given under this Master Resolution, unless different provisions are otherwise specifically made in this Master Resolution, may be given either by personal delivery to the person to be notified, or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the person to be notified, at such person's last known business or residence address, as such address appears in the public records of the Authority or other records pertaining to the matter to which the notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the United States mail.

(b) Proof of giving any notice required by this Master Resolution may be made by the certificate of any officer or employee of the Authority or by affidavit or declaration of any person over the age of 18 years, which shows service in conformity with this Master Resolution or other provisions of law applicable to the subject matter of the notice.

1.01.090. HOLD HARMLESS CLAUSE FOR LICENSES AND PERMITS.

(a) Every entitlement shall be subject to the condition that the person receiving the entitlement agrees to save, indemnify, and keep harmless the Authority and Authority Officers against all liabilities, judgments, costs, and expenses which may in any manner or granting of an entitlement or in consequence of the use or occupancy of any sidewalk, street, or other public place, or the occupancy of any property or facility owned or leased by the Authority. The person receiving an entitlement shall also agree to strictly comply with the conditions of the entitlement and with this Master Resolution and all ordinances, rules, and regulations of the Authority relating to the entitlement.

(b) Whenever it is administratively proper, the Executive Officer shall print, type, or write the Condition State above into every entitlement form substantially as it appears in this section.

1.01.100. INTERPRETATION, CONSTRUCTION, AND SEVERABILITY.

(a) The provisions of this chapter shall be the minimum requirements of the protection of the public convenience, safety, health, and general welfare.

(b) Any reference in this Master Resolution to any portion of any statute shall include all amendments and additions to such statute.

(c) Any reference in this Master Resolution to an ordinance of the Authority or provision of this Master Resolution shall include all amendments and additions to such ordinance or provision. Reference to any section of this Master Resolution shall include the penalty provisions specified in this chapter, unless otherwise expressly provided.

(d) The act or omission of an act which is made unlawful under this Master Resolution shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. Whenever any act or omission is made unlawful, it includes causing, permitting, aiding, abetting, suffering, or concealing such act or omission.

(e) Whenever a power is granted to, or duty is imposed upon, an Official, the power may be exercised or the duty may be performed by a deputy or designee of such Official, or other employee or person authorized pursuant to law or ordinance, unless this Master Resolution expressly provides otherwise.

(f) The provisions of this Master Resolution and all proceedings under this Master Resolution are to be construed so as to give effect to the objectives of the Authority Act, this Master Resolution, and the promotion of justice.

(g) The sections, paragraphs, sentences, clauses, and phrases of this Master Resolution are severable and any declaration of unconstitutionality of any phrase, clause, sentence, paragraph, or section of this Master Resolution or any amendment to this Master Resolution by the valid judgment or decree of a court of competent jurisdiction shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Master Resolution or any amendment to this Master Resolution.

1.01.110. GRAMMATICAL INTERPRETATION.

(a) General Rules.

- (1) Any gender includes the other genders.
- (2) The singular number includes the plural, and the plural includes the singular.
- (3) Words used in the present tense include the past and the future tenses and vice versa.
- (4) The word "or" may be read "and" and the word "and" may be read "or" if the sense requires it.
- (5) Words and phrases used in this Master Resolution that are not specifically defined shall be construed according to the context and approved usage of the language. The provisions of Section 13 and 1645 of the Civil Code of the State of California are adopted in the interpretation of words and phrases, unless otherwise provided in this Master Resolution.

(b) Specific Rules.

- (1) It is the policy of the Authority Board that the legal documents of this Authority, including all ordinances, resolutions, and contracts, should be gender neutral.
- (2) It is the policy of the Authority Board that the legal documents of this Authority including all ordinances, resolutions, and contracts, should be written in "plain English."

Article 1.02. ENFORCEMENT OF MASTER RESOLUTION

1.02.010. RESPONSIBILITIES FOR ENFORCEMENT.

(a) Whenever the enforcement of any provision of this Master Resolution is imposed upon or delegated to a specific official, such official shall be primarily responsible for the enforcement of such provision. In the absence of any

specific impositions or delegation or enforcement responsibility, the Executive Officer shall be primarily responsible for enforcing the provisions of this Master Resolution.

(b) Enforcing Officers Generally.

- (1) The Sheriff and all peace officers employed by the Sheriff's Department are hereby empowered to enforce any and all provisions of this Master Resolution or any other ordinance of the Authority, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the County, within that portion of the Authority's jurisdiction that is within the unincorporated area of the County.
- (2) The Police Chief of the City of Marina and all peace officers employed by the City of Marina are empowered to enforce any and all provisions of this Master Resolution or any ordinance of the Authority, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the City of Marina, within that portion of the Authority's jurisdiction that is within the jurisdictional limits of the City of Marina.
- (3) The Police Chief of the City of Seaside and all peace officers employed by the City of Seaside are empowered to enforce any and all provisions of this Master Resolution or any ordinance of the Authority, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the City of Seaside, within that portion of the Authority's jurisdiction that is within the jurisdictional limits of the City of Seaside.
- (4) The Police Chief of the City of Del Rey Oaks and all peace officers employed by the City of Del Rey Oaks are empowered to enforce any and all provisions of this Master Resolution or any ordinance of the Authority, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the City of Del Rey Oaks, within that portion of the Authority's jurisdiction that is within the jurisdictional limits of the City of Del Rey Oaks.
- (5) The Police Chief of the City of Monterey and all peace officers employed by the City of Monterey are empowered to enforce any and all provisions of this

Master Resolution or any ordinance of the Authority, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the City of Monterey, within that portion of the Authority's jurisdiction that is within the jurisdictional limits of the City of Monterey.

(c) Compliance with the permit requirements of this Master Resolution shall be the responsibility of the Official authorized to grant the permit to which such requirements apply, except that when the permit is granted by the Authority Board, the Executive Officer shall be the responsible officer.

(d) Whenever an Official primarily responsible for enforcing any provision of this Master Resolution fails, neglects, or refuses to perform such duty and such failure, neglect, or refusal is brought to the attention of the Executive Officer, the Executive Officer shall enforce such provision of law and initiate such penal and disciplinary action against the Official as may be warranted under the circumstances.

(e) Every Official may use administrative processes such as notices of violation, stop work orders, or warning letters in lieu of or prior to seeking judicial enforcement of any provision of this Master Resolution if the Official determines that the process may result in compliance with this Master Resolution at less cost to the Authority.

(f) Every Official is authorized to appear as a complaining witness in any criminal, civil, or administrative proceeding brought for an alleged violation of the Master Resolution or to abate any violation of this Master Resolution or enjoin any present or future violation of this Master Resolution.

(g) Every Official shall consult with Authority Counsel in a timely manner prior to commencement of any proceeding or action to terminate, revoke, or deny any entitlement allowed or established pursuant to this Master Resolution, to ensure that such proceeding or action is undertaken in a lawful manner consistent with the laws of the United States, the State of California, and the Authority.

1.02.020. INTERFERENCE WITH ENFORCING OFFICERS.

(a) It is unlawful for any person to interfere or obstruct, or to attempt to interfere or obstruct, any Official in the performance of such Official's duties as specified in this Master Resolution or as may otherwise be received pursuant to the rules, regulations, or policies of the Authority or the Authority Board.

(b) No person shall give, either orally or in writing, information to an Official which the person knows or has reason to know is false.

1.02.030. VIOLATIONS OF THE MASTER RESOLUTION.

(a) It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements, of this Master Resolution. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Master Resolution shall be guilty of a misdemeanor unless:

- (1) The violation is classified as an infraction by the State Vehicle Code or this Master Resolution, in which case the person shall be guilty of an infraction; or
- (2) The violation is classified as a standing or parking traffic violation under the State Vehicle Code or this Master Resolution; or
- (3) The District Attorney files a complaint charging the offense as an infraction; or
- (4) A public officer designated in subsection (d) of this section issues a citation charging the offense as an infraction.

(b) Any person convicted of a misdemeanor under the provisions of this Master Resolution, unless provision is otherwise made in this Master Resolution, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment in the Monterey County Jail for a period of not more than six months or by both such fine and imprisonment.

(c) Any person convicted of an infraction under the provisions of this Master Resolution, unless provision is otherwise made in this Master Resolution, shall be punishable upon a first conviction of a fine of not more than Two Hundred and Fifty dollars (\$250), and for a second conviction within a period of one year by a fine of not more than Five Hundred Dollars (\$500), and for a third or any subsequent conviction within a period of one year by a fine of not more than One Thousand Dollars (\$1,000).

(d) The Executive Officer shall have the authority to cite violations for infractions or civil violations in the enforcement of the provisions of this Master Resolution within the Executive Officer's regulatory responsibilities.

1.02.040. CIVIL PENALTIES.

Any person who is found to have violated any provision of this Master Resolution, specifically subject to civil remedies, shall pay the civil fees listed in the Authority Fee Resolution for the violation including the penalty and all collection costs. All such violations shall be processed by the Executive Officer.

1.02.050. OFFENSES.

Every person convicted of a misdemeanor or infraction under the provisions of this Master Resolution shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Master Resolution is committed, continued, or permitted by such person and shall be punished accordingly.

1.02.060. SAME OFFENSE PUNISHABLE BY DIFFERENT SECTIONS OF THE MASTER RESOLUTION.

In all cases where the same offense is made punishable or is created by different clauses or sections of this Master Resolution, the District Attorney may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense. The provisions of this section apply only to criminal sanctions pursuant to Section 1.02.040 of this Master Resolution. Nothing in this section shall be construed as limiting or prohibiting the Executive Officer or the Authority from securing compliance with the provisions of the Master Resolution through the civil remedies provisions authorized pursuant to Section 1.02.040 or Sections 1.02.070, 1.02.080, and 1.02.090 of this Master Resolution.

1.02.070. PUBLIC NUISANCES; CONTINUING OFFENSES.

Any condition caused or permitted to exist in violation of any of the provisions of this Master Resolution shall be deemed a public nuisance and may be abated as such in a manner consistent with law. Each and every day during which such condition is allowed to exist shall be deemed a separate offense and may be abated accordingly.

1.02.080. ABATEMENT AND ENJOINMENT OF PUBLIC NUISANCES.

Any violation of any provision of this Master Resolution is unlawful and a public nuisance. The District Attorney or the Authority Counsel, or their respective designees, may commence such actions or proceedings for the abatement, removal, and enjoinder in the manner provided by law and may take such other steps and initiate such judicial proceedings as the District Attorney or Authority Counsel deems necessary or appropriate to abate and restrain such violation. The remedies provided in this section shall be cumulative and not exclusive.

1.02.090. REIMBURSEMENT OF COSTS AND CIVIL PENALTIES.

(a) Any person, firm, or corporation who creates or maintains a public nuisance in violation of this Master Resolution shall be liable for the cost of abatement, which shall include, but not be limited to:

- (1) Cost of Investigation;
- (2) Court costs;
- (3) Attorneys' fees; and
- (4) Costs of monitoring compliance.

(b) Upon continuation of a public nuisance after notice from the Authority to cease the nuisance, any person, firm, or corporation shall be liable for the costs of abatement set forth in Subsection (a) of this section plus a civil penalty of fifty percent (50%) of those costs payable to the Authority in addition to any other costs of enforcement imposed by the court or such other amount as may be specified in the Authority Fee Resolution. Penalties imposed pursuant to the provisions of this subsection are in addition to any civil penalties that may be imposed pursuant to Section 1.02.040.

1.02.100. REMEDIES CUMULATIVE.

Unless otherwise expressly provided, the remedies provided in this Article or other provisions of this Master Resolution are cumulative and not exclusive. Nothing in this Master Resolution bars any legal, equitable, administrative, or summary remedy to which any aggrieved person, the Authority, or any Official may otherwise be entitled. Paying a fine or serving a jail sentence shall not relieve any persons from the responsibility for correcting any condition, which violates any provision of this Master Resolution, or paying any civil penalties that may be imposed pursuant to the provisions of this Article.

1.02.110. IMMUNITY OF ENFORCING OFFICIALS.

Nothing in this Master Resolution is intended or shall be deemed or construed to impose liability upon the Authority or any Official for any injury to persons or damage to property alleged to result from any act or omission by the Authority or any Official beyond the liability expressly imposed by the laws of the State of California or the United States. Nothing in this Master Resolution or any other Authority enactment is intended or shall be deemed or construed to impose a mandatory duty upon the Authority or any Official for the purpose of determining entitlement to equitable relief or liability for any injury to persons or damage to property alleged to result from the failure of the Authority or any Official to discharge a mandatory duty imposed by an Authority enactment.

Article 1.03. AUTHORITY SEAL

1.03.010. ADOPTED; FORM AND CONTENTS.

(a) The Authority seal shall be nine-sided in shape, bearing the name of the Authority and of such additional design as established or approved by the Authority Board from time to time.

(b) The only form of corporate seal for use by or for the Authority shall be the form of seal established by the Authority Board, as provided in this section.

(c) The Executive Officer shall have the official custody of the official seal of the Authority.

