



FORT ORD REUSE AUTHORITY

REGULAR MEETING

FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS

Friday, June 9, 2017 at 2:00 p.m.

910 2nd Avenue, Marina, CA 93933 (Carpenters Union Hall)

AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON JUNE 8, 2017.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE *(If able, please stand)*

3. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code 54956.9(a): Keep Fort Ord Wild v. Fort Ord Reuse Authority, Monterey County Superior Court, Case No.: M114961
- b. Conference with Legal Counsel – Gov. Code 54956.9(a): Successor Agency of the Redevelopment Agency of the County of Monterey v. California Department of Finance, et al. Fort Ord Reuse Authority Real Party in Interest, County of Sacramento Superior Court, Case No.: 34-2016-80002403
- c. Public Employment, Gov. Code 54959.7(b) – Executive Officer Evaluation

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

5. ROLL CALL

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

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

7. CONSENT AGENDA

INFORMATION/ACTION

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

- a. Approve May 12, 2017 Board Meeting Minutes (p. 1)
- b. Administrative Committee (p. 6)
- c. Veterans Issues Advisory Committee (p. 13)
- d. Transition Task Force – Update (p. 17)
- e. Legislative Support Update (p. 19)
- f. Public Correspondence to the Board (p. 25)
- g. Executive Officer Travel Report (p. 26)
- h. Transaction Worksheet Reporting (p. 27)
- i. Adopt Resolution Rescinding June 2011 Memorandum of Understanding Approval (p. 29)
- j. Approve Contract Term Extensions (p. 43)
 - i. Denise Duffy & Associates, Oak Woodland Conservation Planning Professional Services Agreement
 - ii. Transportation Agency of Monterey County Reimbursement Agreement
 - iii. Michael Baker International Inc., Professional Services Agreement

8. BUSINESS ITEMS

ACTION

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

- a. Approve Proposed 3% Cost of Living Adjustment - 2d Vote (p. 47)
- b. Capital Improvement Program (p. 51)
 - i. 2017 Fee Reallocation Study - 2d Vote
 - ii. Adopt 2017 Biennial Fee Review Resolution
- c. Endorse MCWD as Groundwater Sustainability Agency (p. 58)

9. PUBLIC COMMENT PERIOD

INFORMATION

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

10. ITEMS FROM MEMBERS

INFORMATION

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

11. ADJOURNMENT

NEXT REGULAR BOARD MEETING: July 14, 2017

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



FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS REGULAR MEETING MINUTES
2:00 p.m., Friday, May 12, 2017 | Carpenters Union Hall
910 2nd Avenue, Marina, CA 93933

1. CALL TO ORDER

Chair Rubio called the meeting to order at 2:00 p.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Supervisor John Phillips

3. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code 54956.9(a): Keep Fort Ord Wild v. Fort Ord Reuse Authority, Monterey County Superior Court, Case No.:M114961
- b. Conference with Legal Counsel – Gov. Code 54956.9(a): Successor Agency of the Redevelopment Agency of the County of Monterey v. California Department of Finance, et al. Fort Ord Reuse Authority Real Party in Interest, County of Sacramento Superior Court, case No.: 34-2016-80002403
- c. Public Employment, Gov. Code 54959.7(b) – Executive Officer Evaluation

4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

Authority Counsel, Jon Giffen announced there was no action taken in closed session.

5. ROLL CALL

Voting Members Present:

Supervisor Jane Parker (Monterey County), Mayor Ralph Rubio (City of Seaside), Supervisor John Philips (Monterey County), Councilmember Dennis Alexander (City of Seaside), Supervisor Mary Adams (Monterey County), Mayor Mary Ann Carbone (City of Sand City), Mayor Jerry Edelen (City of Del Rey Oaks), Mayor Joe Gunter (City of Salinas), Councilmember Frank O'Connell (City of Marina), Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Gail Morton (City of Marina), Councilmember Jan Reimers (City of Carmel-by-the-sea), Councilmember Alan Haffa (City of Monterey)

Ex-officio (Non-Voting) Board Members Present:

Todd Muck (TAMC), Dr. Scott Brandt (UCSC), Dr. Eduardo Ochoa (CSUMB), Bill Collins (Ft Ord BRAC Office), Michelle Overmeyer (MST), Dr. Thomas Moore (MCWD), Colonel

Lawrence Brown (US Army), Bill Collins (BRAC), Kathleen Lee (20th Congressional District), Nicole Charles (17th State District Senator Monning), Erica Parker (29th State Assembly member Stone)

Absent:

Dr. PK Diffenbaugh (MPUSD), Vicki Nakamura (MPC)

6. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer, Michael Houlemard provided the following acknowledgements and announcements:

- The numbering sequence for the business items on the agenda were incorrect, all staff reports within the packets were identified with the correct item numbers;
- Monterey Bay Economic Partnership Regional Summit on May 4 in Santa Cruz
- ESCA Community Workshop on May 10
- Start Up Challenge Otter Tank on May 12 with events starting at 3pm. More information at startupchallenge.org;
- FORA outreach booth was present at Sea Otter Classic (April 2017)
- American Planning Association recognizes FORA for Achievement Award for Regional Urban Design Guidelines at their annual conference held in New York City – attendees included: Josh Metz (FORA), Elizabeth Caraker (Monterey) & Layne Long & 2 staff (Marina);
- Cemetery Fundraising Group meeting on May 11;
- Cemetery Advisory Committee on May 11.

Bill Collins announced The U.S. Army is hosting a Public Kickoff meeting in conjunction with Bureau of Land Management on May 23, 2017, to share information about the cleanup and provide an opportunity for the public to ask questions and provide feedback.

7. CONSENT AGENDA

- a. Approve April 7, 2017 Board Meeting Minutes
- b. Administrative Committee
- c. Veterans Issues Advisory Committee
- d. Water/Wastewater Oversight Committee
- e. Finance Committee
- f. Legislative Committee
- g. Transition Task Force Status Update
- h. Executive Officer Travel Report
- i. Eastside Parkway Environmental Review Report
- j. Public Correspondence to the Board
- k. Prevailing Wage Report
- l. Annual Statement of Investment Policy and Local Agency Investment Fund Resolutions

Board member Haffa requested to pull consent agenda item 7f – Legislative Committee and Board member Morton requested to pull consent agenda item 7k – Prevailing Wage Report.

Motion: On motion by Board member Gunter and second by Board member Haffa and carried by the following vote, the Board moved to approve the consent agenda items 7a-7e, 7g-7j and 7l.

There were no comments received from the public.

MOTION PASSED UNANIMOUSLY

Mr. Houlemard provided a summary of the Legislative Committee report and responded to questions about the positions indicated for certain legislative programs and tasks.

Motion: On motion by Board member Phillips and second by Board member Morton and carried by the following vote, the Board moved to approve the consent agenda item 7f.

There were no comments received from the public.

MOTION PASSED UNANIMOUSLY

Staff clarified the recommended Board action for Budget Bill 502–Trailer Bill.

Motion: On motion by Board member Morton and second by Board member Parker and carried by the following vote, the Board moved to approve the consent agenda item 7k.

There were no comments received from the public.

MOTION PASSED UNANIMOUSLY

8. BUSINESS ITEM

a. UC Monterey Bay Education Science and Technology Center Status

University of California Santa Cruz Vice Chancellor, Dr. Scott Brandt, provided the quarterly report. Dr. Brandt highlighted the progress and results of collaborations and efforts with FORA, businesses and jurisdictions.

Comments were received from the public.

This item was information only, there was no action taken by the Board.

b. Consider FORA FY 2017-18 Budget Adoption

Mr. Houlemard and Helen Rodriguez, Controller presented the item and provided detailed information regarding the budget adoption and staff recommendation. After discussion

between the Board and staff to clarify and determine a course of action, the Board separated the vote between the 2017-18 budget and the proposed 3% Cost of Living Adjustment (COLA). A motion to eliminate the Economic Development department was withdrawn. After further discussion, there was a call for the question and the Board voted on the following motions:

Restated Motion: On motion by Board member Gunter and second by Board member Haffa and carried by the following vote, the Board moved to adopt the FY 2017-18 Budget.

Comments were received from the public.

MOTION PASSED UNANIMOUSLY

Motion: On motion by Board member Haffa and second by Board member Gunter and carried by the following vote, the Board moved to approve the 3% Cost of Living Adjustment.

There were comments received from the public.

Ayes: Phillips, Edelen, Haffa, Rubio, Alexander, Carbone, Gunter, Garfield, Reimers
Noes: Parker, Morton, O'Connell, Adams

The item will return for a second vote at the June 9, 2017 Board meeting.

c. Capital Improvement Program

- i. Consider Adoption of Budget/Program
- ii. 2017 TAMC FORA Fee Reallocation Study
- iii. FORA Biennial Formulaic Fee Review

Jonathan Brinkmann, Principal Planner and Peter Said, Project Manager, presented the items for the Capital Improvement Program. Staff responded to questions from the Board and public regarding alternatives to option "B" and how changes to the allocation of Community Facilities District (CFD) fees can be re-visited by the Board. Staff also provided policy information regarding blight removal and prioritization of projects.

Motion: On motion by Board member Parker and second by Board member Haffa and carried by the following vote, the Board moved adopt the FY 2017-18 CIP and provide direction to staff to return with items regarding blight removal funding and transportation improvements prioritization, such as 8th Street, Highway 1, and other projects, for future Board discussion.

Chair Rubio noted the time and reminded the Board a motion would be need in order to extend the meeting past 5:00 p.m.

There were no comments received from the public.

MOTION PASSED UNANIMOUSLY

d. Regional Urban Water Augmentation Project Report

Motion: On motion by Board member Moore and second by Board member Edelen and carried by the following vote, the Board moved to accept the Regional Urban Water Augmentation Project Report as provided in the agenda packet.

There were no comments received from the public.

MOTION PASSED UNANIMOUSLY

e. Consider Marina Coast Water District's Compensation Plan Resolutions

- i. Adopt FY 2017-18 Proposed Budget and Ord Community Compensation Plan
- ii. Adopt FY 2017-18 Proposed Ord Community Capital Elements

Motion: On motion by Board member Moore and second by Board member Edelen and carried by the following vote, the Board moved to Adopt resolution 17-xx and 17-xx adopting a compensation plan for base-wide water and sewer services on the former Fort Ord.

Public comment was received on the item.

MOTION PASSED UNANIMOUSLY

f. Endorse MCWD as Groundwater Sustainability Agency

This item was withdrawn from the agenda.

9. ITEMS FROM MEMBERS

There were no items received from Board members.

10. PUBLIC COMMENT

Comments were received from the public.

11. ADJOURNMENT at 5:30 p.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Administrative Committee

Meeting Date: June 9, 2017

Agenda Number: 7b

INFORMATION/ACTION

RECOMMENDATION:

Receive a report from the Administrative Committee.

BACKGROUND/DISCUSSION:

The Administrative Committee met on May 3, 2017 and May 17, 2017. The approved minutes for both dates are attached (**Attachment A & Attachment B**).

FISCAL IMPACT:

Reviewed by the FORA Controller 

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

COORDINATION:

Administrative Committee

Prepared by 
Dominique L. Jones

Approved by 
Michael A. Houlemard, Jr.



FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES
8:30 a.m., Wednesday, May 3, 2017 | FORA Conference Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair, Craig Malin called the meeting to order at 8:30 a.m.

The following members were present:

AR = After Roll Call; * = voting member

Layne Long* (City of Marina)

Craig Malin* (City of Seaside)

Melanie Beretti* (Monterey County)

Dino Pick* (City of Del Rey Oaks)

Anya Spear (CSUMB)

Steve Matarazzo (UCMBEST)

Michelle Overmeyer (MST)

Vicki Nakamura (MPC)

Patrick Breen (MCWD)

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Craig Malin.

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

There were no acknowledgements, announcements or correspondence presented from staff, committee or the public.

4. PUBLIC COMMENT PERIOD

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

Public comment was received regarding support for Marina Coast Water District as the Groundwater Sustainable Agency.

5. APPROVAL OF MEETING MINUTES

ACTION

a. April 12, 2017 Regular Meeting Minutes

***MOTION:** On motion by Committee member Pick and second by Committee member Long and carried by the following vote, the Administrative Committee moved to approve the April 12, 2017 meeting minutes.*

MOTION PASSED UNANIMOUSLY

There were no comments received from the public or Committee.

6. MAY 12, 2017 FORA BOARD MEETING DRAFT AGENDA REVIEW

Executive Officer, Michael Houlemard, reviewed the items on the May 12, 2017 Board meeting agenda including an additional closed session item for the Executive Officer evaluation.

There were no questions or comments from the Committee or public.