1.03.020. DESIGNATION OF UNLAWFUL USES.

It is unlawful for any person to make or use the seal of the Authority, or any cut, facsimile or reproduction of the seal, or to make or use any seal or any design which is an imitation of the seal, or of the design thereof, which may be mistaken for the seal of the Authority, or the design thereof, for any purpose other than for Authority purposes, or for the purposes of any board, officer, or department thereof.

1.03.030. DISPLAY ON PRIVATELY OWNED VEHICLES.

It is unlawful for any person to display or place either temporarily or permanently, the official seal of the Authority, or any facsimile or representation or near

representation thereof, on any privately owned vehicle, unless express written permit first has first been obtained from the Authority Board to do so. If any such permit is so granted by the Authority Board, it is unlawful for any person to place or display such seal in any manner or at any time contrary to or in violation of the provisions of such permit.

**Article 1.04. TIME LIMITATIONS FOR ADMINISTRATIVE
MANDAMUS PROCEEDINGS**

1.04.010. TERM "DECISION" DEFINED.

As used in this Article, the term "decision" means an adjudicatory administrative decision made, after a hearing required by law to be given, suspending, demoting or dismissing an officer or employee, revoking or denying an application for any entitlement, or denying application for any retirement benefit or allowance.

**1.04.020. SECTION 1094.6 OF THE CODE OF CIVIL PROCEDURE
ADOPTED.**

The provisions of the Code of Civil Procedure Section 1094.6 shall be applicable to decisions of the Authority Board and of any board or commission of the Authority authorized to render a final adjudicatory administrative decision where no right of appeal to the Authority Board exists. Notice of such right of appeal shall be given in the resolution effecting such decision.

Chapter 2. AUTHORITY OFFICES AND GENERAL REGULATIONS

Article 2.01. AUTHORITY BOARD

2.01.010. MEMBERSHIP.

(a) The Authority shall be governed by a thirteen (13) member Board of Directors consisting of three (3) members of the Monterey County Board of Supervisors, two (2) city council members from each of the Cities of Marina and Seaside, and one (1) city council member from each of the Cities of Carmel-by-the-Sea, Del Rey Oaks, Sand City, Monterey, Pacific Grove, and Salinas.

(b) The legislative body of each member agency may appoint an alternate member for its respective positions on the Board of Directors. Each alternate member shall have all the same rights, responsibilities and privileges as a Board member when serving in a Board member's place. Board members and alternates shall serve at the pleasure of the legislative body of the member agency making the appointment.

(c) Each member and each alternate shall serve at the pleasure of the legislative body making the appointment. Each member and each alternate shall be a member of the legislative body making the appointment, except that alternates appointed by the Board of Supervisors of Monterey County shall be members of the Board of Supervisors or county staff.

2.01.020. EX-OFFICIO MEMBERSHIP.

(a) A representative of each of the ex-officio members may serve as nonvoting members of the Board of Directors.

(b) The Board of Directors may appoint or remove additional ex-officio nonvoting members at its pleasure. Each ex-officio member may participate in public meetings and hearings of the Authority. For the purpose of this Master Resolution, the term "participate in public meetings and hearings" shall include, but is not limited to, the ability to make motions, request the placement of matters on the Authority's agenda, serve on subcommittees, and to participate in all discussions regarding any matter which may come before the Authority in public session. The term "participate in public meetings and hearings" does not include the ability to cast a vote, in the event a vote is taken, pursuant to Section 2.02.040 of this Master Resolution, nor does it include the ability to meet with the Authority Board in closed session.

2.01.030. APPOINTMENT.

Each Board member, alternate, and ex-officio member appointed by a governmental entity must be appointed by a member agency or such other appointing authority as provided in the Authority Act and this Master Resolution. Minute action or a resolution making the required appointment must be presented to the Executive Officer before the Board member, alternate, or ex-officio member may participate in Authority Board meetings.

2.01.040. SELECTION OF OFFICERS.

(a) The Authority's officers shall be elected from the Board and shall serve a term of one year and may be reelected for no more than one consecutive additional term in the same office. Election of officers shall take place at the close of the Authority's first regular January meeting.

(b) The officers of the Authority shall be a Chair, a First Vice-Chair, and a Second Vice-Chair. It is the policy of the Board that the officers of the Authority shall rotate on a regular basis among the members of the Board with the First Vice-Chair succeeding the Chair and the Second Vice-Chair succeeding the First Vice-Chair as vacancies occur. Such other officers as may be deemed necessary may be appointed by the Authority Board.

2.01.050. AUTHORITY OF CHAIR AND VICE-CHAIRS.

The Chair shall preside at all meetings of the Authority Board and may make or second any motion and present and discuss any matter as a member of the Board. If the Chair is absent or unable to act, the First Vice-Chair shall serve until the Chair returns or is able to act and shall have all of the powers and duties of the Chair. If both the Chair and First Vice-Chair are absent or unable to act, the Second Vice-Chair shall serve until the Chair or First Vice-Chair returns or is able to act and shall have all of the powers and duties of the Chair. If the Chair, First Vice-Chair, and Second Vice-Chair are absent or unable to act, Board shall choose one of its number as the presiding officer.

2.01.060. ADDITIONAL DUTIES.

The officers of the Authority shall perform such other duties as may be required by resolution or other action of the Authority.

Article 2.02. MEETINGS OF THE AUTHORITY BOARD

2.02.010. MEETINGS – TIME AND PLACE.

(a) The regular meetings of the Authority Board shall be held on the second Friday of each and every month at the Authority Offices, commencing at the hour of 3:30 pm, except as otherwise provided in this section.

(b) If any regular meeting day falls upon a holiday, the regular meeting of the Board shall be held at the same place on the next Friday, which is not a holiday commencing at the same hour, in which event all hearings, applications, petitioners, and other matters before the Board shall be deemed to be and are automatically continued to the same hour on such Friday which is not a holiday.

(c) All meetings of the Authority Board shall be held in places accessible to persons, including persons with physical handicaps or disabilities.

2.02.020. MEETINGS – PROCEDURES.

(a) The proceedings of the Board shall be governed by the provisions of law applicable thereto and, except as otherwise provided in this Article, by Robert's Rules of Order, newly revised. Provided further, that the failure to follow the Rules of Order or these rules shall not invalidate any action taken. The Authority Counsel shall act as parliamentarian and shall give parliamentary advice when appropriate.

(b) The Authority Board may adopt such rules of order for the conduct of its business as it deems appropriate, and may amend same, by resolution; provided, however, that no ordinance, resolution or other action taken by the Board shall be invalidated or the legality or effect thereof otherwise affected by the failure or omission of the Board to observe or follow such rules.

2.02.030. NOTICE AND CALL OF MEETINGS.

(a) Meetings of the Authority Board and all standing committees or subcommittees of the Board, shall be called and noticed in accordance with state law, including, but not limited to the Ralph M. Brown Act, Sections 54950 *et seq.* of the California Government Code, as said Act may be amended by subsequent legislation and augmented by rules of the Board of Directors not consistent therewith. Except as otherwise provided or permitted by law, all meetings of the Authority shall be open and public.

(b) Special meetings may be called at any time by the Chair or by the majority of the members of the Authority by delivering personally or by mail written notice thereof to each member of the Authority at least 24 hours before the time of such meeting as specified in the notice. Said notice shall specify the time and place of such meeting and the business to be transacted. No other business shall be considered at such meeting. Such notice may be dispensed with as to any member of the Authority who at or prior to the time the meeting convenes, files with the secretary a written waiver of notice. Such written notice shall be given to such local newspapers or radio or television stations that request in writing such notice.

(c) The voting members of the Authority may meet in closed session in accordance with state law.

(d) The Authority Chair, in consultation with the Executive Officer, may cancel any regular meeting if no items are presented that require the Authority's immediate attention.

(e) The Authority Agenda will be prepared by the Authority staff and will be approved by the Executive Committee eight (8) working days before the regular Board meeting. Any member may request in writing an item to appear on the agenda. The request shall be made by the agenda deadline and any supporting papers must be furnished by that time or be readily available.

(f) The Authority members, alternates, and committees shall receive the Agenda and pertinent back-up material. The Authority Agenda and pertinent

back-up material will also be supplied to other governmental agencies on written request, renewable annually. The Authority agenda, minutes and the agenda packet, including back-up material, will be available, at a cost of furnishing these materials, to the public by mail upon written request renewable annually. The Authority agenda will be available for review at the Authority office a minimum of two days before Authority meetings.

2.02.040. QUORUM AND VOTING.

(a) A majority of the voting members of the Authority shall constitute a quorum for the transaction of business, but a lesser number may convene from time to time.

(b) A resolution, ordinance, or other action of the Board shall not be approved or adopted sooner than 72 hours after its introduction, unless approved by unanimous vote of all members present at the time of consideration. Except as otherwise provided in this section, any action taken by the Board shall require the affirmative vote of a majority of the appointed members of the Board.

(c) Voting on all formal resolutions, matters relating to any federal, state, county or city and on such other matters as may be requested by the majority of members of the Authority, shall be by roll call and the ayes and noes shall be entered in the minutes of the meeting.

2.02.050. LEGISLATIVE ACTIONS.

(a) Actions of the Authority Board may be taken in the form of Resolutions or Ordinances. All resolutions and ordinances of the Authority shall be in writing and shall be numbered consecutively in the order of their adoption. Wherever feasible, action of the Authority may be by "minute" resolution where the action and the vote on the action are recorded in the minutes of the Authority Board meeting. All ordinances and resolutions shall be filed in the office of the Authority's Secretary and shall thereupon be copied into a permanent, loose-leaf bound volume, which shall be kept and maintained as a public record.

(b) The minutes of the Authority shall be "action" minutes that will accurately reflect actions of the Authority and the vote taken on such actions and shall not be verbatim minutes of all matters discussed and comments made at meetings of the Authority Board.

(c) Authority Counsel shall prepare a summary of each ordinance prior to submission of such ordinance to the Authority Board. The Executive Officer is authorized to publish such summary in the manner provided by law in lieu of publishing the verbatim text of such ordinance.

(d) Except as provided in Section 2.02.040(b), all ordinances and resolutions may be adopted at the meetings at which such ordinances and resolutions were introduced or otherwise placed on the agenda.

2.02.060. CHAIR – POWERS AND DUTIES.

(a) The Chair shall possess the powers and perform the duties prescribed in this section.

- (1) Have general direction over the Board Room and assign seats for the use of Board members and members of the Authority;
- (2) Preserve order and decorum; prevent demonstrations; order removed from the Board Room any person whose conduct he or she deems objectionable; and order the Board Room cleared whenever he or she deems it necessary;
- (3) Allocate the length of time for public discussion of any matter in advance of each discussion, with the concurrence of the Board;
- (4) Allocate equal time to opposing sides insofar as possible, taking into account the number of persons requesting to be heard on any side;
- (5) Limit the amount of time that a person may address the Board during a public discussion period in order to accommodate those persons desiring to speak and to facilitate the business of the Board;
- (6) Execute such documents on behalf of the Authority as may be required by state or federal law;
- (7) Perform ceremonial duties, including the representation of the Authority before other agencies;
- (8) Other powers as may be prescribed by the Board.

(b) The Chair shall order removed from the Board Room any person who commits any one of the acts specified in this section with respect to a regular or special meeting of the Authority Board.

- (1) Disorderly, contemptuous or insolent behavior toward the Board or any member thereof, tending to interrupt the due and orderly course of said meeting;
- (2) A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting;
- (3) Disobedience of any lawful order of the chairperson, which shall include an order to be seated or to refrain from addressing the Board;
- (4) Any other unlawful interference with the due and orderly course of said meeting.

(c) Any person so removed shall be excluded from further attendance at the meeting from which the person has been removed, unless permission to attend is granted upon motion adopted by a majority vote of the Board, and such

exclusion shall be effected by an appropriate peace officer upon being so directed by the Chair.

2.02.070. NOTICE OF ABSENCE.

If any member of the Board is to be unable to attend a meeting, that Board member shall, if possible, notify the Executive Officer prior to the meeting.

2.02.080. VACATION PERIOD.

The Authority Board shall determine by resolution each calendar year vacation periods during which no regular meetings will be held.

Article 2.03. COMMITTEES

2.03.010. PURPOSE.

Committees and subcommittees may be established, as the Authority may deem appropriate to provide the Board with options, critique, analysis, and other information as the Board may request from time to time.

2.03.020. EXECUTIVE COMMITTEE.

The Executive Committee shall be comprised of not more than five (5) members of the Board. The Committee shall be comprised of the Chair, First Vice-Chair, Second Vice-Chair, a Past Chair, and one representative member appointed by the Board. If the Past Chair position is vacant, the Board may appoint another representative. The Executive Committee will provide such duties as the Board may assign. If any designated representative is unable to serve on the Executive Committee, the Board may fill such vacancy with another member of the Board.

2.03.021. EXECUTIVE COMMITTEE DUTIES.

The Executive Committee shall meet on a date and time the Committee determines is convenient or necessary. The Executive Officer and Authority Counsel shall attend the meetings of the Executive Committee. The duties of the Executive Committee are:

(a) Review and approve all agendas of all regular and special meetings of the Board of Directors;

(b) Provide initial performance evaluation of the Executive Officer and make recommendations to the Board of Directors regarding employment and personnel matters relating to the Authority staff; and

(c) Perform such other duties as the Board of Directors may direct.

2.03.030. ADMINISTRATIVE COMMITTEE.

The chief administrative officer, county administrative officer, or city manager of each member agency, or designee, may serve on an administrative

subcommittee to the Board to provide advice, analysis and recommendations to the Board as the Board may request from time to time according to the responsibilities listed in the Authority Act.

2.03.040. LEGISLATIVE ADVISORY COMMITTEE.

The Legislative Advisory Committee shall not exceed a total of eight (8) members. The committee members will be appointed by the Chair of the Authority, subject to confirmation by the Board of Directors, and shall be comprised of up to five (5) voting members and three (3) ex-officio members to be the 17th Congressional District member, the 15th California State Senate District member, and the 27th California State Assembly District member or their respective representatives. Committee members shall serve for a period of one year.

2.03.041. LEGISLATIVE ADVISORY COMMITTEE DUTIES.

The Legislative Advisory Committee shall be an advisory committee to the Authority Board and shall meet at the Authority Offices on date and time convenient or as necessary. The Executive Officer shall attend these meetings. The Legislative Advisory Committee's duties will be as follows:

(a) Review and evaluate the impact of proposed federal or state legislation with respect to the Authority's obligations under state law to implement reuse activities on the former Fort Ord;

(b) Advise and inform the Authority Board, when requested or on its own initiative, regarding pending legislation and noting its potential impact on the activities of the Authority. The Committee will develop recommendations to the Authority Board for actions associated with its advice and information responsibilities;

(c) Recommend an annual legislative agenda.

(d) Plan, schedule, and conduct an annual Legislative Session with the sitting representatives of the 27th Assembly District, the 15th Senatorial District, and the 17th Congressional District (individually or collectively as schedules permit).

2.03.050. FINANCE ADVISORY COMMITTEE.

The Finance Advisory Committee ("FAC") shall not exceed a total of six (6) members. The committee members will be appointed by the Chair of the Authority, subject to confirmation by the Board of Directors, and shall be comprised of voting members and no more than three (3) ex-officio members. Committee members shall serve for a period of one year.

2.03.051. FINANCE ADVISORY COMMITTEE DUTIES.

The Finance Advisory Committee shall be an advisory committee to the Authority Board and shall meet at the Authority Offices on date and time convenient or as necessary. The Executive Officer and/or the Controller of the Authority shall attend these meetings. The Finance Advisory Committee's duties will be as follows:

(a) Review and evaluate the annual budget of the Authority as presented by the Controller. Recommend action to the Executive Committee and the Authority Board, including parameters to staff compensation budgets.

(b) Review and evaluate the scope of services for the selection of the Authority auditor as prepared by the Controller. Comment, as appropriate, on modifications to the scope of services. Serve as an advisory selection committee to the Authority Board on the selection of the auditor. Review and evaluate the annual audit of the Authority financial statements as presented by the selected auditor.

(c) Consult with the Authority Administrative Committee, the Executive Officer, the Controller and/or Director of Planning and Finance, and advise and inform the Authority Board on proposed financing mechanisms to fund the obligations of the Authority. The Finance Advisory Committee will develop recommendations to the Authority Board for actions associated with its advice and information responsibilities.

Article 2.04. EXECUTIVE OFFICER

2.04.010. OFFICE CREATED.

The office of the Executive Officer is created and established, as provided in the Authority Act. The Executive Officer shall be appointed by the Authority Board wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the Authority Board.

2.04.020. BOND.

The Executive Officer shall furnish a corporate surety bond to be approved by the Authority Board in such sum as may be determined by the Authority Board, and shall be conditioned upon the faithful performance of the duties imposed upon the Executive Officer and as prescribed in this Article. Any premium for such bond shall be a proper charge against the Authority.

2.04.030. COMPENSATION.

The Executive Officer shall receive such compensation as the Board shall from time to time determine. In addition, the Executive Officer shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.

2.04.040. POWERS AND DUTIES OF THE EXECUTIVE OFFICER.

(a) The Executive Officer shall be the administrative head of the Authority under the direction and control of the Authority Board except as otherwise provided in this Master Resolution. The Executive Officer shall be responsible for the efficient administration of all the affairs of the Authority, which are under the control of the Executive Officer. In addition to general powers of the Executive Officer as administrative head, and not as a limitation thereon, it shall be the duty of the Executive Officer and the

Executive Officer shall have the powers set forth in the Authority Act and in the following sections.

duties: (b) The Executive Officer shall have the following powers and

- (1) To plan, organize, and direct all Authority activities under the policy direction of the Authority Board;
- (2) To enforce strict compliance with the approved annual budget and approve only expenditures authorized in the approved budget;
- (3) To hire and manage such staff as necessary to carry out the provisions of the Authority Act and this Master Resolution;
- (4) To make recommendations to and requests of the Authority Board concerning all of the matters which are to be performed, done, or carried out by the Authority Board;
- (5) To have charge of, handle, or have access to any property of the Authority, and shall make an inventory of all Authority property;
- (6) To make all books and records of the Authority in the Executive Officer's hands open to inspection at all reasonable times by members of the Authority Board or their representatives;
- (7) To execute agreements, contracts, and documents on behalf of the Authority;
- (8) To prepare the agenda for each meeting of the Authority Board; and
- (9) To chair the Administrative Committee described in Section 2.02.030 of this Master Resolution.

2.04.050. LAW ENFORCEMENT.

It shall be the duty of the Executive Officer to enforce all laws and ordinances of the Authority and to see that all franchises, contracts, permits, and privileges granted by the Authority Board are faithfully observed.

2.04.060. AUTHORITY OVER EMPLOYEES.

It shall be the duty of the Executive Officer to enforce all laws and ordinances of the Authority and to see that all franchises, contracts, permits, and privileges granted by the Authority Board are faithfully observed.

2.04.070. POWER OF APPOINTMENT AND REMOVAL.

It shall be the duty of the Executive Officer to, and the Executive Officer shall appoint, remove, promote, demote and discipline any and all officers and employees of the Authority, except those officers and employees appointed by the Authority Board.

2.04.080. ADMINISTRATIVE REORGANIZATION OF OFFICES.

It shall be the duty and responsibility of the Executive Officer to conduct studies and effect such administrative reorganization of offices, positions, or units under the Executive Officer's direction as may be indicated in the interest of efficient, effective, and economical conduct of the Authority's business.

2.04.090. ORDINANCES.

It shall be the duty of the Executive Officer to recommend to the Authority Board adoption of such measures and ordinances as the Executive Officer deems necessary.

2.04.100. ATTENDANCE AT BOARD MEETINGS.

It shall be the duty of the Executive Officer to attend all meetings of the Authority Board unless the Executive Officer is excused by the Chair individually or the Authority Board, except when the Executive Officer's removal is under consideration.

2.04.110. FINANCIAL REPORTS.

It shall be the duty of the Executive Officer to keep the Authority Board at all times fully advised as to the financial condition and needs of the Authority.

2.04.120. BUDGET.

It shall be the duty of the Executive Officer to prepare and submit the proposed annual budget and the proposed annual salary plan to the Authority Board.

2.04.130. EXPENDITURE CONTROL AND PURCHASING.

It shall be the duty of the Executive Officer to see that no expenditures shall be submitted or recommended to the Board except on approval of the Executive Officer. The Executive Officer shall be responsible for the purchase of all supplies for the Authority.

2.04.140. INVESTIGATIONS AND COMPLAINTS.

It shall be the duty of the Executive Officer to make investigations into the affairs of the Authority and any contract or the proper performance of any obligation to the Authority.

2.04.150. FACILITIES.

It shall be the duty of the Executive Officer to exercise general supervision over all public facilities and all other public property, which are under the control and jurisdiction of the Authority Board.

2.04.160. CLERK TO THE BOARD.

The Executive Officer shall perform all duties associated with the legal function of the Clerk to the Board position as provided in the Authority Act. The

Executive Officer may designate a Clerk. However, the Executive Officer shall retain all responsibility for the duties of the clerk position.

2.04.170. ADDITIONAL DUTIES.

It shall be the duty of the Executive Officer to perform such other duties and exercise such other powers as may be delegated to the Executive Officer from time to time by ordinance or resolution or other official action of the Authority Board.

2.04.180. INTERFERENCE WITH THE ADMINISTRATIVE SERVICE.

The Authority Board and its members shall deal with the administrative services of the Authority only through the Executive Officer, except for the purpose of inquiry, and neither the Board nor any member thereof shall give orders or instructions to any subordinates of the Executive Officer. The Executive Officer shall take orders and instructions from the Authority Board only when sitting in a duly convened meeting of the Board and no individual member of the Authority shall give any orders or instructions to the Executive Officer.

2.04.190. REMOVAL.

The removal of the Executive Officer may be effected with or without cause, but only by a majority vote of the whole Authority Board as then constituted, convened in a regular Board meeting. The Executive Officer shall be afforded at least 30 days written notice of the effective date of termination.

2.04.200. AGREEMENTS ON EMPLOYMENT.

Nothing in this Article shall be construed as a limitation on the power or authority of the Authority Board to enter into any agreement with the Executive Officer delineating additional terms and conditions of employment not inconsistent with any provisions of this Article, nor shall this Article be construed as limiting the power or authority of the Authority Board to enter into any agreement with any person or legally existing entity to provide the services of the Executive Officer as provided in the Authority Act and this Article.

Article 2.05. PERSONNEL
(Reserved)

Article 2.06. POLITICAL ACTIVITIES OF AUTHORITY EMPLOYEES
(Reserved)

Article 2.07. BOARDS AND COMMISSIONS
(Reserved)

Article 2.08. ADDITIONAL OFFICERS AND STAFF

2.08.010. TREASURER.

(a) The Authority Board may appoint a Treasurer to serve at its pleasure.

(b) The Treasurer of the Authority shall be a depositor and have custody of all the money of the Authority from whatever source. The Treasurer of the Authority shall comply strictly with the provisions of state law relating to the duties of Treasurers of Joint Powers Authorities.

(c) The Treasurer shall ensure that all available cash on hand is at all times invested in a cash management program and investment portfolio pertaining thereto and ensure that efficient liquidity is maintained to meet the Authority's cash disbursement needs.

(d) The Chair may designate an Assistant Treasurer to act on behalf of the Treasurer in fiscal matters and to act on behalf of the Authority during any absence of the Treasurer.

(e) The Treasurer shall furnish a corporate surety bond to be approved by the Authority Board in such sum as may be determined by the Authority Board and shall be conditioned upon the faithful performance of the duties imposed upon the Treasurer. Any premium for such bond shall be a proper charge against the Authority. This provision may be waived if a person serving as the Treasurer for a member agency serves as the Treasurer of the Authority.

2.08.020. FISCAL AGENT.

(a) The Authority Board may appoint a Fiscal Agent of the Authority to serve at its pleasure. The Fiscal Agent shall advise the Authority Board in connection with any accounting, budgetary, monetary, or other financial matters relating to the Authority. The duties and responsibilities of the Fiscal Agent include, but are not limited to those duties set forth in the Authority Act and shall include the following:

- (1) Establish with Authority Board approval of the annual budget format, accounts, and documentation pertaining to the budget and which most nearly reflect the objectives of the Authority;
- (2) Establish and maintain the particular funds and accounts as required by generally accepted accounting practices applicable to public entities and which most accurately and appropriately record and report the operations of the Authority as represented by the annual budget document;

- (3) Enforce strict compliance with the approved annual budget and approve only expenditures authorized in the approved budget;
- (4) Make all books and records of the Authority in the Controller's hands open to inspection at all reasonable times by the members of the Authority Board or their representatives;
- (5) Sign all warrants for the payment of money from the funds of the Authority and shall pay and disburse such money on direction of the Board.

(b) The Fiscal Agent shall furnish a corporate surety bond to be approved by the Authority Board in such amount as may be determined by the Authority Board and shall be conditioned upon the faithful performance of the duties of the Fiscal Agent. Any premium for such bond shall be a proper charge against the Authority. This provision may be waived if a person serving as the Auditor-Controller for a member agency serves as the Fiscal Agent of the Authority.

2.08.030. AUTHORITY COUNSEL.

The Authority Board shall appoint Authority Counsel to serve at the pleasure of the Authority Board. The Authority Board may appoint additional counsel to assist Authority Counsel or provide special services as may be required by the Authority Board. Authority Counsel shall attend meetings of the Authority Board and the Executive Committee as required to advise the Authority Board in connection with any legal matters relating to the Authority.

2.08.040. AUTHORITY STAFF.

The Authority Staff shall consist of the Executive Officer, Authority Counsel, and such other staff as shall be authorized in the Authority budget and approved by the Authority Board. The cost of all staff shall be borne solely by the Authority.

2.08.050. AGREEMENTS FOR SERVICES OF OFFICIALS AND STAFF.

Nothing in this Article shall be construed as limiting the power or authority of the Authority Board to enter into any agreement with any legally existing person or entity to provide the services of any or all of the officers or staff described in this Article as provided in the Authority Act and this Article. In addition, the Authority Board in its sole discretion may designate one person to hold one or more of the officer positions designated in this chapter.