7. BUSINESS ITEMS

INFORMATION

a. Draft FY 17/18 FORA Capital Improvement Program

Jonathan Brinkmann, Principal Planner, presented the item and answered questions from the Committee and public.

i. 2017 Fee Reallocation Study

The purpose of the reallocation study is to review FORA transportation cost estimates, coordinate FORA transportation obligations with AMBAG and TAMC 2014/15 Regional Transportation Plan (RTP), analyze the net effect of jurisdictions' land use plans since 2005, and provide updated information to assist FORA transition plan preparation. At the April 12, 2017 Administrative Committee meeting the Committee recommended that the FORA Board use "Option B" which "funds local projects first" and was previously adopted by the 2005 FORA Fee Reallocation Study and also recommends the Board accept the 2017 FORA Fee Reallocation Study.

Committee member Long requested the 2nd Avenue project be referred to as the Del Monte extension and expressed his support for the public comment made in regards to the GSA before departing for another meeting.

This item was information only, there was no action taken by the Committee.

ii. Biennial Fee Calculation Report

In August 2012, the FORA Board adopted a formulaic approach to establish the FORA development fee and CFSD special tax rates. Reviews are conducted every two years or when a material change to the FORA CIP occurs. The preliminary results were provided with a project percentage change of -1.60%.

Staff recommended the Administrative Committee provide feedback and consider recommending Board adoption of the Biennial Fee Calculation result at its next meeting on May 17, 2017.

The Committee engaged in a strategic discussion on the method in which the CIP would be presented to the Board.

***MOTION:** On motion by Committee member Beretti and second by Committee member Pick and carried by the following vote, the Administrative Committee moved to submit the Biennial Fee Calculation Report to the Board as an information item at its May 12, 2017 meeting and seek action/approval at the June 9, 2017 meeting.*

MOTION PASSED UNANIMOUSLY

iii. Budget/Program Adoption

The CIP coordination items, remaining obligations, funding and CFD/Development fee reductions and increases. The FY 17/18 changes were identified as:

- Planning horizon to 2027-28 to facilitate FORA transition planning
- Incorporation of 2017 FORA Fee Reallocation Study
- Appendix A: Clarify CIP transportation/transit funding prioritization: Administrative Committee recommends funding priorities and Board makes final prioritization decisions
- Caretaker Costs: funding increased to \$500K per year and reimbursement process begins August 31st instead of January 31st
- Preliminary discussions with City of Marina staff to shift building removing obligation of stockade to another location

The presentation also included the prioritization criteria, remaining roadway improvements, transportation action plan, building removal obligation, and action plan.

Staff recommended the Administrative Committee provide feedback and consider recommending Board adoption of the FY 17/18 CIP at its next meeting on May 17, 2017.

It was requested that staff provide a historical background as to how the current status was determined.

MOTION: On motion by Committee member Beretti and second by Committee member Pick and carried by the following vote, the Administrative Committee moved to submit the FY 17/18 CIP to the Board as an information item at its May 12, 2017 meeting and seek action/approval at the June 9, 2017 meeting.

MOTION PASSED UNANIMOUSLY

b. Draft Groundwater Sustainability Act Support Letter

With the prior public comment noted, Mr. Houlemard introduced the item and advised the Committee of the request made by MCWD to have a recommendation made to the Board to support their application to become the Groundwater Sustainability Agency for a select area in the former Fort Ord.

General Manager, Keith Van Der Maaten, MCWD, provided the organizations perspective and the request for support from FORA.

Public comment was received in support of MCWD. Committee member Beretti provided additional information in regards to the County's intention of withdrawing their application.

MOTION: On motion by Committee member Pick and second by Committee member Beretti and carried by the following vote, the Administrative Committee recommended the Executive Committee review the support letter.

MOTION PASSED UNANIMOUSLY

c. FY 17/18 Marina Coast Water District Annual Budget

Peter Said, Project Manager, reviewed the recommendation from the Water/Wastewater Oversight Committee which was to adopt the compensation plan for base-wide water and sewer services on the Fort Ord Community as is, and to note that the already approved rate increases authorized by the Proposition 218 process are scheduled over a five year period from 2014-2018. The Draft Five-Year Plan that included the improvements pending completion were also reviewed.

MOTION: On motion by Committee member Beretti and second by Committee member Pick and carried by the following vote, the Administrative Committee moved to recommend adoption of the 17-18 MCWD budget.

MOTION PASSED UNANIMOUSLY

8. ITEMS FROM MEMBERS

Anya Spear, California State University Monterey Bay (CSUMB), advised the Committee the Environmental Impact Review process for the CSUMB Master Plan has begun. More information is available at <https://csumb.edu/campusplanning/campus-master-plan-2016>

9. ADJOURNMENT at 10:04 a.m.



FORT ORD REUSE AUTHORITY
ADMINISTRATIVE COMMITTEE REGULAR MEETING MINUTES
8:30 a.m., Wednesday, May 17, 2017 | FORA Conference Room
920 2nd Avenue, Suite A, Marina, CA 93933

1. CALL TO ORDER

Co-Chair, Michael Houlemard called the meeting to order at 8:31 a.m.

The following members were present:

AR = After Roll Call; * = voting member

Layne Long* (City of Marina)

Craig Malin* (City of Seaside)

Nick Nichols* (Monterey County)

Dino Pick* (City of Del Rey Oaks)

Elizabeth Caraker* (City of Monterey)

Anya Spear (CSUMB)

Steve Matarazzo (UCMBEST)

Michelle Overmeyer (MST)

Todd Muck (TAMC)

Vicki Nakamura (MPC)

Patrick Breen (MCWD)

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Steve Matarazzo

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Doug Yount, Marina Community Partners, announced the anticipated opening of a locally owned Mediterranean cuisine restaurant in the fall. Anya Spear, CSUMB, announced a public meeting is scheduled for May 23, 2017 regarding Fort Ord munitions clean up. The meeting is to be held at Bayonet and Black Horse Golf Course. Details can be accessed at <https://csumb.edu/news/upcoming-fort-ord-munitions-cleanup-public-meeting-may-23-2017>.

4. PUBLIC COMMENT PERIOD

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

There were no comments received from the public.

5. APPROVAL OF MEETING MINUTES

ACTION

a. May 3, 2017 Regular Meeting Minutes

MOTION: *On motion by Committee member Pick and second by Committee member Matarazzo and carried by the following vote, the Administrative Committee moved to approve the May 3, 2017 meeting minutes.*

MOTION PASSED UNANIMOUSLY

6. MAY 12, 2017 FORA BOARD MEETING FOLLOW UP

Mr. Houlemard provided an overview of the action and discussion at the May 12, 2017 Board meeting. Staff responded to questions and comments received from the Committee and public to clarify action taken on FY 2017-18 Budget, Staff/Benefit Adjustment, CIP, Fee Reallocation Study and other agenda items.

7. BUSINESS ITEMS

INFORMATION

- a. Capital Improvement Program (CIP)
 - i. FY 17/18 CIP Budget
 - ii. Biennial Fee Calculation Review

Mr. Houlemard introduced the item and shared his observations that it may be beneficial to acquaint and re-acquaint new and existing Board members with an in-depth review of the CIP for better understanding to make decisions concerning the CIP. Also, as the Transition Task force moves forward in establishing a transition plan, a joint Administrative Committee and Board workshop regarding Building Removal and Transportation projects was proposed.

Jonathan Brinkmann, Principal Planner, reviewed the schedule and anticipated next steps for the FY 17/18 CIP Budget and the Biennial Fee Calculation Review. The contents of the tables for the Biennial Fee Calculation was reviewed. The item will return to the Committee at the May 31, 2017 Administrative Committee meeting.

Staff responded to questions and comments from the Committee and public. Staff also noted changes and/or corrections that should be made to the data as well.

This item was information only, there was no action taken by the Committee.

8. ITEMS FROM MEMBERS

Committee member Caraker requested an update regarding the Transition Task Force. Steve Endsley, Assistant Executive Officer responded to the inquiry.

9. ADJOURNMENT at 9:02 a.m.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Veterans Issues Advisory Committee

Meeting Date: June 9, 2017

Agenda Number: 7c

INFORMATION/ACTION

RECOMMENDATION:

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

BACKGROUND/DISCUSSION:

The Veteran's Issues Advisory Committee met on April 27, 2017. The approved minutes for this meeting is attached (**Attachment A**).

FISCAL IMPACT:

Reviewed by FORA Controller 

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

COORDINATION:

VIAC

Prepared by 
Dominique L. Jones

Approved by 
Michael A. Houlemard, Jr.



**FORT ORD REUSE AUTHORITY
VETERANS ISSUES ADVISORY COMMITTEE (VIAC) MEETING MINUTES
3:00 P.M. April 27, 2017 | FORA Conference Room
920 2nd Avenue, Suite A., Marina CA 93933**

1. CALL TO ORDER

Ian Oglesby called the meeting to order at 3:00 P.M.

Committee Members:

James Bogan, Disabled American Veterans (DAV)
Col. Lawrence Brown, U.S. Army Presidio of Monterey
Edith Johnsen, Veterans Families (VF)
Jack Stewart, Fort Ord Veterans Cemetery Citizens Advisory Committee (CAC)
Sid Williams, Monterey County Military & Veterans Advisory Commission (VAC)
Ian Oglesby, US Army Veteran (**Chair**)
Mary Estrada, United Veterans Council (UVC)
Wes Morrill, Monterey County Office of Military & Veterans Affairs (MCOMVA)
Richard Garza Central Coast Veterans Cemetery Foundation (CCVCF)
J. Alan Fagan, Veterans Transit Center (VTC)

FORA Staff:

Robert Norris
Hermelinda Flores

2. PLEDGE OF ALLEGIANCE led Ian Oglesby

3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE

Robert Norris, Principal Analyst, introduced Hermelinda Flores, Administrative Assistant, who will provide the administrative support to the VIAC meetings. Ian Oglesby also introduced Princess and Ray Pope who represent the National Association for the Advancement of Colored People who will start attending the VIAC meetings.

4. PUBLIC COMMENT PERIOD

There were no verbal comments from the public

5. APPROVAL OF MEETING MINUTES

a. March 23, 2017 Regular Meeting Minutes

MOTION: On motion by Committee member Sid Williams and second by Committee member Col. Lawrence Brown and carried by the following vote, the VIAC moved to approve the March 23, 2017 meeting minutes

MOTION: PASSED UNANIMOUSLY

6. BUSINESS ITEMS

a. California Central Coast Veterans Cemetery (CCCVC) Status Report

i. Cemetery Administrator's Status

Mr. Robert Norris provided an update on the CCCVC status report. The committee was informed of the regular schedule for burial events until the end of the year. Mr. Norris also provided further information on the habitat mitigation requirements. The CVA and the County of Monterey (with the assistance of FORA) are working to meet environmental regulations. This process involves designating certain areas and moving existing plants from one area to another to offset the impacts.

ii. Veterans Cemetery Land Use Status

Discussion on Veterans Cemetery Land Use Status and Fort Ord Committee Verbal Report were combined. See item below.

iii. Fort Ord Committee Verbal Report: Oak Woodlands Mitigation & Endowment MOU

The committee was informed that the County Fort Ord Committee postponed the MOU meeting. A revised MOU will be considered to reflect current circumstances. The revised MOU will be presented and reviewed by the Board of Supervisors Fort Ord Board Committee.

iv. Senator Monning Veterans Advisory Meeting

Mr. Norris provided a brief report on the Veterans Advisory Meeting. Senator Monning is preparing for an intense fundraising effort to meet local match requirements for the cemetery expansion phase. Approximately \$3 million will be needed by September 2017. *Jack Stewart made a motion, Edith Johnsen seconded the motion to seek funding from other jurisdictions, cities, and counties on a cooperative basis.* Senator Monning proposed to create a working group to identify business sector representatives, elected officials, and potentially large donors and reach out surrounding jurisdictions.

MOTION: On motion by Committee member Jack Stewart and second by Committee member Edith Johnsen and carried by the following vote, the VIAC moved to seek financial support from other jurisdictions, cities and counties on a cooperative basis

MOTION: PASSED UNANIMOUSLY

b. Fundraising Status

i. CCVCF Status Report

Richard Garza informed the committee that the "Epic Riders" will kick off the national effort on August 24, 2017. The fundraiser deadline of August 31st for the State local match application. The committee was also informed about a potential contribution of \$350K to offset a portion of the costs accrued from fundraising efforts.

c. VA/DoD Veterans Clinic Status Report

i. Historic Flag Pole Variance Update

City of Marina expressed interest in maintaining the historic flag pole location where the current flag pole now stands and are coming to an agreement on shared costs.

ii. Operational Schedule

The Monterey Herald News article stated the Marina VA-DoD Clinic's grand opening is set for August 3rd of this year. Active duty and retired will have the ability to receive service in

the same location. Further details regarding CCCVC participation in the ceremony will follow at a later date.

d. Veterans Transition Center (VTC) Housing Construction

The Veterans Transition Center is working on fundraising for another set of houses and to break ground this fall. The MOU for Patriot Housing was signed by Col. Brown and members of the Parks for a total of six family residences.

The approval for Light Fighter Village is scheduled for 71 housing units is still pending.

e. Historical Preservation Project (HPP)

Cliff Guinn reported an upcoming meeting with a contractor to assess one of the buildings and obtain an estimate for restoration or stabilization. Mr. Guinn will also be requesting fencing from the City of Marina around the area of the museum site.