Article 2.09. CONFLICT OF INTEREST CODE.

2.09.010. PURPOSE AND EFFECT.

The terms of Title 2, Division 6 of the California Code of Regulation (Section 18730, *et seq.*), and any amendments thereto duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the following

sections in which officials and employees are designated and disclosure categories are set forth, constitute the conflict of interest code for the Authority. This Article constitutes the "Appendix" to Title 2, Division 6 of the California Code of Regulations Section 18730, *et seq.*

2.09.020. DESIGNATED POSITIONS; DISCLOSURE CATEGORIES.

(a) Each employee filing a designated position, and any employee filling a designated position on a temporary or acting basis for more than thirty consecutive calendar days, shall disclose all of the information set forth in all disclosure Categories A through H on such form as the Fair Political Practices Commission may designate. Designated positions are set forth below:

- (1) Board Members
- (2) Alternates to Board Members
- (3) Executive Officer
- (4) Assistant Executive Officer, if any
- (5) Treasurer, if any
- (6) Accounting/Finance Officer, if any
- (7) Controller, if any
- (8) Authority Counsel
- (9) Assistant Authority Counsel, if any
- (10) Planning Services Manager
- (11) Director of Planning and Redevelopment
- (12) Director of Engineering
- (13) Contract Specialist

(b) Each consultant, as defined in the California Code of Regulations Section 18700, shall disclose all of the information set forth in all disclosure categories A through H on such form as the Fair Political Practices Commission may designate. The Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus are not required to fully comply with the disclosure requirements of this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The determination of the Executive Officer is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

2.09.030. PLACE AND TIME OF FILING.

(a) All officials and employees filling designated positions shall file statements of financial interest with the Executive Officer who shall receive such statements on behalf of the Authority Board. Unless otherwise required by state law, all statements of financial interest shall be deemed timely filed only when received by the Executive Officer on or before the following deadlines;

(b) Annual statements shall be filed on or before April 1 of each calendar year. Such statements shall cover the period of the preceding calendar year or from the date of filing such statement as otherwise required by this Master Resolution.

(c) Initial statements shall be filed within thirty days after assuming office-disclosing interests held on the date of assuming office.

(d) Leaving office statements shall be filed within thirty days of leaving office. Such statements shall cover the period between the closing date of the last statement required to be filed and the date of leaving office.

2.09.040. CONFLICT WITH OTHER LAWS.

Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000, *et seq.*). The provisions of this Article are in addition to Government Code Section 87100 and other laws pertaining to conflicts of interest, including, but not limited to, Government Code Section 1090, *et seq.*

Chapter 3. PROCUREMENT CODE

Article 3.01. GENERAL PROVISIONS

3.01.010. GENERAL PROVISIONS.

This chapter of the Fort Ord Reuse Authority Master Resolution shall be known and may be cited as the "Procurement Code of the Fort Ord Reuse Authority."

3.01.020. DEFINITIONS.

As used in this chapter the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

"Area" means Monterey County, San Benito County, and Santa Cruz County.

"Construction" means the process of building, altering, repairing, improving, or demolishing any structure or building owned or leased by the Authority or other improvements of any kind to any real property owned or maintained by the Authority or within any public right-of-way or easement within the jurisdictional limits of the Authority.

"Contractor" means any person, firm, corporation (including nonprofit), partnership, joint venture, association, or enterprise having a contract or attempting to obtain a contract with the Authority.

"Procurement" means the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supplies, services, or construction, including description of requirements, selection and solicitation of sources, preparation, and award of contracts, and all phases of contracting administration.

"Public project" means a project for construction.

"Resident" means a person who: (1) Maintains a domicile within the Area and such domicile is a person's true, fixed, established principal and permanent home; (2) Has no claim of residency elsewhere; and (3) Intends to remain in the Area indefinitely.

"Subcontractor" means any person, firm, corporation, partnership, joint venture, association, or enterprise that has or seeks to have a contract with a contractor to perform work required as part of a contract or agreement between a contractor and the Authority.

3.01.030. WAIVER.

The Board, in an appropriate circumstance as determined by the Board, may waive any provision of this chapter when deemed in the best interests of the Authority.

Article 3.02. PURCHASING SYSTEM

3.02.010. ADOPTION.

In order to establish efficient procedures for the purchase of supplies and equipment at the lowest possible cost, commensurate with quality needed to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to ensure the quality of purchases, a purchasing system is adopted.

3.02.020. SCOPE.

The procedures established by this Article shall apply only to the purchase of supplies, equipment, and services, and shall not apply to public projects.

3.02.030. AUTHORITY OF THE EXECUTIVE OFFICER.

(a) In addition to the duties of the Executive Officer specified in Article 2.04 of this Master Resolution, the Executive Officer shall have the authority to:

- (1) Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed by this Article, such administrative regulations as the Executive Officer shall adopt for the internal management and operation of the purchasing division and such other rules and regulations as shall be prescribed by the Board or Executive Officer.
- (2) Negotiate and recommend execution of contracts for the purchase of supplies and equipment.
- (3) Act to procure for the Authority the needed quality in supplies and equipment at least expense to the Authority.
- (4) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.
- (5) Prepare and recommend to the Board rules governing the purchase of supplies and equipment for the Authority.
- (6) Prepare and recommend revisions and amendments to the purchasing rules.
- (7) Keep informed of current developments in the field of purchasing, prices, market conditions and new products.
- (8) Prescribe and maintain such forms as are reasonably necessary for the operation of this chapter and other rules and regulations.
- (9) Supervise the inspection of all supplies and equipment purchased to ensure conformance with specifications.
- (10) Recommend the transfer of surplus or unused supplies and equipment between departments as needed.

- (11) Maintain an approved vendors' list, vendors' catalog file and records needed for efficient performance of the duties of the Executive Officer.

3.02.040. PURCHASING REGULATIONS.

The Executive Officer shall be responsible for determining that the regulations and procedures in this chapter are carried out.

3.02.050. PURCHASE ORDERS.

Purchase of supplies and equipment shall be made only by purchase orders. Except as otherwise provided in this chapter, no purchase order shall be issued unless the prior approval of the Executive Officer or his designated representative has been obtained.

3.02.060. ENCUMBRANCE OF FUNDS.

Except in cases of emergency, the Executive Officer shall not issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged.

3.02.070. INSPECTION AND TESTING.

The Executive Officer shall, in the discretion of the Executive Officer, inspect supplies and equipment delivered to the Authority to determine conformance with the specifications set forth in the purchase order. The Executive Officer shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries, which are necessary to determine their quality and conformance with specifications.

3.02.080. FORMAL BID REQUIREMENTS.

(a) Except as otherwise provided in this Article, purchases of supplies and equipment of an estimated value greater than \$25,000.00 shall be awarded to the lowest responsible bidder pursuant to the formal bid procedure prescribed in this section.

(b) Notices inviting formal bids shall include a general description of the Article or service desired, shall state where bid documents and specifications may be secured, and the time and place for opening bids.

(c) Notices inviting formal bids shall be published at least ten (10) days prior to the date of opening of the bids. Notices shall be published at least once in a newspaper regularly circulated in the Authority and also on the Authority website.

(d) The Executive Officer shall also solicit formal sealed bids from responsible suppliers whose names are on the approved vendors' list, or who have made written request that their names be added thereto.

(e) Where deemed necessary by the Executive Officer, formal bids shall be accompanied by security, either cash, cashier's check, certified check, or surety bond, in a sum equal to ten percent of the total aggregate of the bid, and shall be designated in the notice inviting bids. Bidders shall be entitled to the return of bid security; provided, however, that a successful bidder shall forfeit the bid security upon his refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the Authority is solely responsible for the delay in executing the contract. The Board or Executive Officer may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder who is willing to execute the contract, or may reject all bids and re-advertise.

(f) The Executive Officer shall have authority to require a faithful performance bond or other bonds before entering into a contract other than a public project contract. If bonds are required, the form and amount thereof shall be designated in the notice inviting bids.

(g) Sealed bids shall be submitted to the Executive Officer and shall be identified as bids on the envelope. The purchasing officer, or designee, shall publicly open all bids at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection in the purchasing office during regular business hours for a period of not less than 30 calendar days after the bid opening.

(h) In its discretion, the Authority Board or Executive Officer may reject any and all bids presented and may cause re-advertising for bids pursuant to the procedure prescribed in this Article. However, when all bids exceed the authorized budgeted amount, the Executive Officer may authorize rejection of all bids and authorize re-bidding based upon the original specifications or as they may be modified, in accordance with procedures prescribed in this Article.

(i) Except as otherwise provided in this Article, formal bid contracts shall be awarded by the Authority Board to the lowest responsible bidder. The determination of lowest responsible bidder shall be at the discretion of the Authority Board pursuant to findings and recommendations presented by the Executive Officer at the time of award of contract.

(j) Subject to the provisions of Section 3.02.090, if two or more formal bids received are for the same total amount or unit price, quality and service being equal and if the public interest will not permit the delay of re-advertising for bids, the Authority Board may in its discretion accept the one it chooses or accept the lowest bid made by and after negotiation with the tie bidders at the time of the bid opening or award of contract.

3.02.090. PREFERENCE FOR LOCAL SUPPLIERS.

(a) Each local supplier providing goods or supplies funded in whole or in part by Authority funds, or funds which the Authority expends or administers, shall be eligible for a local preference as provided in this section.

(b) Each local supplier who is within five percent of the lowest responsible bid shall be provided the opportunity to reduce the local supplier's bid to the amount equal to the amount of the lowest responsible bid. The opportunity to reduce bid amounts shall be provided first to the lowest eligible local bidder and, if not accepted by such bidder within five business days of the opening of bids, then to each successive eligible bidder in ascending order of the amount of bids. In the event an eligible local supplier reduces the bid to the amount of the lowest responsible bid, the eligible local supplier shall be deemed to have provided the lowest responsible bid and shall be awarded the contract.

(c) For the purpose of this section, the term "local supplier" shall mean a business or resident doing business as a supplier in the jurisdiction of the Authority for the past five years.

3.02.100. RECYCLED MATERIALS; COPYING.

The Authority encourages the use of recycled paper and materials in response to all bids for services and supplies to the Authority. Wherever possible, preference will be given to those vendors, suppliers, and consultants providing supplies and services to the Authority who utilize recycled materials, including recycled paper products. In addition, documents submitted for Authority use shall be presented with front to back copying in order to minimize the amount of file space necessary for the maintenance of such documents, as well as to reduce the amount of paper required in the provision of governmental services.

3.02.110. NO FORMAL BIDS.

When no formal bids or no responsive bids are received, the Executive Officer is authorized to negotiate for written proposals, and the award, if any, shall be made in accordance with applicable provisions prescribed in this Article.

3.02.120. OPEN MARKET OR INFORMAL BID PROCEDURE.

(a) Purchases of supplies and equipment of an estimated value in the amount of \$25,000.00 or less may be made by the Executive Officer in the open market without observing the procedure prescribed in Sections 3.02.080. Open market purchases shall, wherever possible, be based on at least three informal bids and shall be awarded to the bidder offering the most advantageous bid to the Authority, in the opinion of the Executive Officer, after consideration of price, quality, durability, servicing, delivery time, standardization, location of vendor, and other factors.

(b) The Executive Officer shall solicit informal bids by written requests to prospective vendors, or by telephone, or by public notice posted on a public bulletin board at the Authority offices. The Executive Officer shall keep a written record of all open market purchases and informal bids for a period of two years. This record, while so kept, shall be open to public inspection.

3.02.130. EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENT.

(a) Notwithstanding any provision of this Article to the contrary, the competitive bidding procedures and requirements may be dispensed with in any of the following instances:

- (1) When the estimated amount involved is less than \$25,000.00.
- (2) When the commodity can be obtained from only one vendor.
- (3) When the Board finds that the commodity is unique and not subject to competitive bidding.
- (4) The Board may authorize the purchase of materials, supplies, equipment, and services where an emergency is deemed to exist and it is determined that service involving the public health, safety, or welfare would be interrupted if the normal procedure were followed.
- (5) Any agreement involving acquisition of supplies, equipment, or service entered into with another governmental entity.

(b) Contracts for personal services, for professional and consultant services, and for other, non-public projects and contractual services may be executed without observing the bidding procedures provided in this Article. The Executive Officer is authorized to enter into such contracts where the amount of the contract does not exceed \$25,000.00, provided there exists an unencumbered appropriation in the fund account against which the expense is to be charged. Where the amount of the contract exceeds \$25,000.00, the contract shall be approved by the Authority Board. In the case of professional services, qualifications and experience to the benefit of the Authority shall receive first consideration. Upon determination of these factors, a price or fee may be negotiated.

3.02.140. REGULATIONS REGARDING SELECTION OF CONTRACT SERVICES.

The Executive Officer shall, by resolution, prescribe procedures, rules, and regulations, governing the solicitation, selection and award of proposals or bids for the furnishing of personal services or professional or consulting services or for other contractual services, the contracts for which may be awarded without observing the bidding procedures provided for in this chapter. Such procedures, rules and regulations shall have as one purpose: the obtaining of contractual services of the highest quality together with cost effectiveness.