7. ITEMS FROM MEMBERS

There were no items reported from members.

8. ADJOURNMENT at 3:58 P.M.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Transition Task Force - Update

Meeting Date: June 9, 2017

Agenda Number: 7d

INFORMATION/ACTION

RECOMMENDATION:

Accept Transition Task Force update

BACKGROUND/DISCUSSION:

This report provides an update from report provided to the Fort Ord Reuse Authority ("FORA") Board on May 12, 2017. The history and background of the Transition Task Force ("TTF") was presented in that same May 12, 2017 report. Since that report, the TTF has met twice, once on May 9, 2017 and once on May 24, 2017. The next TTF meeting is currently scheduled for June 14, 2017.

As previously outlined to the Board, the 2017 TTF charge focuses on building consensus for; a) a methodology of allocating obligations and assets (Task 1), b) a methodology for determining priority of infrastructure improvements and modification (Task 2), c) financing mechanisms (Task 3) and d) a form or structure for a transition entity (Task 4). The target date to receive consensus on Task 1 is July 1, 2017, Task 2 by August 1, 2017, Task 3 by September 1, 2017 and Task 4 by October 1, 2017. The goal is to bring a consensus recommendation to the FORA Board by December 8, 2017. It is anticipated that once approved by the Board, these consensus items will form the basis for a Transition Plan Agreement which will be drafted and finalized between the various parties during 2018 to coincide with the Local Agency Formation Commission process.

At the May 9, 2017 meeting the TTF was presented with opportunity to form consensus on a set of Goals to accomplish in the transition plan. Predominantly, these goals are comparable to those set by both the FORA Board and codified in the Implementation Agreements. Additionally, on May 9, 2017, the TTF was presented with potential alternatives to calculate the fair and equitable share of outstanding obligations and assets. These potential alternatives included calculation of a percentage share based upon New Residential Development, Future Buildout, Water Allocation, Acreage, and Voting Percentage. Collectively, the goals and methodology of allocating obligations and assets form **Task 1**. The TTF was also presented with initial information regarding **Task 2** utilizing the on-site and off-site transportation as an example. It was explained that most likely the Regional Transportation portion of the FORA capital improvement program would be returned to Transportation Agency of Monterey County ("TAMC"), water to Marina Coast Water District and Monterey Regional Water Pollution Control Agency and Habitat to the Habitat Cooperative. How these handoffs occur and how they may be fairly and equitably financed will be addressed in Task 3. The project list was presented with anticipated lead agency assignments as well as how to apply the proposed percentage methodology to determine contributions. At the May 9, 2017 meeting, staff was directed to bring back

additional information and no consensus was reached on the presentation. The TTF materials for the May 9, 2017 meeting can be found on the FORA webpage at: http://www.fora.org/TTF/Presentations/TTF_Presentation_050917.pdf.

At the May 24, 2017 meeting, the TTF was again provided opportunity to form consensus on a set of "policy" Goals to accomplish the transition plan. Additional information and considerations were provided to the TTF in forming consensus and selecting a methodology by which to allocate outstanding obligations/liabilities post FORA. Some of those considerations included both elaboration on the source and definition of the concept of **Fair and Equitable** (as outlined in the FORA Act and the Implementation Agreements) and what that means in the context of the transition plan for FORA. The concept of **Revenue sharing** was also outlined as described in state legislation (FORA Act). During those discussions and prior to the meeting, TAMC representatives requested the floor to present information on its role and ability to manage, Regional, on-site and off-site roadway projects utilizing a nexus analysis – which was accepted. TAMC noted that a new regional impact fee or a new fee based upon nexus **could not** be applied to already approved and entitled development. Information was presented that the most recent Transportation Study prepared and managed by TAMC and approved by the TAMC Board indicates that utilizing a nexus approach is substantially higher (\$203M) than FORA's current capped share of (\$130M). TAMC staff noted that the actual cost and numbers are yet to be finalized but will be in a future study. Nonetheless, certain TTF members requested that TAMC make a nexus presentation on roadway projects within the FORA Transportation network at the June meeting. TTF members made comments that perhaps a new goal should be added about meeting the regional affordable housing target and much discussion was had about the concept of Fair and Equitable and how it is applied at the former Fort Ord vs. in other fee structures. Multiple members made comments that perhaps a FORA lite extension might be in order – contrasting the amount of effort required to replace the structures in place. No consensus was formed at this meeting and requests were made to bring back additional information. The materials for the May 24, 2017 meeting can be found on the FORA web page at: http://www.fora.org/TTF/Presentations/TTF_Presentation_052417.pdf

The next TTF meeting is currently set for June 14, 2017 at 3:00 p.m.

FISCAL IMPACT:

Reviewed by the FORA Controller 

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

COORDINATION:

TTF

Prepared by 
D. Steven Endsley

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Legislative Support Update

Meeting Date: June 9, 2017

Agenda Number: 7e

INFORMATION/ACTION

RECOMMENDATION:

Receive an update on additional Legislative Items proposed by Board of Director members

BACKGROUND/DISCUSSION:

At the May 12, 2017 Board meeting, inquiries were received concerning Budget Bill 502 (Trailer language regarding Department of Industrial Relations) was not included on the proposed positions on State Legislation list approved by the Legislative Committee. The proposed position list has been updated and is provided as **Attachment A**. Also, additional questions were raised about Assembly Bills (AB) and Senate Bill (SB), AB59, AB73 and SB62 in regards to whether or not FORA should support as opposed to the proposed position to watch. As of May 12, 2017, AB 59 failed to meet a deadline and therefore will not be acted upon this legislative year. AB73 was amended on May 2, 2017 and was re-referred to the Appropriations Committee. As of May 26, 2017, SB 62 moved out of the Appropriations Committee suspension file and was scheduled for the Senate second reading file.

The legislative session with elected State legislators is proposed to be held at the July 14, 2017 Board meeting.

FISCAL IMPACT:

Reviewed by the FORA Controller 

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

COORDINATION:

Legislative Committee

Prepared by 
Dominique L. Jones

Approved by 
Michael A. Houlemard, Jr.

Fort Ord Reuse Authority State Legislation Proposed Position List

[AB 18](#) ([Garcia, Eduardo](#) D) California Clean Water, Climate, Coastal Protection, and Outdoor Access for All Act of 2018.

Introduced: 12/5/2016

Last Amended: 2/23/2017

Status: 3/20/2017-Read third time. Urgency clause adopted. Passed. Ordered to the Senate. In Senate. Read first time. To Com. on RLS for assignment.

Location: 3/20/2017-S. DESK

Summary: Would enact the California Clean Water, Climate, Coastal Protection, and Outdoor Access for All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$3,105,000,000 pursuant to the State General Obligation Bond Law to finance a clean water, climate, coastal protection, and outdoor access for all program. This bill contains other related provisions.

Position: Support

[AB 30](#) ([Caballero](#) D) Environmental quality: judicial review: strip mall conversion housing projects.

Introduced: 12/5/2016

Last Amended: 4/3/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was H. & C.D. on 5/4/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-A. 2 YEAR

Summary: CEQA requires that an action or proceeding to attack, review, set aside, void or annul a determination, finding, or decision of a public agency, as provided, on the grounds of noncompliance with its provisions be brought in accordance with specified law governing administrative mandamus. CEQA requires a court to make specified orders if it finds that any determination, finding, or decision of a public agency has been made without compliance with CEQA, but prohibits a court from enjoining certain projects unless the court makes specified findings. This bill would similarly prohibit a court from enjoining a qualified strip mall conversion housing projects, as defined, unless the court makes specified findings.

Position: Support

[AB 59](#) ([Thurmond](#) D) Local Housing Trust Fund Matching Grant Program.

Introduced: 12/7/2016

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was H. & C.D. on 1/19/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-A. 2 YEAR

Summary: Under the Local Housing Trust Fund Matching Grant Program, the department is authorized to make matching grants available to cities, counties, cities and counties, and existing charitable nonprofit organizations that have created, funded, and operated housing trust funds. This bill would recast these provisions to instead authorize the department to make grants to eligible recipients, defined as cities that meet specified criteria and charitable nonprofit organizations organized under certain provisions of the Internal Revenue Code that apply jointly with a qualifying city, that have created or are operating or will operate housing trust funds.

Position: Watch

[AB 71](#) ([Chiu](#) D) Income taxes: credits: low-income housing: farmworker housing.

Introduced: 12/16/2016

Last Amended: 3/2/2017

Status: 3/8/2017-From committee: Do pass and re-refer to Com. on REV. & TAX. (Ayes 5. Noes 2.) (March 8). Re-referred to Com. on REV. & TAX.

Location: 3/8/2017-A. REV. & TAX

Summary: Would, under the law governing the taxation of insurers, the Personal Income Tax Law, and the Corporation Tax Law, for calendar years beginning in 2018, increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects to \$300,000,000, as specified, and would allocate to farmworker housing projects \$25,000,000 per year of that amount. The bill would delete that special needs exception and authorization to request state credits provided the applicant is not requesting a 130% basis adjustment for purposes of the federal credit amount.

Position: Support

[AB 73](#) ([Chiu](#) D) Planning and zoning: housing sustainability districts.

Introduced: 12/16/2016

Last Amended: 5/2/2017

Status: 5/26/17 - From committee: Do pass as amended.

Location: 5/26/2017-A. APPR.

Summary: Would authorize a city, county, or city and county, including a charter city, charter county, or charter city and county, to establish by ordinance a housing sustainability district that meets specified requirements, including authorizing residential use within the district through the ministerial issuance of a permit. The bill would authorize the city, county, or city and county to apply to the Office of Planning and Research for approval for a zoning incentive payment and require the city, county, or city and county to provide specified information about the proposed housing sustainability district ordinance. The bill would require the office to approve a zoning incentive payment if the ordinance meets the above-described requirements and the city's housing element is in compliance with specified law.

Position: Watch

[AB 190](#) ([Steinorth](#) R) Local government: development permits: design review.

Introduced: 1/19/2017

Last Amended: 3/27/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 1/30/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-A. 2 YEAR

Summary: Would require a lead agency, where an ordinance requiring design review applies to a development project, to approve or disapprove the design of the development project within 30 days of the application being determined to be complete, as specified. The bill would provide, that if the lead agency has not approved or disapproved the design of the development project within that 30-day period, the project is deemed to be approved on the 31st day.

Position: Watch

[AB 455](#) ([Voepel](#) R) Veterans buildings, memorials, and cemeteries.

Introduced: 2/13/2017

Status: 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/13/2017)(May be acted upon Jan 2018)

Location: 5/12/2017-A. 2 YEAR

Summary: Current law authorizes the establishment and operation of memorial districts to provide and maintain memorial halls, assembly halls, buildings, or meeting places for the use of veteran soldiers, sailors, and marines who have honorably served the United States in any wars or campaigns, or for the use of patriotic, fraternal, or benevolent associations of those persons, as specified. This bill would

state the intent of the Legislature to enact legislation relating to the building of veterans memorials, buildings, and cemeteries.

Position: Support

[AB 577](#) ([Caballero](#) D) Disadvantaged communities.

Introduced: 2/14/2017

Last Amended: 3/9/2017

Status: 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/27/2017)(May be acted upon Jan 2018)

Location: 4/28/2017-A. 2 YEAR

Summary: Current law defines a disadvantaged community as a community with an annual median household income that is less than 80% of the statewide annual median household income for various purposes, that include, but are not limited to, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, eligibility for certain entities to apply for funds from the State Water Pollution Cleanup and Abatement Account, and authorization for a community revitalization and investment authority to carry out a community revitalization plan. This bill would expand the definition of a disadvantaged community to include a community with an annual per capita income that is less than 80% of the statewide annual per capita income.

Position: Support

[AB 696](#) ([Caballero](#) D) Department of Transportation: Prunedale Bypass: County of Monterey: disposition of excess properties.

Introduced: 2/15/2017

Status: 4/5/2017-In committee: Set, first hearing. Referred to suspense file.

Location: 3/20/2017-A. APPR.

Summary: Would require the net proceeds from the sale of any excess properties originally acquired for a replacement alignment for State Highway Route 101 in the County of Monterey, known as the former Prunedale Bypass, to be reserved in the State Highway Account for programming and allocation by the commission, with the concurrence of the Transportation Agency for Monterey County, for other state highway projects in the State Highway Route 101 corridor in that county. The bill would exempt these funds from the distribution formulas otherwise applicable to transportation capital improvement funds.

Position: Support

[SB 2](#) ([Atkins](#) D) Building Homes and Jobs Act.

Introduced: 12/5/2016

Last Amended: 3/23/2017

Status: 4/3/2017-April 3 hearing: Placed on APPR. Suspense file.

Location: 4/3/2017-S. APPR. SUSPENSE FILE

Summary: Would enact the Building Homes and Jobs Act. The bill would make legislative findings and declarations relating to the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, per each single transaction per single parcel of real property, not to exceed \$225.