Article 3.03. PUBLIC WORKS CONTRACTS

3.03.010. PROCEDURE-TYPE DESIGNATED FOR CERTAIN PURCHASES.

Public projects of less than \$25,000.00 may be let to contract by informal bidding procedures. All other public projects with a value greater than \$25,000.00 shall, in all instances, be let to contract by formal bidding procedure.

3.03.020. PROCEDURE-INFORMAL.

(a) The notice inviting informal bids shall be by published notice and may, in addition, be supplemented by mailed notice and noticing on the Authority website. The Executive Officer may cause the notice to be printed as display advertising in such form and style as the Executive Officer deems appropriate. The notice shall describe in general terms the project to be done and state the closing date for submission of such informal bids. Publication of notice pursuant to this section shall be in a newspaper of general circulation printed and published within the jurisdiction of the Authority. Notice shall be published in accordance with Section 6061 of the Government Code and shall be completed at least twenty-four hours before the time scheduled for opening of the bids.

(b) In addition to notice published in a newspaper of general circulation, or mailed, pursuant to this section, the Executive Officer may also publish notice inviting bids in a trade publication.

(c) Bids shall be opened, examined, and declared by the Executive Officer at a public meeting called by the Executive Officer in accordance with the notice inviting bids. The results of the bidding shall be reported to the Authority Board at the next regular meeting after said bid opening.

3.03.030. PROCEUDRE-FORMAL.

(a) The notices inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly state the project to be done. The first publication or posting of the notice shall be at least ten days before the date of opening the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the jurisdiction of the Authority. The newspaper notice shall include a description of the equipment or services to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids. In addition, the Executive Officer may also publish notice inviting bids in a trade publication.

(b) When deemed necessary by the Board, bid deposits shall be described in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of each required security.

(c) Bids shall be submitted sealed to the Executive Officer and shall be identified as bids on the envelope. Bids shall be opened, examined, and declared by the Executive Officer at a public meeting called by the Executive Officer in

accordance with the notice inviting bids. A tabulation of all bids received shall be provided to all bidders.

(d) The results of the bidding shall be reported to the Authority Board at the next regular meeting after said bid opening.

(e) The Board shall have the authority to reject all bids, or parts of all bids for any one or more components included in the proposed contract, when the public interest will be served thereby.

(f) The Board shall have the authority to award contracts within the purview of this Master Resolution. Contracts shall be awarded to the lowest responsible bidder, with the exception of professional services only. In determining the lowest responsible bidder, the following may be considered, in addition to price if such factors are included in the bid specifications:

- (1) The quality of the work or construction offered;
- (2) The ability, capacity, and skill of the bidder to perform the contract;
- (3) Whether the bidder can perform the contract promptly, or within the time specified, without delay or interference;
- (4) The sufficiency of the bidder's financial resources and the effect thereof on the bidder's ability to perform the contract;
- (5) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- (6) The quality of bidder's performance on previous contracts for the Authority;
- (7) Litigation by the bidder on previous contracts with the Authority;
- (8) The previous and existing compliance by the bidder with laws and ordinances relating to the subject of the contract;
- (9) The ability of the bidder to provide future maintenance and service where such maintenance and service is essential.

(g) When the award is not given to the lowest bidder, a full and complete statement of the reasons therefore shall be prepared by the Executive Officer and filed with the other papers related to the award of the contract.

3.03.040. LOCAL PREFERENCE.

(a) Each Contractor performing construction funded in whole or in part by Authority funds, or funds which, in accordance with a federal grant or otherwise, the Authority expends or administers, and to which the Authority is a signatory to the

construction contract, shall be eligible for a local preference as provided in the subsection, if such Contractor meets each of the following minimum requirements:

- (1) The Contractor shall be licensed by the State of California and shall be a business, employer, or resident doing business in the Area for the past five years.
- (2) The Contractor shall be a business, employer, or resident who has been adversely affected by the closure of the Fort Ord military base.
- (3) Eighty percent (80%) of the work force of the Contractor shall be residents of the Area and fifty percent (50%) of the Subcontractors shall be residents of the Area.

(b) Each Contractor who is within five percent of the lowest responsible bid and who is eligible for a local preference under this subsection, shall be provided the opportunity to reduce the Contractor's bid to an amount equal to the amount of the lowest responsible bid. The opportunity to reduce bid amounts shall be provided first to the lowest eligible bidder and, if not accepted by such bidder within five business days of the opening of bids, then to each successive eligible bidder in ascending order of the amount of the bids. In the event an eligible Contractor reduces the bid to the amount of the lowest responsible bid, the eligible Contractor shall be deemed to have provided the lowest responsible bid and shall be awarded the contract.

(c) In the event there is no available and qualified resident of the Area who can fill a specified position, vacancy, or job classification sought to be filled by the Contractor, or by a Subcontractor of the Contractor, the Contractor may request an exemption for the worker hours performed by a person who fills such position, vacancy, or job classification in computing the percentage of total worker hours performed by residents of the Area for the purpose of determining whether the Contractor has met the minimum requirements specified in this subsection. A Contractor seeking such an exemption shall file a written application therefore with the Executive Officer on a form provided by the Executive Officer no later than ten days after the position, vacancy, or job classification for which the exemption is sought is filled by a nonresident of the Area. Such application shall include a detailed written statement under oath describing the efforts and action taken by the Contractor, or the Contractor's Subcontractor, in attempting to hire a resident of the Area for the position, vacancy, or job classification for which the exemption is sought, and such further and additional information as may be requested by the Executive Officer.

(d) The provisions of this subsection shall expire and shall no longer be in force or effect on December 31, 1999, unless otherwise extended by the Board prior to such date.

3.03.050. REJECTION OF BIDS.

In its discretion, the Authority Board may reject any bids presented. If, after the first invitation for bids, all bids are rejected, after re-evaluating its cost estimates of the project, the Authority Board shall abandon the project or shall re-advertise for bids in the manner prescribed by this Article. If, after re-advertising, the Authority Board rejects all bids presented, the Authority Board may proceed with the project by use of Authority personnel or may re-advertise. If two or more bids are the same and the lowest, the Authority Board may accept the one it chooses, subject to the limitations contained in Section 3.02.040. If no bids are received, the Authority Board may have the project done without further complying with this chapter.

3.03.060. LOWER NEGOTIATED PRICE OR PERFORMANCE BY AUTHORITY PERSONNEL.

Notwithstanding the provisions of Section 3.02.050, if after the first invitation for bids, all bids are rejected, the Authority Board may, after re-evaluating its cost estimates of the project, pass a resolution by a four-fifths vote of its Board declaring that the project can be performed more economically by Authority personnel, or that in its opinion a contract to perform the project can be negotiated at a lower price than that in any of the bids. Upon adoption of the resolution, it may have the project done in the manner stated without further complying with this chapter.

3.03.070. PLANS AND SPECIFICATIONS.

The Authority Board shall adopt plans, specifications, and working details for all public projects the expenditure for which exceeds \$25,000. Such plans, specifications, and working details may be approved at the time the notice is authorized or at the time the Authority Board approves a contract.

3.03.080. (Reserved)

3.03.090. PREVAILING WAGES.

(a) Not less than the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, shall be paid to all workers employed on the First Generation Construction performed on parcels subject to the Fort Ord Base Reuse Plan. This subsection applies to work performed under Development Entitlements as defined in §1.01.050 of this Master Resolution and by contract with a FORA member or a FORA member agency including their transferees, agents, successors-in-interest, developers or building contractors.

This policy is limited to "First Generation Construction" work, which is defined in §1.01.050 of this Master Resolution. In addition to the exceptions enumerated in the definition of Development Entitlements found in §1.01.050 of this Master Resolution, this policy does not apply to:

- (1) construction work performed by the Authority or a member jurisdiction with its own workforce;

- (2) construction work performed by paid, full-time employees of the developer, unless the developer is performing the work of a contractor as defined in California Business and Professions Code §7026;
- (3) construction improvements following issuance of an occupancy permit;
- (4) affordable housing when exempted under California state law; and
- (5) construction of facilities to be used for eleemosynary non-commercial purposes when owned in fee by a non-profit organization operating under §501(c)(3) of the Internal Revenue Code.

(b) Member agencies shall include language in all of their contracts and deeds for the conveyance, disposition and/or development of former Fort Ord property to give notice of and assure compliance with the policy set forth above in subsection 3.03.090(a).

(c) FORA shall determine compliance by member agencies with this section at the time of and as part of FORA's consistency determination under Chapter 8 of this Master Resolution.

3.03.100 DEVELOPERS OF PROPERTY PURSUANT TO AGREEMENTS WITH FORA. [Section repealed 3/9/07 by Resolution #07-4]

3.03.110. MINORITY, FEMALE, AND HANDICAPPED-OWNED BUSINESSES.

The rules and regulations, as amended, promulgated by the Department of Transportation of the State of California pursuant to Section 10115 of the Public Contract Code for the certification and establishment of specified preferences applicable to minority, female, and handicapped-owned businesses shall be applicable to contracts for construction awarded by FORA.

**Chapter 4. DISPOSAL OF AUTHORITY PROPERTY
(reserved)**

Chapter 5. FINANCES AND CLAIMS

Article 5.01. CLAIMS AGAINST THE AUTHORITY.

5.01.010. FILING REQUIREMENT.

All claims against the Authority shall be filed with the Clerk to the Authority. The Clerk to the Authority Board shall transmit copies of all such claims to the Executive Officer. For the purpose of this Article, the term "Executive Officer" shall mean a person designated by the Executive Officer, including the Executive Officer, and such person may include a contractor of the Authority who performs risk management or claims adjustment duties for the Authority.

5.01.020. PROCESSING OF CLAIMS AGAINST THE AUTHORITY.

(a) The Executive Officer shall evaluate the sufficiency and form of all claims against the Authority and give notices relative to any deficiency of such claims to the claimant. The Executive Officer shall have all such claims investigated and shall prepare an investigative report and a recommendation relating to each such claim. The Executive Officer, with the concurrence of the Authority Counsel, may approve for payment any claim within the jurisdictional limits of a municipal court in the State of California, deny any claim amounting to \$50,000 or less, or compromise any claim in an amount less than the jurisdictional limits of a municipal court in the State of California. The Executive Officer shall be responsible for immediately notifying the claimant of such decision and expediting payment of any claim, which has been approved or compromised.

(b) For all claims not disposed of pursuant to Subsection (a) or of this section, the Authority Counsel shall prepare and submit, as soon as practicable, a report to the Authority Board either in open session or in closed session, at the Authority Counsel's election, together with a recommendation that such claim be approved, compromised, or denied. The Authority Counsel shall advise the Executive Officer of the Board's decision in the matter. The Executive Officer shall thereupon notify the claimant, in writing, of the decision and expedite payment of any claim, which has been approved or compromised.

(c) Notwithstanding the above provisions, the Executive Officer shall notify and send copies of all claims which are determined by the Executive Officer to be covered by insurance to the insurance carrier which provides coverage to the Authority, and shall be the Authority liaison with such carriers for the purpose of any claim involvement.

(d) In order to protect the best interest of the Authority and the officers, employees, and agents of the Authority with regard to the investigation, defense, or adjustment of applicable claims incurred against the Authority or its officers, employees, and agents, the Executive Officer and the Authority Counsel are directed to establish and maintain necessary administrative procedures and incident report forms to ensure the confidential coordination of case facts and related information. The

procedures and forms will ensure reasonable use of the principle of privileged client-attorney communication for confidentiality in the defense or adjustment of all claims as provided by law.

(e) The legal defense of claims filed against the Authority, which are not covered by insurance, shall be the responsibility of the Authority Counsel or a legal firm or firms designated by the Authority Board. Authorized legal defense costs in conjunction with the defense of such claims shall be paid from appropriate Authority funds as designated by the Authority Board from time to time.

5.01.030. PROCEDURE FOR COLLECTION, COMPROMISE, AND WRITE-OFF OF CLAIMS OF THE AUTHORITY AGAINST OTHERS.

(a) Claims of the Authority against other persons or entities shall be handled according to the procedures designated in this section.

(b) The Executive Officer is authorized to pursue collection of any claims of the Authority against others. The Executive Officer may, in furtherance of such claims collection, accept a promissory note to repay the claim over a period of time, file a small claims court action to secure a judgment when the amount of the claim does not exceed the small claims court jurisdictional limit, or assign the claim, promissory note, or judgment to a collection agency. When the Executive Officer determines it is in the best interest of the Authority to do so, considering the cost of collection and the merits of the claim, the Executive Officer may:

- (1) Accept a compromise settlement and write-off the balance of the claim as uncollectible, where the amount of the write-off does not exceed the small claims court jurisdictional limit;
- (2) File an action in small claims court and write-off any amount in excess of such court's jurisdiction, where the amount of the write-off does not exceed the small claims court jurisdictional limit, or
- (3) Write off the claim in full where the amount of the write-off does not exceed the small claims court jurisdictional limit.

(c) Any claim, which cannot be collected in full or disposed of in accordance with this subsection, shall be sent to Authority Counsel for collection.

(d) The Authority Counsel shall pursue collection and may, in furtherance of such collection, accept a promissory note to repay the claim over a period of time, file an action in the appropriate court to secure a judgment, or assign the claim, promissory note, or judgment to a collection agency. When the Authority Counsel determines it is in the best interest of the Authority to do so, considering the cost of collection and the merits of the claim, the Authority Counsel may:

- (1) Authorize the Executive Officer to accept a compromise settlement and write off the balance of the claim as uncollectible where the amount of the write-off does not exceed the municipal court jurisdictional limit; or
- (2) Authorize the Executive Officer to file an action in small claims court and write off any amount in excess of such court's jurisdiction, where the amount of the write-off does not exceed the municipal court jurisdictional limit; or
- (3) Authorize the Controller to write off the claim in full where the amount of the write-off does not exceed the municipal court jurisdictional limit.

(e) When the Authority Counsel determines it is in the best interest of the Authority to accept a compromise settlement of the claim and write off the balance as uncollectible, or to write off the claim in full as uncollectible, the Authority Counsel shall submit the matter to the Authority Board for approval where the amount of the write-off exceeds the municipal court jurisdictional limit.

Chapter 6. AUTHORITY FEE REGULATIONS

Article 6.01. GENERAL

6.01.010. ESTABLISHMENT OF FEE REGULATIONS.

Except as otherwise provided in this Master Resolution, all fees, penalties, refunds, reimbursements, and charges of any kind collected by the Authority may be adopted by resolution or may be designated in this chapter of the Master Resolution, as amended by the Authority Board from time to time. Whenever applicable throughout the Master Resolution, reference may be made to this chapter in lieu of any reference to specific fee amounts.

**Chapter 7. PUBLIC WORKS
(reserved)**

Chapter 8. BASE REUSE PLANNING AND CONSISTENCY DETERMINATIONS

Article 8.01 GENERAL PROVISIONS

8.01.010. REUSE PLAN.

(a) The Authority Board shall prepare, adopt, review, revise from time to time, and maintain a Reuse Plan for the use and development of the territory within the jurisdiction of the Authority. Such plan shall contain the elements mandated pursuant to the Authority Act and such other elements, policies, and programs as the Authority Board may, in its sole discretion, consider and adopt.

(b) The Reuse Plan, including all elements, policies and programs adopted in conjunction with the Reuse Plan, and any amendments thereto, shall be the official and controlling plan for the reuse of the Fort Ord Territory for the purposes specified or inferred in the Authority Act.

(c) All general and specific plans, redevelopment plans, and all other community and local plans regardless of title or description, and any amendments thereto, and all policies and programs relating to the land use or the construction, installation, or maintenance of capital improvements or public works within the Fort Ord Territory, shall be consistent with the Reuse Plan of the Authority and the plans and policies of the Authority, including the Master Resolution. The Authority shall make a determination of consistency as provided pursuant to the provisions of the Authority Act and, after the effective date hereof, this chapter.

(d) A revision or other change to the Reuse Plan which only affects Fort Ord Territory and only one of the member agencies may only be adopted by the Authority 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 land use agency and approved by at least a majority affirmative vote of the Authority Board; or
- (2) The revision or other change was initiated by the Authority Board; or any entity other than the affected land use agency and approved by at least a two-thirds affirmative vote of the Authority Board.

(e) All property transferred from the federal government to any user or purchaser, whether public or private, shall only be used in a manner consistent with the Reuse Plan, with the following exceptions:

- (1) Property transferred to California State University or the University of California and such property is used for educationally related or research oriented purposes; or
- (2) Property transferred to the California State Parks and Recreation Department.

(f) No land use agency or any local agency shall permit, approve, or otherwise allow any development or other change of use, or approve any development entitlement, for property within the territory of the Authority that is not consistent with the Reuse Plan.

(g) No land use agency shall issue, approve, or otherwise allow any building permit until all applicable permits, development entitlements, and approvals required under law have been approved, including, but not limited to, the approvals and permits described and enumerated in Section 3.7 of the Final Environmental Impact Report for the Reuse Plan.

(h) The Reuse Plan shall be reviewed periodically at the discretion of the Authority Board. The Authority Board shall perform a full reassessment, review, and consideration of the Reuse Plan and all mandatory elements as specified in the Authority Act prior to the allocation of an augmented water supply, or prior to the issuance of a building permit for the 6001st new residential dwelling unit (providing a total population of 35,000 persons) on the Fort Ord Territory or by January 1, 2013, whichever event occurs first. No more than 6000 new dwelling units shall be permitted on the Fort Ord Territory until such reassessment, review, and consideration of the Reuse Plan has been prepared, reviewed, and adopted pursuant to the provisions of the Authority Act, the Master Resolution, and all applicable environmental laws. No development shall be approved by FORA or any land use agency or local agency after the time specified in this subsection unless and until the water supplies, wastewater disposal, road capacity, and the infrastructure to supply these resources to serve such development have been identified, evaluated, assessed, and a plan for mitigation has been adopted as required by California Environmental Quality Act ("CEQA"), the Authority Act, the Master Resolution, and all applicable environmental laws.

(i) The failure of any persons or entity to receive notice given pursuant to this chapter shall not constitute grounds for any court to invalidate the action on any legislative act or development entitlement pursuant to this chapter for which required notice was given.

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

(k) In the event the Authority receives, purchases, or acquires, by any means, fee interest title to property within the Fort Ord Territory, the Authority shall record a covenant running with the land advising all future owners of such property that development and use of the property is subject to the Reuse Plan and that development of such property shall be limited by the Reuse Plan, the policies and programs of the

Authority, including the Master Resolution, and/or constraints on development identified in the Reuse Plan, including lack of available water supply, wastewater and solid waste disposal capacity, and inadequate transportation and other services and infrastructure.

8.01.020. PROCEDURES FOR CONSISTENCY DETERMINATIONS FOR LEGISLATIVE LAND USE DECISIONS.

(a) Each land use agency shall submit all legislative land use decisions affecting property in the territory of the Authority to the Executive Officer for review and processing.

(b) All submissions regarding a legislative land use decision shall include:

- (1) A complete copy of the legislative land use decision, including related or applicable text, maps, graphics, and studies;
- (2) A copy of the resolution or ordinance of the legislative body approving the legislative land use decision, adopted at the conclusion of a noticed hearing certifying that the portion of a legislative land use decision applicable to the Fort Ord Territory is intended to be carried out in a manner fully in conformity with the Reuse Plan and the Authority Act;
- (3) A copy of all staff reports and materials presented or made available to the legislative body approving the legislative decision, or any advisory agency relating to the legislative land use decision;
- (4) A copy of the completed environmental assessment related to the legislative land use decision;
- (5) A statement of findings and evidence supporting the findings that the legislative land use decision is consistent with the Reuse Plan, the Authority's plans and policies, including the Master Resolution, and is otherwise consistent with the Authority Act; and
- (6) Such other materials as the Executive Officer deems necessary or appropriate and which have been identified within fifteen (15) days of the receipt of the items described in subsection (b) of this Section.

(c) Within ninety (90) days of the receipt of all of the items described in subsection (b) above, or from the date the Executive Officer accepts the submission as complete, whichever event occurs first, the Authority Board shall conduct a noticed public hearing, calendared and noticed by the Executive Officer, to certify or refuse to certify, in whole or in part, the portion of the legislative land use decision applicable to Fort Ord Territory. The Authority Board shall adopt a resolution making findings in support of its decision, such decision shall be rendered within the time frame described in this section, and such decision shall be final. In the event the Authority

Board fails, within the time frames described in this section, to conduct a public hearing or take action on determining whether the land use decision is consistent with the Plan and the Authority Act, the land use agency may file, upon ten (10) days notice, a request with the Executive Officer to have the matter placed on the next Board agenda for a noticed public hearing to take action to consider the consistency finding and the Board shall take action at such noticed public hearing and such decision shall be final.

(d) In the event the Authority Board finds, on the basis of substantial evidence supported on the record, that the legislative act is consistent with the Reuse Plan and this chapter, the Authority Board shall certify the legislative act pursuant to the provisions of the Authority Act.

(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. In the event the affected land use agency elects to meet the Authority Board's refusal or certification in a manner other than as suggested by the Authority Board, the legislative body of the affected land use agency shall resubmit its legislative land use decision to the Executive Officer and follow the procedures contained in this section.

(f) No legislative land use decision shall be deemed final and complete, nor shall any land use entitlement be issued for property affected otherwise permitted by such legislative land use decision unless it has been certified pursuant to the procedures described in this section.

(g) The Authority Board may only refuse to certify zoning ordinances, zoning district maps, or other legislative land use decision on the grounds that such actions do not conform with, or are inadequate to carry out, the provisions of the general plan, certified as consistent with the Reuse Plan pursuant to the provisions of this section, applicable to the affected property.

(h) Nothing in this section or in this chapter shall apply to be or construed as adversely affecting any consistency determination previously obtained by a land use agency and certified by the Authority Board pursuant to the Authority Act.

8.01.030. REVIEW OF DEVELOPMENT ENTITLEMENTS.

(a) After the portion of a general plan applicable to Fort Ord Territory has become effective, development review authority within such portion of territory shall be exercised by the land use agency with jurisdiction lying within the area to which the general plan applies. Each land use agency may issue or deny, or conditionally issue, development entitlements within their respective jurisdictions so long as the land use agency has a general plan certified pursuant to Section 8.01.020 and the

decisions issuing, denying, or conditionally issuing development entitlements are consistent with the adopted and certified general plan, the Reuse Plan, and is in compliance with CEQA and all other applicable laws.

(b) All decisions on development entitlements of a land use agency affecting property within the territory of the Authority may be reviewed by the Authority Board on its own initiative, or may be appealed to the Authority Board, subject to the procedures specified in this Section. No development entitlement shall be deemed final and complete until the appeal and review procedures specified in this Section and Sections 8.01.040 and 8.01.050 of this chapter have been exhausted.

(c) The land use agency approving a development entitlement within the jurisdiction of the Authority shall provide notice of approval or conditional approval to the Executive Officer. Notice of approval or conditional approval of a development entitlement shall include:

- (1) A complete copy of the approved development entitlement, including related or applicable text, maps, graphics, and studies.
- (2) A copy of all staff reports and materials presented or made available to any hearing body that reviewed the development entitlement.
- (3) A copy of the completed environmental assessment related to the development entitlement.

8.01.040. REVIEW OF DEVELOPMENT ENTITLEMENTS BY INITIATIVE OF THE AUTHORITY BOARD.

Within thirty-five (35) days of the receipt of all of the notice materials described in Subsection (c) of Section 8.01.030, the Authority Board, on its own initiative, may consider a resolution setting a hearing on a development entitlement affecting Fort Ord Territory. The Authority Board may continue the matter of setting a hearing once for any reason. In the event the Authority Board does not act to set the matter for hearing within the thirty-five (35) day time period or at the continued meeting, whichever event is last, the decision of the land use agency approving the development entitlement shall be deemed final and shall not be subject to review by the Authority Board pursuant to this section. Nothing in this section shall be construed as abrogating any rights that any person may have to appeal development entitlements to the Authority Board pursuant to Section 8.01.050. In the event the Authority Board sets the matter for hearing, such hearing shall commence at the first regular meeting of the Authority Board following the date the Authority Board passed its resolution setting the matter for hearing or at a special hearing date prior to such regular meeting. The Authority Board may continue the matter once. In the event the Authority Board fails to take action on the development entitlement within such time period, the development entitlement shall be deemed approved.

8.01.050. REVIEW OF DEVELOPMENT ENTITLEMENTS BY APPEAL TO AUTHORITY BOARD.

(a) Within ten (10) days of a land use agency approving a development entitlement, any person aggrieved by that approval and who participated either orally or in writing, in that agency's hearing on the matter, may file a written appeal of such approval with the Executive Officer, specifically setting forth the grounds for the appeal, which shall be limited to issues raised at the hearing before the land use agency. The person filing the appeal shall pay a filing fee in an amount equal to the fee for appeal of combined development permits as established by the Monterey County Board of Supervisors for the cost of processing the appeal. The Executive Officer shall set, schedule, and notice a public hearing before the Authority Board. In the event the Authority Board fails to act on the development entitlement within the time periods specified in this section to conduct a public hearing and take action within sixty (60) days on determining whether the development entitlement is consistent with the Reuse Plan and the Authority Act, the land use agency may file, upon ten (10) days notice, a request with the Authority Board to have the matter placed on the next Board agenda for a noticed public hearing to take action to consider the development entitlement.

(b) At the time and place noticed by the Executive Officer, the Authority Board will conduct a hearing on the development entitlement. The Authority Board may continue the matter once for any reason.

(c) Said continued hearing must be rescheduled to a date that is not later than thirty-five (35) days from the date of the initial hearing date. In the event the Authority Board determines the development entitlement is not consistent with the Reuse Plan, the development shall be denied and the Authority Board's decision shall be final. In the event the Authority Board determines the development entitlement is consistent with the Reuse Plan, the Authority Board shall approve the development entitlement.

8.01.060. SUPERCESSION.

In the event of a conflict or inconsistency between this chapter of the Master Resolution and the Reuse Plan, the Development and Resource Plan, and other adopted FORA policies and procedures in regards to legislative land use decisions and/or development entitlements affecting lands within the affected territory, the provisions of this chapter shall govern.