Position: Support

[SB 3](#) ([Beall](#) D) Affordable Housing Bond Act of 2018.

Introduced: 12/5/2016

Last Amended: 3/28/2017

Status: 4/3/2017-April 3 hearing: Placed on APPR. Suspense file.

Provided by JEA & Associates

Last Updated: May 26, 2017

Location: 4/3/2017-S. APPR. SUSPENSE FILE

Summary: Would enact the Affordable Housing Bond Act of 2018, which, if adopted, would authorize the issuance of bonds in the amount of \$3,000,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching grant programs, as provided.

Position: Support

[SB 5](#) ([De León](#) D) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018.

Introduced: 12/5/2016

Last Amended: 5/10/2017

Status: 5/15/2017-Action from APPR: To APPR. SUSPENSE FILE.

Location: 5/15/2017-S. APPR. SUSPENSE FILE

Summary: Would enact the California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018, which, if approved by the voters, would authorize the issuance of bonds in an amount of \$3,500,000,000 pursuant to the State General Obligation Bond Law to finance a drought, water, parks, climate, coastal protection, and outdoor access for all program. This bill contains other related provisions.

Position: Support

[SB 35](#) ([Wiener](#) D) Planning and zoning: affordable housing: streamlined approval process.

Introduced: 12/5/2016

Last Amended: 4/4/2017

Status: 5/11/2017-May 15 hearing postponed by committee.

Location: 5/1/2017-S. APPR.

Summary: The Planning and Zoning Law requires a planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs. This bill would require the planning agency to include in its annual report specified information regarding units of housing, including rental housing and housing designated for homeownership, that have secured all approvals from the local government and special districts needed to qualify for a building permit.

Position: Watch

[SB 62](#) ([Jackson](#) D) Affordable Senior Housing Act of 2017.

Introduced: 12/22/2016

Last Amended: 4/19/2017

Status: 5/25/17 From committee: Do pass as amended. (Ayes 6. Noes 0.) (May 25).

Calendar: 5/26/2017 #115 SENATE SEN SECOND READING FILE - SENATE BILLS

Summary: Would enact the Affordable Senior Housing Act of 2017, which would establish the Affordable Senior Housing Program within GO-Biz, as part of the Economic Revitalization Act. The bill would declare that the purpose of this program is to guide and serve as a catalyst for the development of affordable senior housing dwelling units within this state and would require the director of GO-Biz to undertake various actions in implementing this program.

Position: Watch

[SB 231](#) ([Hertzberg](#) D) Local government: fees and charges.

Introduced: 2/2/2017

Last Amended: 4/19/2017

Status: 4/27/2017-Read third time. Passed. (Ayes 23. Noes 10.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

Location: 4/27/2017-A. DESK

Summary: Articles XIIC and XIID of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Current law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIIC and XIID of the California Constitution and defines terms for these purposes. This bill would define the term "sewer" for these purposes. The bill would also make findings and declarations relating to the definition of the term "sewer" for these purposes.

Position: Support

[SCA 4](#) ([Hertzberg](#) D) Water conservation.

Introduced: 2/2/2017

Status: 2/16/2017-Referred to Com. on RLS.

Location: 2/2/2017-S. RLS.

Summary: The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented. This measure would declare the intent of the Legislature to amend the California Constitution to provide a program that would ensure that affordable water is available to all Californians and to ensure that water conservation is given a permanent role in California's future.

Position: Support

[Budget Item: Trailer Bill Language Labor and Transportation 502 Public Works Enforcement](#)

Introduced: 3/17/2017

Summary: The proposed budget trailer bill would increase the existing SB 854 contractor registration threshold from \$1,000 to \$25,000 for new construction and \$15,000 for maintenance. DIR's proposal would fine contractors and subcontractors who do not register with a penalty of \$100 per day, up to \$8,000.

Position: Watch

FORT ORD REUSE AUTHORITY BOARD REPORT	
CONSENT AGENDA	
Subject:	Public Correspondence to the Board
Meeting Date:	June 9, 2017
Agenda Number:	7f
	INFORMATION/ACTION

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

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

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

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Executive Officer Travel Report

Meeting Date: June 9, 2017

Agenda Number: 7g

INFORMATION/ACTION

RECOMMENDATION:

Receive a report from the Executive Officer

BACKGROUND/DISCUSSION:

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

UPCOMING TRAVEL (previously approved)

Dates: June 13-15, 2017

Location: Washington D.C.

Purpose: Department of Defense Office of Economic Adjustment (OEA) Base Re-Alignment and Closure Discussion Session. Trip may be coordinated with Association of Defense Communities travel dates later in June.

Attendees: Michael A. Houlemard, Jr.

Note: *Travel arrangements and accommodations funded by OEA*

Dates: June 19-21, 2017

Location: Washington D.C.

Purpose: Association of Defense Communities - 2017 Annual Summit

Attendees: Michael A. Houlemard, Jr., Cynthia Garfield, Dennis Alexander, and Mary Adams

Dates: June 25-27, 2017

Location: Newport Beach, CA

Purpose: California Special Districts Association - General Manager Leadership Summit

Attendee: Michael A. Houlemard, Jr.

Prepared by 
Dominique L. Jones

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Transaction Worksheet Reporting	
Meeting Date:	June 9, 2017	INFORMATION/ACTION
Agenda Number:	7h	

RECOMMENDATION(S):

Receive a transaction worksheet summary report.

BACKGROUND/DISCUSSION:

Implementation Agreements between FORA and Jurisdictions were entered into 2001. Part of each of the agreements included the requirement that Jurisdictions complete a mandatory property sale/lease Transaction Worksheet. The purpose is to establish a framework to support Jurisdiction land transactions and offer documentary details needed by the Jurisdiction and FORA compiled in a single location. This allows property transfers and consistency determinations to proceed efficiently and completely. The agreement also states that, when a Jurisdiction receives sale or lease proceeds, 50% of the amount is paid to FORA.

The process requires Jurisdictions to provide FORA with a Transaction Worksheet 45 days before approval of a property lease or sale. The Transaction Worksheet delineates information regarding proposed land sales/leases such as; contact information, schedule/timeframe for requesting FORA Consistency Determination, property valuation/appraisal, transaction description, estimated cost of sale/lease, and final transaction costs.

In FY 2016/2017, FORA received and processed 3 Transaction Worksheets. One from the City of Seaside and two from the County of Monterey (**Attachment A**). Two transactions were completed; however, the Ord Market Lease Transaction Worksheet is pending.

FISCAL IMPACT:


Reviewed by FORA Controller 

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

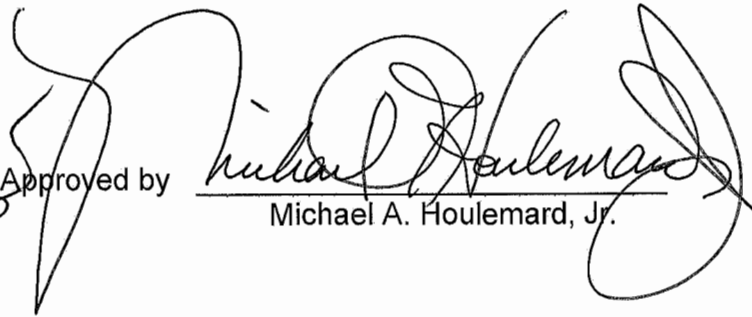
COORDINATION:

County of Monterey, City of Seaside, Authority Counsel

Prepared by


Ikuyo Yoneda-Lopez

Approved by


Michael A. Houlemard, Jr.

**FY 2016/2017
Transaction Worksheets**

Project Name	Army Corps of Engineers Parcel	Jurisdiction	Transaction Type	FORA 50% share
Santa Margarita ASR Site Lease	E34	City of Seaside	Lease	\$5,840/year
CSUMB Roundabout (Easement Grant)	E8a.1.1.2	County of Monterey	Easement Grant	Improved circulation / access
Ord Market lease	E4.6.2 & E8a.1.2	County of Monterey	Lease	\$3,585.35/month

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject:	Adopt Resolution rescinding June 10, 2011 Memorandum of Understanding Approval	
Meeting Date:	June 9, 2017	INFORMATION/ACTION
Agenda Number:	7i	

RECOMMENDATION:

1. Adopt attached Resolution 17-xx rescinding approval of Memorandum of Agreement between County of Monterey, Redevelopment Agency of Monterey, California State University Monterey Bay, and Monterey Peninsula College (**Attachment A**); and
2. Authorize payment of Settlement amounts from Community Facilities District (CFD) fees


BACKGROUND/DISCUSSION:

On June 10, 2011, the FORA Board authorized the Executive Officer to execute a "Memorandum of Agreement Among and Between the Fort Ord Reuse Authority, California State University Monterey Bay, the Redevelopment Agency of the County of Monterey, the County of Monterey, and Monterey Peninsula College Concerning the Alignment of Eastside Parkway on the Former Fort Ord" (the "MOA"). A copy of the June 10, 2011 Board report and draft MOA authorized by the Board is attached as **Exhibit 1**. The County Board of Supervisors approved the County of Monterey's execution of the draft MOA on October 11, 2011.

No other party executed the MOA. The approval of the MOA by the FORA Board was not intended to be an approval of the Eastside Parkway project. In fact, in March 2011, prior to execution of the MOA, the FORA Board amended a contract with Whitson Engineers to include preliminary project environmental investigation through which a California Environmental Quality Act ("CEQA") Preliminary Initial Study Checklist was prepared recommending an Environmental Impact Report (EIR). FORA committed to that process. Notwithstanding, in November 2011, FORA and County MOA approvals were challenged under CEQA by Keep Fort Ord Wild, in a case entitled *Keep Fort Ord Wild v. Fort Ord Reuse Authority, et al.* (Monterey County Superior Court Case No. M114961) (the "Action"). On March 14, 2017, the trial court entered Judgment in the Action, by which it determined that FORA and the County violated CEQA by failing to complete and consider environmental review prior to approving the MOA for the proposed Eastside Parkway alignment and creating rights of way for that alignment. The trial court further issued a directive requiring the County and FORA to set aside their respective approvals of the MOA.

The County considers the MOA moot and ineffective, but nonetheless acted to rescind its October 2011 approval of the MOA on May 23, 2017. FORA likewise considers the MOA moot and ineffective as it can never be executed by the parties, but is required by the directive of the trial court to rescind its approval of the MOA. FORA's rescission of the approval of the MOA is also a term of a settlement of the Action. FORA staff requests Board action to rescind FORA's approval of the MOA, and authority to pay the settlement amount from fees collected pursuant to the CFD.

FISCAL IMPACT:

Reviewed by the FORA Controller 
Staff time for the Legislative Committee is included in the approved annual budget.

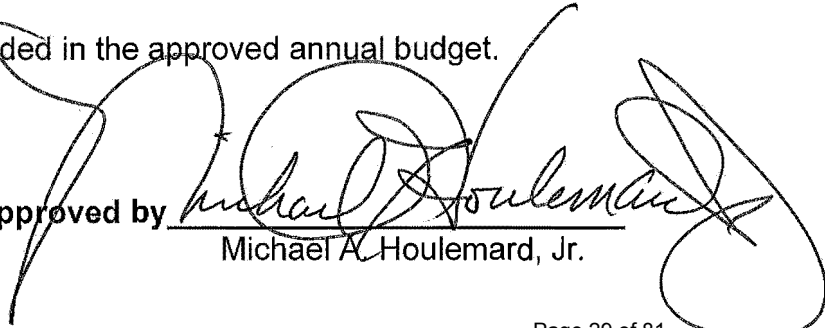
COORDINATION:

Authority Counsel

Prepared by


Sheri L. Damon

Approved by


Michael A. Houlemard, Jr.

**FORT ORD REUSE AUTHORITY
RESOLUTION NO. 17-xx**

**A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY
SET ASIDE ITS JUNE 10, 2011 APPROVAL OF MEMORANDUM OF AGREEMENT CONCERNING
EASTSIDE PARKWAY ALIGNMENT**

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

- A. WHEREAS on or about June 10, 2011, the FORA Board authorized the Executive Officer to execute a "Memorandum of Agreement Among and Between the Fort Ord Reuse Authority, California State University Monterey Bay, the Redevelopment Agency of the County of Monterey, the County of Monterey, and Monterey Peninsula College Concerning the Alignment of Eastside Parkway on the Former Fort Ord" (the "MOA"); and
- B. WHEREAS, the County of Monterey authorized execution of the MOA on or about October 10, 2011; and
- C. WHEREAS, the MOA was a multi-party agreement, but was never executed by any other party besides FORA and the County; and
- D. WHEREAS, on or about November 10, 2011, Keep Fort Ord Wild filed a Petition for Writ of Mandate in a case entitled *Keep Fort Ord Wild v. Fort Ord Reuse Authority, et al.* (Monterey County Superior Court Case No. M114961) (the "Action"), pursuant to which it claimed that FORA and the County's approvals of the MOA violated the California Environmental Quality Act ("CEQA"), and asked the Court to direct FORA and the County to set aside their approvals of the MOA; and
- E. WHEREAS, the FORA Board did not intend to approve the Eastside Parkway roadway, or any specific alignment thereof, by its June 10, 2011 action; and
- F. WHEREAS, the FORA Board has always intended to comply with CEQA with respect to its actions relating to the proposed Eastside Parkway, including but not limited to having approved an amended agreement with Whitson Engineers in March 2011 to include performance of preliminary environmental investigation relating to the project, and by which process a Preliminary Initial Study Checklist was prepared recommending that an Environmental Impact Report (EIR) be prepared; and
- G. WHEREAS, on March 14, 2017, the Court entered a Judgment Granting the Petition for Writ of Mandate, by which the Court directed the Clerk of the Superior Court to issue the Writ ordering Respondents to set aside their respective approvals of the MOA and requiring Respondents to comply with CEQA prior to considering the Eastside Parkway project; and
- H. WHEREAS, on May 12, 2017, FORA authorized settlement of the action with the Keep Fort Ord Wild foregoing its right to appeal the Judgment and Writ, and which settlement requires FORA to comply with the Writ.