8.01.070. FORA AS RESPONSIBLE AGENCY UNDER CEQA.

In taking action on all legislative land decisions and for review of all development entitlements, the Authority Board shall act as a responsible agency under CEQA.

8.01.080. ADMINISTRATIVE APPEALS.

Any administrative decision made by the Executive Officer may be appealed to the Authority Board within fifteen (15) days by completing and filing a notice of appeal at the Office of the Executive Officer.

Article 8.02. CONSISTENCY DETERMINATION CRITERIA

8.02.010. LEGISLATIVE LAND USE DECISION CONSISTENCY.

(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 uses 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.

(b) FORA shall not preclude the transfer of intensity of land uses and/or density of development involving properties within the affected territory as long as the land use decision meets the overall intensity and density criteria of Sections 8.02.010(a)(1) and (2) above as long as the cumulative net density or intensity of the Fort Ord Territory is not increased.

(c) The Authority Board, in its discretion, may find a legislative land use decision is in substantial compliance with the Reuse Plan when the Authority Board finds that the applicant land use agency has demonstrated compliance with the provisions specified in this section and Section 8.020.020 of this Master Resolution.

8.02.020. SPECIFIC PROGRAMS AND MITIGATION MEASURES FOR INCLUSION IN LEGISLATIVE LAND USE DECISIONS.

(a) Prior to approving any development entitlements, each land use agency shall act to protect natural resources and open spaces on Fort Ord Territory

by including the open space and conservation policies and programs of the Reuse Plan, applicable to the land use agency, into their respective general, area, and specific plans.

- (1) Each land use agency shall review each application for a development entitlement for compatibility with adjacent open space land uses and require suitable open space buffers to be incorporated into the development plans of any potentially incompatible land uses as a condition of project approval.
- (2) When buffers are required as a condition of approval adjacent to Habitat Management areas, the buffer shall be designed in a manner consistent with those guidelines set out in the Habitat Management Plan. Roads shall not be allowed within the buffer area adjacent to Habitat Management areas except for restricted access maintenance or emergency access roads.

(b) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure consistency of future use of the property within the coastal zone through the master planning process of the California Department of Parks and Recreation, if applicable. All future use of such property shall comply with the requirements of the Coastal Zone Management Act and the California Coastal Act and the coastal consistency determination process.

(c) Monterey County shall include policies and programs in its applicable general, area, and specific plans that will ensure that future development projects at East Garrison are compatible with the historic context and associated land uses and development entitlements are appropriately conditioned prior to approval.

(d) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall limit recreation in environmentally sensitive areas, including, but not limited to, dunes and areas with rare, endangered, or threatened plant or animal communities to passive, low intensity recreation, dependent on the resource and compatible with its long term protection. Such policies and programs shall prohibit passive, low-density recreation if the Board finds that such passive, low-density recreation will compromise the ability to maintain an environmentally sensitive resource.

(e) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall encourage land uses that are compatible with the character of the surrounding districts or neighborhoods and discourage new land use activities which are potential nuisances and/or hazards within and in close proximity to residential areas. Reuse of property in the Army urbanized footprint should be encouraged.

(f) Each land use agency with jurisdiction over property in the Army urbanized footprint shall adopt the cultural resources policies and programs of the Reuse Plan concerning historic preservation, and shall provide appropriate incentives for historic preservation and reuse of historic property, as determined by the affected land use agency, in their respective applicable general, area, and specific plans.

(g) The County of Monterey shall amend the Greater Monterey Peninsula Area Plan and designate the Historic East Garrison Area as an historic district in the County Reservation Road Planning Area. The East Garrison shall be planned and zoned for planned development mixed uses consistent with the Reuse Plan. In order to implement this aspect of the plan, the County shall adopt at least one specific plan for the East Garrison area and such specific plan shall be approved before any development entitlement shall be approved for such area.

(h) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that shall support all actions necessary to ensure that sewage treatment facilities operate in compliance with waste discharge requirements adopted by the California Regional Water Quality Control Board.

(i) Each land use agency shall adopt the following policies and programs:

- (1) A solid waste reduction and recycling program applicable to Fort Ord Territory consistent with the provisions of the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 *et seq.*;
- (2) A program that will ensure that each land use agency carries out all actions necessary to ensure that the installation of water supply wells comply with State of California Water Well Standards and well standards established by the Monterey County Health Department; and
- (3) A program that will ensure that each land use agency carries out all actions necessary to ensure that distribution and storage of potable and non-potable water comply with State Health Department regulations.

(j) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to address water supply and water conservation. Such policies and programs shall include the following:

- (1) Identification of, with the assistance of the Monterey County Water Resources Agency and the Monterey Peninsula Water Management District, potential reservoir and water impoundment sites and zoning of such sites for watershed use, thereby precluding urban development;

- (2) Commence working with appropriate agencies to determine the feasibility of development of additional water supply sources, such as water importation and desalination, and actively participate in implementing the most viable option or options;
- (3) Adoption and enforcement of a water conservation ordinance which includes requirements for plumbing retrofits and is at least as stringent as Regulation 13 of the Monterey Peninsula Water Management District, to reduce both water demand and effluent generation;
- (4) Active participation in support of the development of "reclaimed" or "recycled" water supply sources by the water purveyor and the Monterey Regional Water Pollution Control Agency to ensure adequate water supplies for the territory within the jurisdiction of the Authority;
- (5) Promotion of the use of on-site water collection, incorporating measures such as cisterns or other appropriate improvements to collect surface water for in-tract irrigation and other non-potable use;
- (6) Adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development of territory within the jurisdiction of the Authority to assure that it does not exceed resource constraints posed by water supply;
- (7) Adoption of appropriate land use regulations that will ensure that development entitlements will not be approved until there is verification of an assured long-term water supply for such development entitlements;
- (8) Participation in the development and implementation of measures that will prevent seawater intrusion into the Salinas Valley and Seaside groundwater basins; and
- (9) Implementation of feasible water conservation methods where and when determined appropriate by the land use agency, consistent with the Reuse Plan, including; dual plumbing using non-potable water for appropriate functions; cistern systems for roof-top run-off; mandatory use of reclaimed water for any new golf courses; limitation on the use of potable water for golf courses; and publication of annual water reports disclosing water consumption by types of use.

(k) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will require new development to demonstrate that all measures will be taken to ensure that storm water

runoff is minimized and infiltration maximized in groundwater recharge areas. Such policies and programs shall include:

- (1) Preparation, adoption, and enforcement of a storm water detention plan that identifies potential storm water detention design and implementation measures to be considered in all new development, in order to increase groundwater recharge and thereby reduce potential for further seawater intrusion and provide for an augmentation of future water supplies.
- (2) Preparation, adoption, and enforcement of a Master Drainage Plan to assess the existing natural and man-made drainage facilities, recommend area-wide improvements based on the approved Reuse Plan, and develop plans for the control of storm water runoff from future development. Such plans for control of storm water runoff shall consider and minimize any potential for groundwater degradation and provide for the long term monitoring and maintenance of all storm water retention ponds.

(l) Each land use agency shall adopt policies and programs that ensure that all proposed land uses on the Fort Ord Territory are consistent with the hazardous and toxic materials clean-up levels as specified by state and federal regulation.

(m) Each land use agency shall adopt and enforce an ordinance acceptable to the California Department of Toxic Substances Control ("DTSC") to control and restrict excavation or any soil movement on those parcels of the Fort Ord Territory, which were contaminated with unexploded ordnance, and explosives. Such ordinance shall prohibit any digging, excavation, development, or ground disturbance of any type to be caused or otherwise allowed to occur without compliance with the ordinance. A land use agency shall not make any substantive change to such ordinance without prior notice to and approval by DTSC.

(n) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will help ensure an efficient regional transportation network to access the territory under the jurisdiction of the Authority, consistent with the standards of the Transportation Agency of Monterey County. Such policies and programs shall include:

- (1) Establishment and provision of a dedicated funding mechanism to pay for the "fair share" of the impact on the regional transportation system caused or contributed by development on territory within the jurisdiction of the Authority; and
- (2) Support and participate in regional and state planning efforts and funding programs to provide an efficient

regional transportation effort to access Fort Ord Territory.

(o) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure that the design and construction of all major arterials within the territory under the jurisdiction of the Authority will have direct connections to the regional network consistent with the Reuse Plan. Such plans and policies shall include:

- (1) Preparation and adoption of policies and programs consistent with the Authority's Development and Resource Management Plan to establish programs and monitor development to assure that it does not exceed resource constraints posed by transportation facilities;
- (2) Design and construction of an efficient system of arterials in order to connect to the regional transportation system; and
- (3) Designate local truck routes to have direct access to regional and national truck routes and to provide adequate movement of goods into and out of the territory under the jurisdiction of the Authority.

(p) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans to provide regional bus service and facilities to serve key activity centers and key corridors within the territory under the jurisdiction of the Authority in a manner consistent with the Reuse Plan.

(q) Each land use agency shall adopt policies and programs that ensure development and cooperation in a regional law enforcement program that promotes joint efficiencies in operations, identifies additional law enforcement needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services.

(r) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that ensure development of a regional fire protection program that promotes joint efficiencies in operations, identifies additional fire protection needs, and identifies and seeks to secure the appropriate funding mechanisms to provide the required services

(s) Each land use agency shall include policies and programs in their respective applicable general, area, and specific plans that will ensure that native plants from on-site stock will be used in all landscaping except for turf areas, where practical and appropriate. In areas of native plant restoration, all cultivars, including, but not limited to, manzanita and ceanothus, shall be obtained from stock originating on Fort Ord Territory.

(t) Each land use agency shall include policies and programs in their general, area, and specific plans that will ensure compliance with the 1997 adopted FORA Reuse Plan jobs/housing balance provisions. The policies and programs for the provision of housing must include flexible targets that generally correspond with expected job creation on the former Fort Ord. It is recognized that, in addressing the Reuse Plan jobs/housing balance, such flexible targets will likely result in the availability of affordable housing in excess of the minimum 20% local jurisdictional inclusionary housing figure, which could result in a range of 21% - 40% below market housing. Each land use agency should describe how their local inclusionary housing policies, where applicable, address the Reuse Plan jobs/housing balance provisions.

- (1) Agencies submitting consistency determination requests to FORA should identify and describe, where applicable, any factors that impact production of housing. These factors may include, without limitation, public financing, water resources, land use regulations, and environmental conditions. Each jurisdiction should consider but not be limited to, the following in establishing its Reuse Plan jobs/housing balance policies and programs:
 - (a) Earmarking of tax increment housing set aside funds for housing programs, production, and/or preservation linked to jobs;
 - (b) Development and/or preservation of ownership or rental housing linked to jobs;
 - (c) Incorporation of job creation targets in project specifications;
 - (d) Linkage of existing housing resources with jobs created;
 - (e) Development of agreements with such jurisdictions for Reuse Plan-enhancing job creation or housing programs, production, and/or preservation; and
 - (f) Granting of incentives to increase additional below-market housing productions to meet job creation needs.

- (2) As a reference and guide for determining income limits and housing affordability levels, each land use agency should use measures established by the U.S. Department of Housing and Urban Development, the California Department of Housing and Community Development, and/or the Association of Monterey Bay Area Governments when determining compliance for very low, low, median, moderate affordability and comparable affordability factors for below-market housing up to 180% of median as approved as FORA

policy guidelines at the January 9, 2004 FORA Board meeting.

8.02.030. DEVELOPMENT ENTITLEMENT CONSISTENCY.

(a) In the review, evaluation, and determination of consistency regarding any development entitlement presented to the Authority Board pursuant to Section 8.01.030 of this Resolution, the Authority Board shall withhold a finding of consistency for any development entitlement that:

- (1) Provides an intensity of land uses, which is more intense than that provided for in the applicable legislative land use decisions, which the Authority Board has found consistent with the Reuse Plan;
- (2) Is more dense than the density of development permitted in the applicable legislative land use decisions which the Authority Board has found consistent with the Reuse Plan;
- (3) Is not conditioned upon providing, performing, funding, or making an agreement guaranteeing the provision, performance, or funding of all programs applicable to the development entitlement as specified in the Reuse Plan and in Section 8.02.020 of this Master Resolution and consistent with local determinations made pursuant to Section 8.02.040 of this 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 installation, construction, and maintenance of all infrastructure necessary to provide adequate public services to the property covered by the applicable legislative land use decision.
- (6) Does not require or otherwise provide for implementation of the Fort Ord Habitat Management Plan.
- (7) Is not consistent with the Highway 1 Scenic Corridor design standards as such standards may be developed and approved by the Authority Board.
- (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.

8.02.040. ADOPTION OF REQUIRED PROGRAMS.

No development entitlement shall be approved or conditionally approved within the jurisdiction of any land use agency until the land use agency has taken appropriate action, in the discretion of the land use agency, to adopt the programs specified in the Reuse Plan, the Habitat Management Plan, the Development and Resource Management Plan, the Reuse Plan Environmental Impact Report Mitigation and Monitoring Plan and this Master Resolution applicable to such development entitlement.

Article 8.03 ENVIRONMENTAL QUALITY

8.03.010. ENVIRONMENTAL QUALITY AND PURPOSE.

The purposes of this Article are to provide guidelines for the study of proposed activities and the effect that such activities would have on the environment in accordance with the requirements of the CEQA.

8.03.020. DEFINITIONS.

Except as otherwise defined in this section, words and phrases used in this Article shall have the same meaning given them by Chapter 2.5 of the California Environmental Quality Act and by Article 20 of the State CEQA Guidelines.

8.03.030. STATE CEQA GUIDELINES ADOPTED.

The Authority hereby adopts the State CEQA Guidelines ("Guidelines") as set forth in Title 14, Section 15000 *et seq.* of the California Administrative Code and as may be amended from time to time. This adoption shall not be construed so as to limit the Authority's ability or authority to adopt additional implementing procedures in accordance with Section 15022 of such Guidelines, or to adopt other legislative enactments the Board may deem necessary or convenient for the protection of the environment.

8.03.040. EXECUTIVE OFFICER'S RESPONSIBILITY.

- (a) The Executive Officer shall, consistent with FORA obligations:
 - (1) Generate and keep a list of exempt projects and report such list to the Board.
 - (2) Conduct initial studies.
 - (3) Prepare negative declarations.
 - (4) Prepare draft and final environmental impact reports.
 - (5) Consult with and obtain comments from other public agencies and members of the public with regard to the environmental effect of projects, including "scoping" meetings when deemed necessary or advisable.
 - (6) Assure adequate opportunity and time for public review and comment on a draft environmental impact report or negative declaration.

- (7) Evaluate the adequacy of an environmental impact report or negative declaration and make appropriate recommendations to the Board.
- (8) Submit the final appropriate environmental document to the Board who will approve or disapprove a project. The Board has the authority to certify the adequacy of the environmental document.
- (9) File documents required or authorized by CEQA and the State Guidelines.
- (10) Collect fees and charges necessary for the implementation of this Article in amounts as may be specified by the Board by resolution and as may be amended from time to time.
- (11) Formulate rules and regulations as the Executive Officer may determine are necessary or desirable to further the purposes of this Article.

8.03.050. COMPLETION DEADLINES.

(a) Time limits for completion of the various phases of the environmental review process shall be consistent with CEQA and Guidelines and those time limits are incorporated in this Article by reference. Reasonable extensions to these time limits shall be allowed upon consent by any applicant.

(b) Time limits set forth in this section shall not apply to legislative actions.

(c) Any time limits set forth in this section shall be suspended during an administrative appeal.

8.03.060. PUBLIC NOTICE OF ENVIRONMENTAL DECISION.

(a) Notice of the decision of whether to prepare an environmental impact report, negative declaration, or declare a project exempt shall be available for public review at the Office of the Executive Officer. Notices of decisions shall be provided in a manner consistent with CEQA and the Guidelines.

(b) Notice that the Authority proposes to adopt a negative declaration shall be provided to the public at least ten (10) days prior to the date of the meeting at which consideration of adoption of the negative declaration shall be given.

(c) Notice of decisions to prepare an environmental impact report, negative declaration, or project exemption shall be given to all organizations and individuals that have previously requested such notice. Notice shall also be given by publication one time in a newspaper of general circulation in Monterey County.

8.03.070. APPEAL OF ENVIRONMENTAL DECISION.

(a) Within fifteen (15) days after the Executive Officer provides notice of a decision, any interested person may appeal the decision to the Board by completing and filing a notice of appeal at the Office of the Executive Officer.

(b) The appellant shall pay a fee in the amount as specified in Section 8.01.050(a) of this Resolution.

(c) The Board shall hear all appeals of decisions on any environmental issue. The hearing shall be limited to considerations of the environmental or procedural issues raised by the appellant in the written notice of appeal. The decision of the Executive Officer shall be presumed correct and the burden of proof shall be on the appellant to establish otherwise. The Board may uphold or reverse the environmental decision, or remand the decision back to the Executive Officer if substantial evidence of procedural or significant new environmental issues is presented.

(d) The decision of the Board will be final.

8.03.080. CONFLICT DETERMINATIONS.

This Article establishes procedural guidelines for the evaluation of the environmental factors concerning activities within the jurisdiction of the Authority and in accordance with State Guidelines. Where conflicts exist between this Article and State Guidelines, the State Guidelines shall prevail except where this Article is more restrictive.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject:	Environmental Services Cooperative Agreement – Quality Assurance Oversight Professional Contract	
Meeting Date:	April 11, 2008	INFORMATION
Agenda Number:	9d	

RECOMMENDATION:

Receive a report on the Fort Ord Reuse Authority ("FORA") Environmental Services Cooperative Agreement ("ESCA") Remediation Program ("RP") Quality Assurance Oversight Professional Contract.

BACKGROUND:

FORA entered into an ESCA with the U.S. Army ("Army") and an Administrative Order on Consent ("AOC") with the U.S. Environmental Protection Agency ("EPA") and the California Department of Toxic Substance Control (DTSC) to provide munitions remediation on 3,340 acres of the former Fort Ord. EPA and DTSC have directed FORA to manage an ESCA Quality Oversight and Confirmation Professional to provide third-party verification and confirmation that the ESCA Quality Assurance ("QA") and Quality Control ("QC") procedures are in place and followed correctly. After a competitive process FORA hired Engineering/Remediation Resources Group, Inc. ("ERRG") as the ESCA Quality Oversight and Confirmation Professional Team to provide QA oversight and confirmation services under the FORA ESCA Remediation Program.

DISCUSSION:

The ERRG oversight and confirmation of work performed by munitions remediation contractor LFR, Inc. includes: 1) field verification by Jesse Sipult (DDESB UXO Qualified) [similar to work performed by Army Corps of Engineers for the Fort Ord BRAC Environmental Cleanup Team]; and 2) California Registered Geophysicist, Bryan Hecker to complete document review (to supplement Jesse Sipult's field work). These two professionals serve under a single contract, acting as the FORA ESCA Quality Assurance Oversight Professional Team to monitor the LFR/Weston Team QA/QC fieldwork and documentation procedures and practices. Messrs. Sipult and Hecker perform the oversight, and then confirm for FORA and the regulators (periodically working with agency contractors) that the LFR-Weston team adheres to the project's QA/QC procedures as outlined in the approved ESCA Work Plans and the Quality Assurance Surveillance Plan.

The ERRG Quality Oversight and Confirmation Professional Team provide the following description of their services in the proposal to FORA:

MEC QA Oversight Services

Mr. Sipult will serve as the Munitions and Explosives of Concern ("MEC") QA Oversight Professional for FORA and will conduct on-site QA audits and inspections of MEC field activities conducted by contractors at Fort Ord. The scope of the QA audits and inspections will be based on standard QA practices specified in various Department of Defense ("DoD")/U.S. Army Corps of Engineers ("USACE") guidance and technical

manuals. During each audit event, Mr. Sipult will attend the MEC Contractor's daily health and safety briefing/tailgate meeting to become familiar with the health and safety requirements of the project being audited. Mr. Sipult will comply with these health and safety requirements during the course of his QA oversight. At the conclusion of each audit/inspection, Mr. Sipult will complete all required field monitoring reports and other documentation for submittal to FORA. As requested by FORA, Mr. Sipult may review selected reports including MEC reports completed by FORA's contractors for MEC remediation and cleanup activities at various parcels. Depending on the scope and requirements for report reviews, ERRG will prepare comments and/or suggestions on report contents or existing or proposed procedures.

Geophysical QA Oversight Services

Mr. Hecker will serve as the Geophysical QA Oversight Professional for FORA and will conduct off-site QA audits, including data and document review. The scope of the audits and inspections will be based on standard QA practices specified in various DoD/USACE guidance and technical manuals. At the conclusion of each Geophysical QA audit/inspection, Mr. Hecker will complete all required QA reports and other documentation for submittal to FORA. As requested by FORA, Mr. Hecker may review selected reports including geophysical reports completed by FORA's contractors for MEC remediation and geophysical field activities at various parcels. Depending on the scope and requirements for report reviews, the ERRG team will prepare comments and/or suggestions on report contents or existing/proposed procedures. Additionally, Mr. Hecker will conduct site visits to audit the preparation of the Geophysical Test Plot, Data Collection and Quality Control.

The EPA and DTSC have concurred with the services provided by ERRG.

FISCAL IMPACT:

Reviewed by FORA Controller

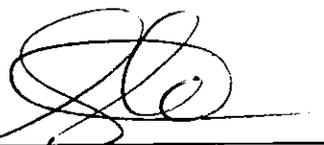


No fiscal impact. The cost of providing quality assurance oversight as directed by EPA and DTSC is considered regulatory response cost under funds received through the ESCA. The ESCA Grant Officer and the Army have agreed to this contract, to be paid from existing ESCA funds earmarked for regulatory oversight.

COORDINATION:

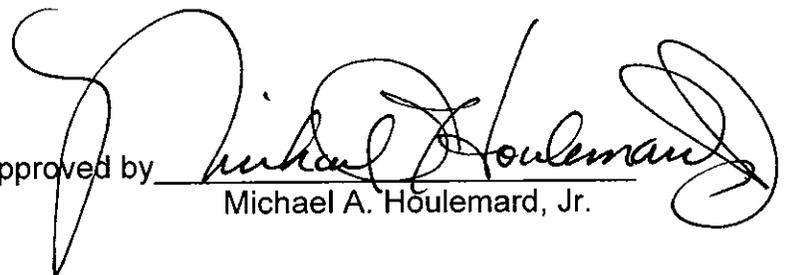
Administrative Committee, Executive Committee, FORA Negotiating Team, Special and Authority Counsel, LFR, Inc., Weston Solutions, Inc., EPA, and DTSC.

Prepared by



Stan Cook

Approved by



Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

EXECUTIVE OFFICER'S REPORT

Subject: 2008 State Legislative Mission to Sacramento (March 27 -28)

Meeting Date: April 11, 2008

Agenda Number: 9e

INFORMATION

RECOMMENDATION:

Receive a report about the 2008 State Legislative Mission to Sacramento

BACKGROUND/DISCUSSION:

When FORA has need to seek the support and assistance of its state legislators and other officials in Sacramento, Executive Officer Houlemard recommends that a FORA delegation travel to the state capital and engage in a series of meetings with these key people. This has resulted in annual trips in the spring for the past five years.

The FORA team usually consists of the board chair and members of the Legislative Committee. This year John Arriaga, FORA's legislative representative in Sacramento, coordinated the meetings and accompanied the FORA team in the meetings with staff members from the offices of Assembly Member John Laird and Assembly Member Anna Caballero, and also Senator Abel Maldonado. The team also met with Russ Schmunk from the Department of Housing and Community Development, State Resources Secretary Michael Chrisman, and Dan Ward and Rick Moss from the Department of Toxic Substances Control in the California Environmental Protection Agency. Attached is a list of the meetings (**Attachment A**).

FISCAL IMPACT:

Reviewed by FORA Controller 

All expenses normally covered by the FORA travel policy will be reimbursed. See Item 9b, Executive Officer's Travel Report.

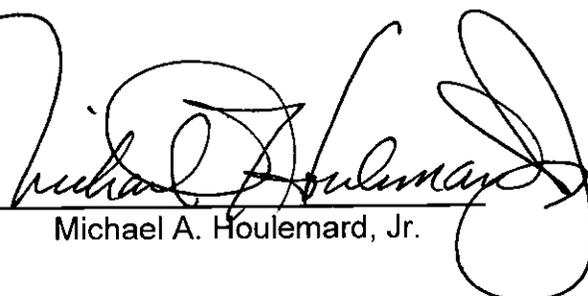
COORDINATION:

Executive Committee and Legislative Committee

Prepared by


for Linda L. Stiehl

Approved by


Michael A. Houlemard, Jr.

Fort Ord Reuse Authority
Sacramento Legislative Mission
March 27-28, 2008

ATTACHMENT A
Item 9e
FORA Board, April 11, 2008

Meeting Agenda

THURSDAY

- 9:30–9:55a.m. Meet at 6th Floor Cafeteria in the Capitol
- 10:00a.m. Meeting with Senator Denham
Capitol Room 3076
Sacramento, CA 95814
- 10:30a.m. Meeting with Assembly Member Caballero's
staff member Megan Taylor
Capitol Room 5119
Sacramento, CA 95814
- 11:00a.m. Meeting with Senator Maldonado or staff member
Dinora Ramirez
Capitol Room 4082
Sacramento, Ca 95814
- 12:00p.m. Lunch
- 2:00 p.m. Meeting with Harry Ermoian and Clyde McDonald
from Assembly Member Laird's office
Capitol Room 6026
Sacramento, CA 95814
- 3:00 p.m. Meeting with Eugene Lee, Section Chief,
Division of Financial Assistance at HCD
1800 3rd Street, Suite 390
Sacramento, CA 95814

FRIDAY

- 9:00a.m. Meeting with Michael Chrisman
Secretary for Resources
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
- 10:00a.m. Meeting with Dan Ward and Rick Moss - DTSC
CAL/EPA Building Room 2110
Sacramento, CA 95814
- 12:00p.m. Lunch Debriefing