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

1. That the MOA is moot and cannot be executed.
2. That the Board's prior action in June 10, 2011 authorizing execution of the MOA, and FORA's subsequent execution thereof shall be set aside and rescinded; and
3. To direct FORA staff to continue with the environmental review process for the Eastside Parkway project.

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

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Ralph Rubio, Chair

ATTEST:

Michael A. Houlemard, Jr., Clerk

DRAFT

FORT ORD REUSE AUTHORITY BOARD REPORT

OLD BUSINESS

Subject:	Eastside Parkway – Memorandum of Agreement	
Meeting Date:	June 10, 2011	ACTION
Agenda Number:	4c	

RECOMMENDATION:

Authorize the Executive Officer to execute the Memorandum of Agreement concerning Eastside Parkway alignment ("MOA") (**Attachment A**), as to form.

BACKGROUND:

In January 2010, the Fort Ord Reuse Authority ("FORA") received a \$460,000 grant award from the Office of Economic Adjustment ("OEA") to conduct California Central Coast Veterans Cemetery ("CCCVC") Infrastructure Planning. FORA distributed a request for proposals to qualify consultants to compete for this work. A selection panel reviewed six proposals and unanimously selected Whitson to complete this work. The FORA Board authorized the Agreement with Whitson on May 14, 2010. As a portion of their scope of services, Whitson refined the preliminary road design work and developed a conceptual alignment for Eastside Parkway as a part of the CCCVC planning.

Whitson presented information regarding their CCCVC planning work at the October 8, 2010 FORA Board meeting. Some specific deliverables included a draft conceptual roadway centerline alignment study map with a final map to be completed once Monterey Peninsula College ("MPC") and California State University Monterey ("CSUMB") confirm the proposed alignment or provide feedback. To formalize agreement on the roadway alignment, FORA drafted the MOA, which, once approved, would allow FORA to transfer future Eastside Parkway Rights of Way to the County of Monterey and allow construction of the road to proceed.

DISCUSSION:

In July 2010, the FORA Board discussed moving the Eastside Parkway project forward in the event there was an opportunity for State or Federal grants that could support the roadway. Also, at the request of the County of Monterey, FORA staff worked with the Veteran's Cemetery, Monterey Horse Park, CSUMB, and MPC to secure a roadway alignment that sets boundaries and parameters for each of these important projects to move ahead. The formal design process will aid all these projects. The FORA Board adopted the FY 2010/2011 CIP in July 2010 which placed Eastside Parkway in a priority position for funding. FORA staff met with Monterey County Redevelopment Agency ("MCRA") staff, who secured the initial plan line for Eastside Parkway, to commence planning discussions. MCRA staff will work closely with FORA staff and Whitson during the design/engineering to ensure the final plans and specifications integrate appropriate appurtenances. Execution of the MOA is a necessary first step before detailed design of Eastside Parkway can begin in earnest. MPC sent recent correspondence regarding their review of the proposed roadway alignment (**Attachment B**).

FISCAL IMPACT:

Reviewed by FORA Controller M.F. for I.B.

Staff time related to this item is included in the FY 10-11 budget.

COORDINATION:

Administrative Committee, Executive Committee, MCRA, CSUMB, MPC, CCCVC

Prepared by Jonathan Garcia

Reviewed by Steve Endsley

Approved by Michael A. Houlemard, Jr.

Attachment A to Item 4c
FORA Board Meeting, 06/10/11

**MEMORANDUM OF AGREEMENT
AMONG AND BETWEEN
THE FORT ORD REUSE AUTHORITY, CALIFORNIA STATE UNIVERSITY
MONTEREY BAY, THE REDEVELOPMENT AGENCY OF THE COUNTY OF
MONTEREY, THE COUNTY OF MONTEREY, AND MONTEREY PENINSULA
COLLEGE CONCERNING THE ALIGNMENT OF EASTSIDE PARKWAY ON THE
FORMER FORT ORD**

THIS AGREEMENT is made and signed on this ____ day of _____, 2011, by and among the FORT ORD REUSE AUTHORITY (hereinafter referred to as “FORA”), CALIFORNIA STATE UNIVERSITY MONTEREY BAY (hereinafter referred to as “CSUMB”), THE REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY (hereinafter referred to as “AGENCY”), the COUNTY OF MONTEREY (hereinafter referred to as “COUNTY”), AND MONTEREY PENINSULA COLLEGE (hereinafter referred to as “MPC”) (with FORA, CSUMB, AGENCY, COUNTY, and MPC each being from time to time hereinafter referred to as “Party”, and together being from time to time collectively hereinafter referred to as “Parties”).

RECITALS

A. In June 1997, the FORA Board of Directors adopted a Final Environmental Impact Report (hereinafter referred to as “FEIR”) and a Fort Ord Base Reuse Plan (hereinafter referred to as “BRP”). The BRP included the designation of a roadway corridor called “Eastside Road”, as shown on Figures 4.2-2, 4.2-3 and 4.2-5 of the BRP Reuse Plan Element, from Gigling Road to Imjin Road.

B. The Eastside Road is a “base-wide mitigation” for implementation of the entire development program in the Ft Ord Base Reuse Plan. The road is required in order to mitigate transportation impacts of developments which have already occurred, which have been approved and not yet constructed, and which may be approved in the future in accordance with the approved Base Reuse Plan.

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C. The objective of the road is to create a north south connection through the former Fort Ord.

D. Approximately one third of property on the former Fort Ord is designated for development under the Base Reuse Plan and mitigated for by the Habitat Conservation Plan. This limited quantity of developable acreage has an associated value.

E. The road alignment design criteria attempted to place the road equally on each jurisdiction’s property since the development land has value and the right of way for the road will be an encumbrance on each jurisdiction’s property.

Draft FORA Admin Committee 4/13/11 County Counsel Comments May 20, 2011 – Received
June 2, 2011

B.F. The 2005 FORA Fee Reallocation Study prepared by the Transportation Agency for Monterey County created a new general alignment for the Eastside Road project from Eucalyptus Road to Intergarrison Road.

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C.G. After 2005, the project name for “Eastside Road” changed to “Eastside Parkway”.

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~~The Eastside Parkway is a key circulation element to the BRP and provides important mitigation to alleviate increased traffic between the Monterey Peninsula and the Salinas Valley.~~
EXPAND

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D.H. In January 2010, FORA received a grant from the Department of Defense’s Office of Economic Adjustment (“OEA”) to perform infrastructure studies in the vicinity of the future California Central Coast Veterans Cemetery. One component of the grant was to produce a centerline map for the future alignment of the Eastside Parkway project.

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E.I. FORA has a legislated expiration date of June 30, 2014. Therefore, COUNTY is the logical entity to be granted rights of way (“ROW”) for the construction of Eastside Parkway, should FORA authority not be extended.

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F.J. COUNTY will need to ~~obtain~~ receive ROW for future Eastside Parkway construction. The ROW for future alignment of Eastside Parkway would affect CSUMB, AGENCY, COUNTY, and MPC property since they are the designated recipients of these properties. The granting of ROW by CSUMB must comply with Education Code section 89048 and California Constitution Article 16, Section 6.

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G.K. FORA will own and ~~does own~~ properties that would be affected by the alignment of future Eastside Parkway. FORA will transfer these properties to the designated recipients, exclusive of the Eastside Parkway alignment, after receiving regulatory approval of environmental remediation.

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H.L. FORA, through its consultant Whitson Engineers, has prepared a proposed alignment for Eastside Parkway (hereinafter referred to as “Proposed Alignment”), as described in **Attachments A and B**, that would require COUNTY to ~~acquire~~ receive ROW ~~through~~ from future CSUMB, AGENCY, COUNTY, and MPC property. FORA held stakeholders meetings that included CSUMB, AGENCY, COUNTY, and MPC in August 2010 to request feedback on the Proposed Alignment.

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M. The Parties to this Agreement acknowledge that it is in each of the Parties’ interest to ensure the development of the Eastside Parkway, and that the Eastside Parkway provides mitigation for each Party’s anticipated and approved developments. The value of the Eastside Parkway to each Party’s development needs outweighs any land value that could be attributed to each Party’s share of the Proposed Alignment, if the Parties had owned the land prior to conveyance. Accordingly, no Party shall seek compensation for the conveyance of ROW for the Proposed Alignment from any other Party.

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1. It is the intention of the Parties to formalize the Proposed Alignment to advance the redevelopment program envisioned in the BRP and FEIR through mitigation of traffic impacts.

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**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES
HERETO AS FOLLOWS:**

1. Agreement to Grant ROW. Parties who will receive land along the Proposed Alignment agree to grant that ROW as described generally in **Attachment A** and more specifically in **Attachment B** will be granted to COUNTY at no cost to COUNTY, for the purposes of developing the road currently known as Eastside Parkway. In this agreement to grant ROW, the Parties understand that the ROW shall be up to 200 feet within the designated Army Corps of Engineers (“COE”) parcel L5.7 and 84 feet in all other affected designated parcels plus a minimum of 5 feet outside the grading daylight. When FORA has received regulatory approval of environmental remediation on CSUMB, AGENCY, COUNTY, and MPC properties along the proposed alignment (COE parcels L20.18, E18.1.2, E19a.5, E19a.1, E19a.3, S1.3.2, and L5.7) and when COE parcel L2.3 has conveyed from the U.S. Army to FORA, FORA will convey Eastside Parkway ROW within these parcels to COUNTY and the remaining property to the intended recipients. The actual date of property conveyance is undetermined, but is anticipated prior to 2015.
2. Agreement to assist grant application efforts. The construction of Eastside Parkway from Eucalyptus Road to Intergarrison Road is a project in the FORA Capital Improvement Program (“CIP”). The FORA CIP identifies the FORA Development Fee, FORA Community Facilities District Fee, FORA Tax Increment, Grants, Mitigation Fees, and Miscellaneous Revenues (Revenue Bonds, Interest) as funding sources for FORA CIP projects, including Eastside Parkway. FORA and/or COUNTY expect to apply for grants to potentially design and/or construct the Eastside Parkway project. These grants may require FORA and/or COUNTY to demonstrate title to or access rights to the Eastside Parkway project ROW. If required through grant applications, the Parties agree to assist FORA and/or COUNTY to secure evidence of title or access rights to the Eastside Parkway project ROW.
3. Costs. The parties shall not be required to incur expenses in cooperating with each other. Each Party agrees to pay any costs it incurs under this agreement.
4. Amendment by Written Recorded Instrument. This Agreement may be amended or modified in whole or in part, only by a written and recorded instrument executed by the parties.
5. Indemnity and Hold Harmless. Each Party hereto agrees to indemnify, defend and hold each other Party harmless from and against any loss, cost claim or damage directly related to such Party’s actions or inactions under this Agreement.
6. Governing Law. This Agreement shall be governed by and interpreted by and in accordance with the laws of the State of California.
7. Entire Agreement. This Agreement along with any exhibits and attachments hereto, constitutes the entire agreement between the parties hereto concerning the subject matter hereof.

8. Interpretation. It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that no party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.

9. Authority. Each signatory to this Agreement certifies that he or she has the lawful authority to execute this Agreement for and on behalf of the Party named herein.

10. Term. This Agreement will expire on December 31, 2025, if the ROW for the Proposed Alignment has not otherwise occurred. This term may not be extended absent separate negotiations and a separate fully executed written agreement.

DRAFT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set out opposite their respective signatures.

FORT ORD REUSE AUTHORITY

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

By: _____
Gerald D. Bowden, Esq., FORA Counsel

CALIFORNIA STATE UNIVERSITY MONTEREY BAY

Date: _____ By: _____
Kevin Saunders, Vice President for
Administration and Finance

APPROVED AS TO FORM:

By: _____
Carrie Rieth, CSU Attorney

REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY

Date: _____ By: _____

APPROVED AS TO FORM:

By: _____

COUNTY OF MONTEREY

Date: _____ By: _____

APPROVED AS TO FORM:

By: _____

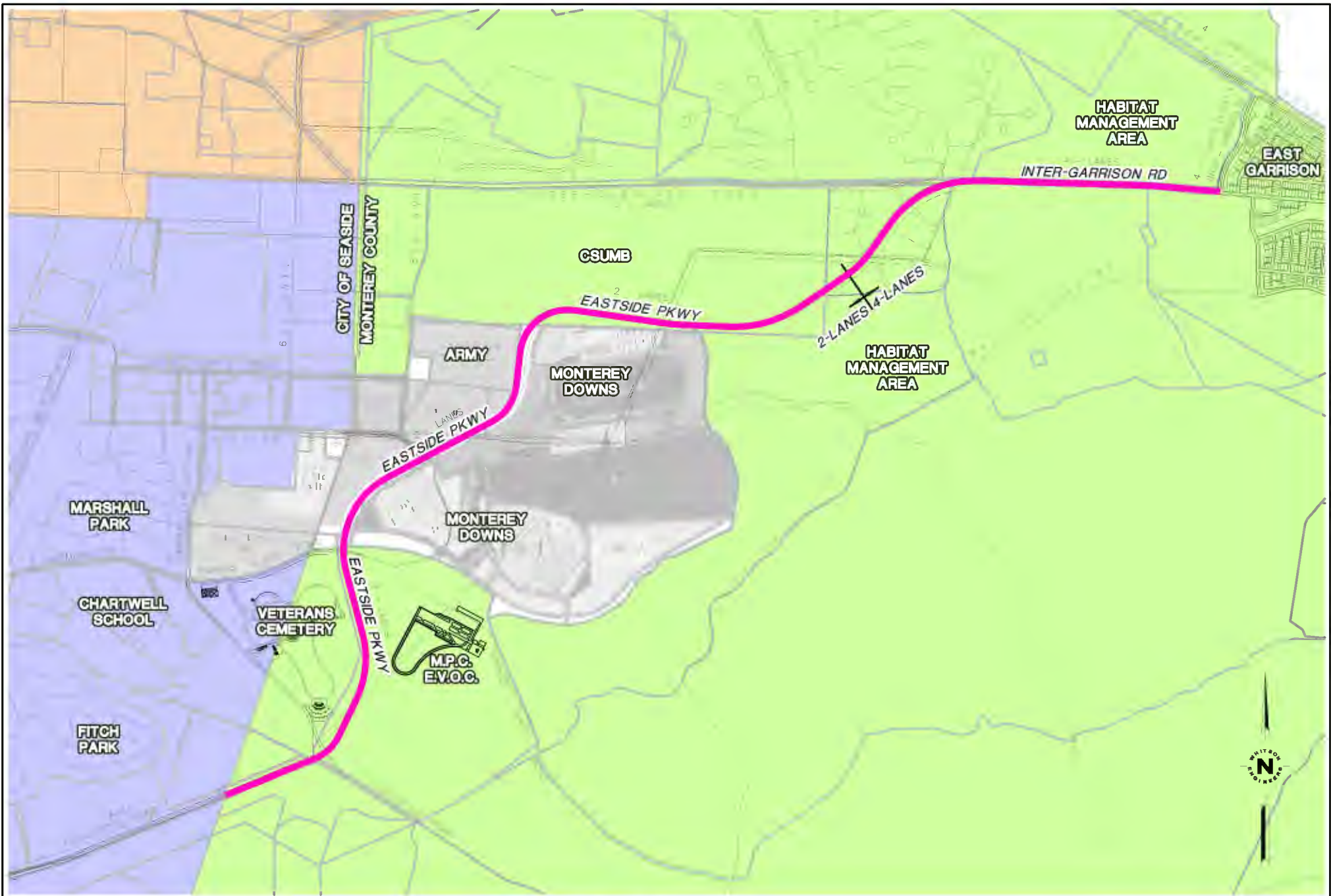
MONTEREY PENINSULA COLLEGE

Date: _____ By: _____

APPROVED AS TO FORM:

By: _____

DRAFT



ATTACHMENT 'A'



MONTEREY COUNTY

CALIFORNIA

PROPOSED EASTSIDE PARKWAY ALIGNMENT

DRAWING PATH: T:\Monterey Projects\2232\223201\CAD\Exhibits\Eastside Pkwy-MOA Attachment.dwg

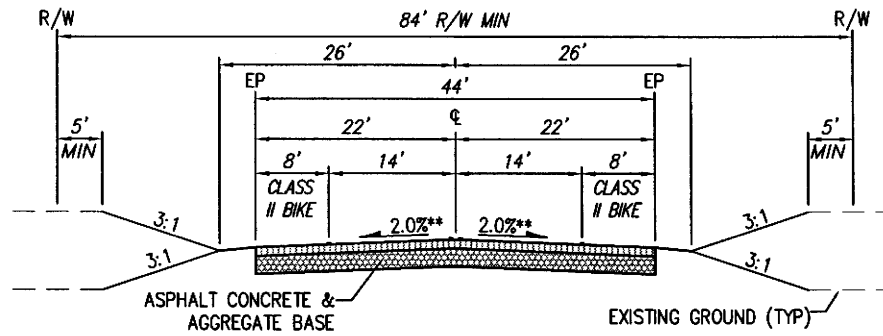
DATE: JUNE 2, 2011
 SCALE: 1" = 2,000'
 DRAWN: APH
 CHECKED: RPW

SHEET

1

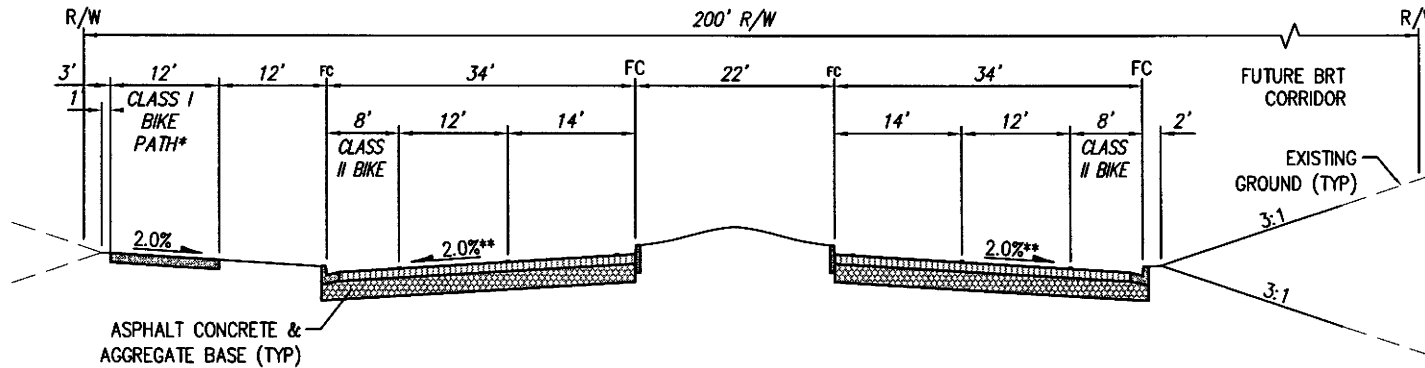
Page 39 of 81

OF 2



**TYPICAL 2-LANE SECTION
EASTSIDE PARKWAY**

** 2% CROSS SLOPE
TYPICAL FOR CROWNED
STREET SECTION.



**TYPICAL 4-LANE SECTION
EASTSIDE PARKWAY AND
INTER-GARRISON ROAD**

* BIKE PATH TO BE ALONG
MULTI-MODAL CORRIDOR

** 2% CROSS SLOPE
TYPICAL FOR CROWNED
STREET SECTION



ATTACHMENT 'B'

MONTEREY COUNTY

CALIFORNIA

PROPOSED EASTSIDE PARKWAY SECTIONS

DRAWING PATH: T:\Monterey Projects\2232\223201\CAD\Exhibits\Eastside Pkwy-MOA Attachment.dwg

DATE:	MAY 13, 2011
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CHECKED:	RPW
PROJECT No.:	2232.01

SHEET

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OF 2



May 31, 2011

Mr. Jonathan Garcia
Senior Planner
Fort Ord Reuse Authority
100 12th Street, Building 2880
Marina, CA 93933

RE: Eastside Road Alignment

Dear Mr. Garcia:

The Fort Ord Reuse Authority (FORA) has requested comments from Monterey Peninsula College (MPC) on a proposed Memorandum of Agreement (MOA) concerning the realignment of Eastside Parkway on the former Fort Ord. The MOA would require MPC to grant right of way for construction of Eastside Parkway; however, the college has several concerns regarding the proposed or preferred realignment referenced in the MOA.

As you are aware, the original alignment of Eastside Road between MPC's future property and the Veteran's Cemetery was determined in 2002 as a part of the resolution of the conflict between the County of Monterey and the college over the East Garrison parcels. In August 2010, FORA shared with MPC a different alignment for Eastside Road, a preferred alignment that shifted the roadway entirely upon MPC's parcel, taking up 10.9 acres and creating an isolated remainder parcel of 12.5 acres. In response to MPC's initial concerns, an alternate alignment was also provided by FORA. The alternate alignment shifts the roadway to the west, occupying 10.6 acres of MPC property, and results in a remnant parcel of 7.4 acres. MPC retained EMC Planning to lend their expertise in evaluating the impacts of the road realignment as well as the development potential of the property affected.

Our consultants analyzed both the preferred and alternate Eastside Road alignments. They have advised that both alignments are equally feasible with similar design properties. As a result of their findings and recommendations, the college has concluded the alternate alignment is preferred due to development area, access, and environmental concerns. The issues are summarized below:

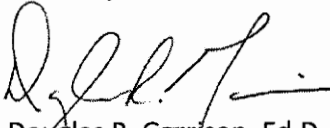
- **A potential buildable area is preserved.** An existing dirt road connects the Emergency Vehicle Operations Course area to Parker Flats Cut-off Road. A level and usable area just east of where this dirt road crosses under the high power lines provides a potential buildable location for MPC. This potential buildable area is within the preferred alignment for Eastside Road.

May 31, 2011
Mr. Jonathan Garcia
Page 2

- **A secondary access to MPC's Emergency Vehicle Operations Course/Fire Training Tower facility is possible.** Although the dirt road described above would no longer be connected to Parker Flats Cut-off due to Eastside Road, the dirt road also provides an opportunity for development of a secondary access to the EVOC site via an intersection with Eastside Road. Will the Eastside Road design parameters allow for access points between road intersections?
- **Less woodland habitat is disturbed.** The preferred alignment passes through a well-established and little-disturbed area of oak woodland east of the high power lines. The alternate alignment misses most of this wooded area and would mitigate public concerns over the destruction of oak woodlands. The preservation of more trees and vegetation may also serve to reduce the visibility of MPC's facility from Eastside Road.
- **The alternate alignment is farther from a wood rat nest, a state Species of Concern.** There is a very large Monterey dusky-footed wood rat nest in this area (within 200 feet of the proposed road alignment), measuring approximately 65 feet long, five feet high and eight feet wide. The wood rat nest was flagged, indicating that other biologists have noted its presence. Monterey dusky-footed wood rat is listed as a state Species of Concern.

We recognize the importance of Eastside Road to mitigate current and future development impacts at the former Fort Ord. At the same time, MPC has the responsibility of preserving the district's assets for educational uses and programs that will serve our students and community. We would welcome further discussion with you to work out a resolution that will address both of our interests and concerns. To that end, I will have staff contact you to arrange a meeting.

Sincerely,



Douglas R. Garrison, Ed.D.
Superintendent/President

cc: Stephen Ma, Vice President for Administrative Services

/vn

FORT ORD REUSE AUTHORITY BOARD REPORT

CONSENT AGENDA

Subject: Approve Contract Term Extensions	
Meeting Date: June 9, 2017	INFORMATION/ACTION
Agenda Number: 7j	

RECOMMENDATION:

Approve contract term extensions for Denise Duffy & Associates (DD&A) Oak Woodland Conservation Planning (**Attachment A**), Transportation Agency for Monterey County (TAMC) Reimbursement Agreement (**Attachment B**), and Michael Baker International, Inc. (MBI) (**Attachment C**).

BACKGROUND/DISCUSSION:

Several contracts are in need of contract term extensions to complete project scopes of work. These contract amendments (**Attachments A, B, and C**) do not increase the contract budgets. The recommended action would extend the DD&A and MBI contracts through the end of Fiscal Year 2017-18 and the TAMC contract through the end of 2017.

FISCAL IMPACT:

Reviewed by the FORA Controller 

COORDINATION:

DD&A, TAMC, MBI, Authority Counsel, Executive and Administrative Committees

Prepared by


Jonathan Brinkmann

Approved by


Michael A. Houlemard, Jr.

Agreement for Professional Services – Amendment #2

This is Amendment #2 to the Memorandum of Agreement (“AGREEMENT”) entered by the Fort Ord Reuse Authority, a corporation of the State of California (“FORA”) and Denise Duffy & Associates, Inc. (“CONSULTANT”) on May 23, 2016.

Except for the following amendments, all terms and conditions in the AGREEMENT remain the same:

- 1. TERM OF AGREEMENT. The term of this AGREEMENT shall be from May 31, 2016 to June 30, 2018, or until the maximum amount of the compensation is reached. The term of the AGREEMENT may be extended upon mutual concurrence and amendment to the AGREEMENT.

IN WITNESS WHEREOF, AUTHORITY and CONSULTANT execute this Amendment as follows:

AUTHORITY

CONSULTANT

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

By _____ Date _____
Denise Duffy
President

Approved as to form:

By _____ Date _____
Jon Giffen, Authority Counsel

**AMENDMENT #1 TO
THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY AND
THE FORT ORD REUSE AUTHORITY
FOR THE 2016 FORA FEE REALLOCATION STUDY UPDATE AGREEMENT
EXECUTED 10-9-15**

Except for the following amendmentS, all terms and conditions in the AGREEMENT remain the same:

- 4. TERM OF AGREEMENT. The term of this AGREEMENT shall begin upon the approval hereof by TAMC and FORA, whichever approval occurs last, and shall remain in force until December 31, 2017, unless extended by mutual consent of both parties.

IN WITNESS WHEREOF, TAMC and FORA execute this amendment as follows:

TAMC

FORA

By _____
Debra L. Hale
Executive Director
Dated: _____

By _____
Michael Houlemard
Executive Officer
Dated: _____

Approved as to form:

Approved as to from:

TAMC Counsel

Authority Counsel

By _____
Dated: _____

By _____
Dated: _____

Agreement for Professional Services – Amendment #2

This is Amendment #2 to the Memorandum of Agreement (“AGREEMENT”) entered by the Fort Ord Reuse Authority, a corporation of the State of California (“FORA”) and Michael Baker International, Inc. (“CONSULTANT”) on February 26, 2016.

Except for the following amendments, all terms and conditions in the AGREEMENT remain the same:

- 2. TERM OF AGREEMENT. The term of this AGREEMENT shall be from February 26, 2016 to June 30, 2018, or until the maximum amount of the compensation is reached. The term may be extended upon mutual concurrence and amendment to the AGREEMENT.

IN WITNESS WHEREOF, AUTHORITY and CONSULTANT execute this Amendment as follows:

AUTHORITY

CONSULTANT

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

By _____ Date

Name: _____

Title: _____

Approved as to form:

By _____
Jon Giffen, Authority Counsel Date

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject: Adopt Proposed 3% Cost of Living Adjustment – 2nd Vote

Meeting Date: June 9, 2017

Agenda Number: 8a

INFORMATION/ACTION

RECOMMENDATION:

2nd Vote - 3% Cost of Living Adjustment (COLA) for eligible employees

Eligibility: Must be full time, employed with FORA for the past 12 months

BACKGROUND:

At the May 12, 2017 meeting, the FORA Board reviewed the FY 17-18 preliminary budget recommended by the Finance and Executive Committees (**Attachment A**). The Board voted to approve the preliminary FY 17-18 budget excluding a 3% COLA. The motion to approve the 3% COLA failed to receive unanimous vote (9 ayes - 4 noes).

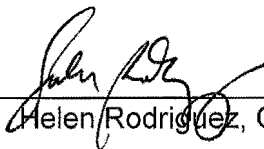
At the May 12, 2017 meeting, Board members raised questions about bargaining units and employee compensation and benefits. A memorandum addressing the questions raised at the Board meeting is attached as (**Attachment B**).

Section 2.02.040 of FORA's Master Resolution requires a 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. Thus, this item is being presented for a second vote.

COORDINATION:

Finance and Executive Committee

Prepared by


Helen Rodriguez, CPA

Approved by


Michael A. Houlemard, Jr.

COST OF LIVING ADJUSTMENT



Effective October 1, 2016, pursuant to independent human resources consultant and FC/EC recommendations, the FORA Board adjusted salary ranges to bring FORA employees to equity with other Monterey Bay Regional labor market agencies and affiliated jurisdictions. To sustain this equity, the preliminary budget includes scheduled salary step increases for eligible staff. Proposed Cost-of Living adjustment (COLA) is provided.

Cost-of-Living-Adjustment (COLA) 3.00%

CPI SF-Oakland-SJ report (available data thru 2/17): 3.44%

Effective date: July 1, 2017

Eligibility: Must be full-time, employed with FORA for the past 12 months.

FY 17-18 BUDGET IMPACT

\$ 64,427	
\$ 55,680	Salary increase
\$ 8,747	Benefits increase - impacts only CalPers and Wcomp
\$2,619,663	Total S & B/No COLA
\$2,684,090	Total S & B/With COLA
\$ 64,427	Difference

COLA Budget by Jurisdictions FY 17-18

	<u>%</u>
City of Carmel	3.00
City of Del Rey Oaks	pending
City of Monterey	2.00
County of Monterey	2.50
City of Marina	pending negotiations
City of Pacific Grove	pending negotiations
City of Salinas	2.50
City of Sand City	pending negotiations
City of Seaside	2.00
MCWD	3.00
TAMC	3.00
MRWPCA	3.00
LAFCO	3.00

Normally uses CPI
final year of 3 year agreement
effective 1/1/17



FORT ORD REUSE AUTHORITY

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

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

MEMORANDUM

Attachment B to Item 8a
FORA Board Meeting, 6/9/17

TO: FORA BOARD
THRU: Executive Officer, Michael Houlemard
FROM: Helen Rodriguez, Controller
Robert Norris, Human Resources/Principal Analyst
RE: EMPLOYMENT ISSUES
DATE: June 1, 2017

At the May 12, 2017 Board meeting questions were raised regarding bargaining units and employee compensation/benefits. The Executive Committee, at its May 31st meeting, requested a memo be attached to June 9, 2017 Board agenda item 8a – Approve Proposed 3% Cost of Living Adjustment – 2nd Vote. This memorandum provides responses.

1. *How many employees are subject to the Public Employees' Pension Reform Act of 2013 (PEPRA)?* 7 out of 16 Employees
2. *How many Classic employees?* 9 out of 16 employees.
3. *Does FORA have any employment contracts?* **Yes.**
 - a. The Executive Officer has an employment contract. Historically, multiple employees had employment contracts. Those contracts were eliminated on or about 2011 when the original salary survey was done.
 - b. The Master Resolution 2.04.040 provides that the Executive Officer is responsible for the efficient administration of all affairs of the Authority, including hiring and managing such staff as necessary to carry out the provisions of the Authority Act and this resolution.
4. *Does FORA have bargaining units and have they voted for the COLA?* FORA staff do not have a bargaining unit. FORA staff collectively and unanimously voted on the 3% COLA proposed as the Executive Officer indicated at the May Board meeting.
5. *Does PEPRA require Classic employees to contribute to their retirement?* In 2013, when PEPRA was enacted, it created two tiers of employees: Those hired before 2013 would continue to have benefits in place at the time of their hire, while those hired after 2013 would be required to contribute to their pension plans. This inequity was challenged in the Courts and the most recent ruling is that modification to existing pension benefits can be made as long as a reasonable pension results for the affected employee. CalPERS has rendered its interpretation and **does not require** modification in Classic employer paid contributions nor requires that Classic employees pay their share of contributions due to the new PEPRA rules. If there are bargaining units or employment contracts (such as many or most County employees), those contracts must be revised in accordance with PEPRA upon contract expiration. See CalPERS web pages: <https://www.calpers.ca.gov/docs/forms-publications/summary-pension-act.pdf>

FORA staff has confirmed this information with CalPERS by telephone.

Since the May Board meeting, staff received email questions regarding the salary survey. The following provides some background and additional information regarding those inquiries.

It was suggested that the study was improperly prepared and indicates that FORA staff are overpaid as compared to County employees. The email suggested that the study should have compared salaries in a year that FORA's longevity kicks in (Years 10 and 13) to make an accurate salary comparison. As noted above, almost half of FORA's employees were hired after 2013, and will not reach year 10 to qualify for a longevity increase to their base salary. Any employee hired after 2010 will not qualify for longevity. Our independent consultants considered this information in preparing their salary survey. Only five (5) employees currently qualify for longevity and prior to FORA's sunset in 2020, only one (1) more employee will qualify for longevity.

The following Salary Survey background and its concomitant update are provided for the Board's information. On December 16, 2011 the Board unanimously accepted the Base Salary Study's recommended salary range adjustments and approved the longevity policy. As explained by the Executive Officer at the time, in light of FORA's impending dissolution, employee retention and multiple job assignments needed to be addressed. The Board agreed unanimously. See link to Minutes of December 16, 2011 at http://www.fora.org/Board/2011/Brd%20mnts%20121611_.pdf.

In 2016, the Board/Finance Committee directed that the salary survey be updated. On September 9, 2016 the FORA Board accepted the 2016 Base Salary Update Study recommended salary range adjustments. FORA's longstanding employee compensation policy is to compensate at salary ranges slightly higher than the median of comparable/member agencies. It should be noted that both the Salary Study and its update were base salary studies and not total compensation studies that are normally part of collective bargaining negotiations. The FORA Finance Committee, Executive Committee, and Board actions were part of the effort to address salary benchmarks with the surrounding agencies with a longevity policy adoption to retain employees in an agency facing a legislative sunset.

Board members have expressed concerns about the clarity of the Board's authority with respect to employee compensation. The FORA Board retains authority over employee salary ranges and benefits. The process for considering these are policy level determinations that the FORA Board should separately agendaize if there is a desire to make adjustments. On matters of employee compensation packages, the Executive Committee advises the Board.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject: Capital Improvement Program

Meeting Date: June 9, 2017

Agenda Number: 8b

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Second Vote: Approve Option B 'fund local transportation projects first' for use as the updated CIP transportation baseline in the 2017 FORA Fee Reallocation Study and accept the 2017 FORA Fee Reallocation Study prepared by Transportation Agency for Monterey County (TAMC) (**Attachment A**).
- ii. Approve Resolution 17-xx to implement a Community Facilities District (CFD) Special Tax and Base-wide Development Fee adjustment (**Attachment B**).

BACKGROUND/DISCUSSION:

At its May 12, 2017 meeting, the FORA Board approved the FORA FY 2017-18 Capital Improvement Program (CIP). The motion to adopt the CIP included direction to return with items regarding blight removal funding and transportation improvements prioritization, such as 8th Street, Highway 1, and other projects, for future Board discussion.

2017 FORA Fee Reallocation Study

The 1997 Fort Ord Base Reuse Plan (BRP) requires FORA to work with TAMC to monitor current and projected traffic service levels on links identified as "on-site" and "off-site" segments in the BRP and to annually update the CIP to reflect the proposed capital projects (3.11.5.3(d) on page 196 and 3.11.5.6 on page 202). To meet these requirements, after coordinating with FORA, TAMC prepared the *Fort Ord Transportation Study* Final Report on July 8, 1997 and the *FORA Fee Reallocation Study* on April 15, 2005.

To meet BRP requirements and to facilitate completion of FORA transition planning before December 30, 2018, the FORA Board authorized a reimbursement agreement with TAMC in July 2015 to complete a FORA Fee Reallocation Study. In July 2016, the FORA Board approved the annual FORA CIP with direction to staff to report any proposed CIP revisions as a result of the FORA Fee Reallocation Study and EPS Biennial Formulaic Review.

To complete the reallocation study, TAMC hired and directed their consultant Kimley-Horn to build a region wide transportation network model based on the Association of Monterey Bay Area Governments (AMBAG) Regional Travel Demand Model (RTDM). Kimley-Horn's work was delayed a number of months due to the level of effort needed to validate the RTDM for the Fort Ord area. The FORA Administrative Committee reviewed Kimley-Horn's draft work products including two FORA fee reallocation options, Option A "nexus approach" and Option B "fund local transportation projects first approach." At its April 12, 2017 meeting, the FORA Administrative Committee recommended that the FORA Board approve Option B, which is the existing FORA policy. At its May 3, 2017 meeting, the FORA Administrative Committee reviewed the 2017 FORA Fee

Reallocation Study (**Attachment A**), recommending Board acceptance. Due to length of the document, **Attachment A** is included under the following web link:

http://fora.org/Board/2017/Packet/Additional/060917-Item8b-Attach_A_FORA_Realloc.pdf

The FORA Board voted on a motion to approve Option B and accept the 2017 FORA Fee Reallocation Study on May 12, 2017. The vote was not unanimous, but received a majority of votes in favor of the motion. Therefore, the motion returns to the Board for a second vote.

EPS Biennial Fee Calculation Report

Staff worked with Economic and Planning Systems (EPS) using the jurisdictions' development forecasts to assess FORA's projected CIP revenues and expenses. The period between 2014 and 2017 has seen a substantial increase in receipt of Community Facilities District (CFD) special tax payments. However, based on the draft FORA Biennial Formulaic Fee Review prepared by EPS (**Exhibit 1 to Attachment B**), a 0.8% fee increase to the FORA CFD Special Tax is recommended to align CIP revenues with expenses. Due to length, **Exhibit 1** is included under the following web link:

http://fora.org/Board/2017/Packet/Additional/060917-Item8b-Exhibit1-Attach_B.pdf

This fee adjustment is 3.1% less than the Engineering News Record's Construction Cost Index (CCI) for the past year (3.9%). Three key expenditure areas affect the CIP: 1) Habitat Conservation Plan (HCP) endowment funding and contingencies, 2) Water Augmentation, and 3) Transportation/Transit obligations and contingencies. The three key expenditure areas have remained relatively constant with slight adjustments due to the CCI. Changes in FORA's forecasted revenues (land sales and property tax projections) are a factor affecting the recommended fee change. At its May 3, 2017 meeting, the Administrative Committee reviewed a preliminary draft FORA CFD/Development Fee calculation prepared by EPS. EPS made a number of refinements since that meeting, which changed the calculation result within a margin of error. Staff recommend that the Board approve Resolution 17-xx to implement the Community Facilities District (CFD) Special Tax and Base-wide Development Fee adjustment (**Attachment B**).

FISCAL IMPACT:

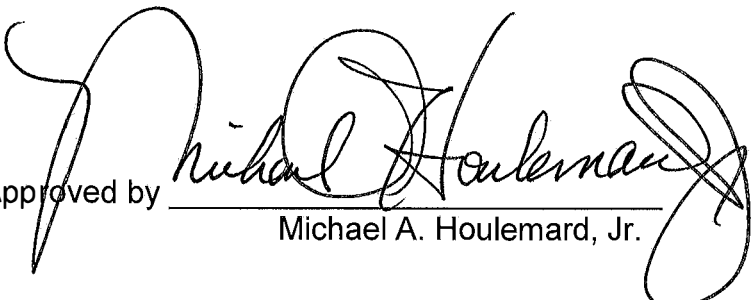
Reviewed by FORA Controller 

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

COORDINATION:

Authority Counsel, Administrative and Executive Committees, land use jurisdictions, TAMC, Kimley-Horn, and EPS.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY
Resolution 17-XX

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY
*Adjusting the FORA Community Facilities District Special Tax Rates and the Basewide
Development Fee Schedule*

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

- A. Government Code section 67679(e) authorizes the Fort Ord Reuse Authority (hereinafter referred to as "Authority") Board of Directors (hereinafter referred to as "Board") to levy development fees on a development project within the area of the base in compliance with Government Code section 66000, *et seq.* The section stipulates that "No local agency shall issue any building permit for any development within the area of the former Fort Ord until the Board has certified that all development fees have been paid."
- B. The Authority Board adopted Resolution 99-1 to establish Basewide Development Fees for all of the former Fort Ord area primarily to pay for basewide obligations intended to mitigate the costs associated with the impact of development of the Fort Ord territory. The basewide public facilities are identified in the Base Reuse Plan and the Public Facilities Improvement Plan and are annually approved by the Board as part of the Board's adopted Capital Improvement Plan (hereinafter referred to as "CIP"), in particular the transportation, habitat management and other impacts caused by development as identified in the Final Environmental Impact Report, adopted by this Board on June 13, 1997.
- C. On January 18, 2002, the Authority Board adopted Resolution No. 02-1 establishing the Fort Ord Reuse Authority Basewide Community Facilities District (hereinafter referred to as the "CFD") under State Law that approved a rate and method of apportionment of special taxes (the "RMA") and provided for the levy of special taxes (the "Special Taxes") on real property in selected areas of the former Fort Ord, and, on October 14, 2005, the Authority Board adopted Resolution No. 05-15, which effectively amended the CFD RMA in order to provide a special tax structure that would encourage and benefit the development of affordable and workforce housing.
- D. The Board heard testimony from professional consultants, affected businesses, and community representatives on August 29, 2012, and through adoption of resolution 12-5, authorized Implementation Agreement Amendments with Fort Ord land use jurisdictions. The Board directed calculation of a formula, which analyzes CIP contingent expenses and anticipated revenues to calibrate FORA's Development Fee Schedule and CFD Special Tax to the appropriate level. The formula calculation will be used as a basis for Board consideration of adjustments in the maximum Special Taxes for the CFD and Fee Policy.
- E. As part of their CIP Review – Phase III Study contract work for the Authority, Economic and Planning Systems, Inc. ("EPS") performed the Board-directed formula calculation (**Exhibit 1 to Attachment B** for Item 8b, FORA Board meeting June 9, 2017), recommending an immediate proportional 0.8% increase in FORA's Development Fee Schedule and CFD Special Tax. There is a reasonable relationship between the need for the public projects included in the CIP and the type of development project on which the development fee or Special Tax is imposed. There is also a reasonable relationship between the amount of the development fee or Special

Tax and the cost of the public projects attributable to the development on which the fee or Special Tax is imposed and the Board has determined that the fee and Special Tax structure will continue to provide sufficient fees and Special Taxes to meet its State Law obligations and basewide expenses.

- F. The purpose of this Resolution is to amend Resolution 99-1 and to provide for levies of Special Taxes in the CFD at rates lower than the authorized maximum Special Tax rates in the RMA in order to lower the fees charged to, and the Special Taxes levied on, development occurring on the former Fort Ord, while maintaining the financial resources to meet the Authority's mitigation measure and basewide expense obligations and to sustain parity between the Special Taxes levied within the CFD and the development fees charged in non-CFD areas.
- G. Section 6.01.010 of the Authority Master Resolution provides that all fees, penalties, refunds, reimbursements and charges imposed by the Authority may be adopted by resolution and amended by the Board. In addition, the Authority has entered into separate Implementation Agreements with each of its member land use jurisdictions. Those Agreements require all development projects to pay their fair share of the Authority's costs to mitigate development impacts. The Authority Board has approved further agreements with individual jurisdictions and/or their developers to carry out the Implementation Agreements and the other authoritative documents cited in this Resolution.
- H. The Board's annually approved CIP lists each project for which the Fort Ord Reuse Authority CFD special taxes and Basewide Development Fees are to be used and accompanying text describing the need for the project.
- I. The Basewide Development Fees and Special Tax rates listed in **Table 1** reflect a proportional 0.8% reduction. There is a reasonable relationship between the need for the public projects included in the CIP and the type of development project on which the development fee or Special Tax is imposed. There is also a reasonable relationship between the amount of the development fee or Special Tax and the cost of the public projects attributable to the development on which the fee or Special Tax is imposed and the Board has determined that the fee and Special Tax structure will continue to provide sufficient fees and Special Taxes to meet its State Law obligations and basewide expenses.
- J. Government Code Section 66001 requires the Authority to do the following before adopting or amending a development impact fee:
 - 1. Account for and expend the fees.
 - 2. For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:
 - i. Identify the purpose of the fee (as described in "E." above).
 - ii. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements listed in the CIP.
 - iii. Designate the approximate dates on which the funding necessary to complete the project is expected to be deposited into the appropriate account or fund serving the CIP.
- K. Any development fee so adopted shall be effective on July 1, 2017.

NOW THEREFORE by the FORA Board of Directors hereby resolves that:

1. The CFD Special Tax and the Basewide Development Fee is amended in the amounts listed for each type of development in the attached fee schedule (**Table 1**) and these fees will hereafter be levied as Special Taxes at the maximum Special Tax rates in the attached schedule (**Table 1**).
2. This Basewide Development fee schedule and CFD maximum Special Tax shall be fixed to the CFD maximum Special Tax rates and indexed in the same manner on July 1st of every year as evidenced in the attached **Table 1 – Taxable Property Classifications and Maximum Development Fee Rates**.
3. The adjusted Development Fees and the revised maximum Special Tax rates shall become effective July 1, 2017 or upon Board adoption of this resolution if Board action occurs after July 1, 2017.
4. Proceeds of Development Fees and Special Tax levies shall be appropriately segregated through use of generally accepted government fund accounting methods according to the Board's adopted Capital Improvement Program budget as provided for in section B and G of this resolution.

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

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Mayor Ralph Rubio, Chair

ATTEST:

Michael A. Houlemard, Jr., Clerk

**TABLE 1 – TAXABLE PROPERTY CLASSIFICATIONS AND
MAXIMUM DEVELOPMENT FEE RATES**
(Figures as of July 1, 2017)

PROPERTY CLASSIFICATION	Maximum Development Fee Rates (One-time Development Fee Payments)
Undeveloped Property	\$ - 0 -
Developed Property	
New Residential	\$ 23,837 / Dwelling Unit
Existing Residential	\$ 7,163 / Dwelling Unit
Office	\$ 3,127 / Acre
Industrial	\$ 3,127 / Acre
Retail	\$ 64,432 / Acre
Hotel	\$ 5,315 / Room

On July 1, commencing July 1, 2018, the Maximum Development Fee Rates shown in Table 1 shall be increased by an amount equal to the lesser of (1) five percent (5%) or (2) the percentage change since the immediately preceding Fiscal Year in the Engineering News Record's Construction Cost Index applicable to the area in which the fee overlay is located (or, if such index is no longer published, a substantially equivalent index selected by the Development Fee Administrator)

**TABLE 1 – TAXABLE PROPERTY CLASSIFICATIONS AND
MAXIMUM SPECIAL TAX RATES**

(Figures as of July 1, 2017)

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FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject: Endorse MCWD as Groundwater Sustainability Agency

Meeting Date: June 9, 2017

Agenda Number: 8c

INFORMATION/ACTION

RECOMMENDATION(S):

- i. Consider Marina Coast Water District's (MCWD's) endorsement request (**Attachment A**) to be the Groundwater Sustainability Agency (GSA) for former Fort Ord.
- ii. Consider authorizing the Executive Officer to transmit a letter (**Attachment B**) endorsing MCWD as GSA for former Fort Ord.
- iii. *Alternatively to i and ii above*, Consider endorsing a statement of principles for the former Fort Ord groundwater resource (**Attachment C**).

BACKGROUND:

At its May 12, 2017 meeting, the FORA Board pulled item 8f "Endorse MCWD as Groundwater Sustainability Agency" from the agenda, requesting Authority Counsel to review the legal issues surrounding potential FORA endorsement of MCWD as GSA. Authority Counsel reviewed these legal issues and concluded that the Board has the ability to endorse an agency as GSA over the Monterey sub-basin of the Salinas Valley basin (a large portion of former Fort Ord), MCWD or the Salinas Valley Basin GSA. However, such an endorsement could be mooted if the California Department of Water Resources finds MCWD ineligible to be the GSA for former Fort Ord. Another option for the Board is to adopt a statement of principles for the former Fort Ord groundwater resource that would help guide the eventual GSA over the Monterey sub-basin.

In the fall of 2014, the California legislature adopted, and the Governor signed into law, three bills (SB 1168, AB 1739, and SB 1319) collectively referred to as the "Sustainable Groundwater Management Act" (SGMA) that initially became effective on January 1, 2015, and have been amended from time-to-time thereafter. The stated purpose of the SGMA, as set forth in California Water Code section 10720.1, is to provide for the sustainable management of groundwater basins, to enhance local management of groundwater to the greatest extent feasible, and to provide local groundwater agencies with the authority, and technical and financial assistance necessary to sustainably manage groundwater.

The SGMA requires GSA designation to achieve groundwater sustainability through GSA adoption and implementation of Groundwater Sustainability Plans (GSPs) or alternative plans, for all medium and high priority basins/sub-basins as designated by the California Department of Water Resources (DWR). The Salinas Valley Groundwater Basin (Basin) is a high priority basin, and the 180/400 foot aquifer sub-basin is designated in critical overdraft. The SGMA also requires that basins and sub-basins have a designated GSA not later than June 30, 2017, and high or medium priority basins in critical overdraft adopt a GSP no later than January 31, 2020.

DISCUSSION:

Marina Coast Water District (MCWD) and the recently formed Salinas Valley Basin GSA have each submitted Notices of Intentions (NOIs) to DWR to be GSA's over the Monterey sub-basin of the Salinas Valley basin (a large portion of former Fort Ord). This creates a service area overlap (**Attachment D**), which must be resolved before a GSA can be recognized for the sub-basin.

If the Department of Water Resources (DWR) does not identify an exclusive GSA(s) by June 30, 2017, according to Water Code section 10735.2(a), the State Water Resources Control Board (SWRCB), after notice and a public hearing, may designate a high (or medium) priority basin as a probationary basin, if a

local agency or a group of agencies has not decided to become a GSA(s) and develop GSP(s) for the entire basin – or if a local agency has not submitted an Alternative Plan for the entire basin. If multiple local agencies have decided to become GSAs in a basin, but those decisions have not taken effect due to unresolved service area overlap, then disputed areas would be considered unmanaged areas for the purposes of groundwater extraction reporting, as no exclusive GSA(s) for the entire basin has/have been established. The agencies involved in the GSA formation dispute need to reach agreement to allow prompt GSA designation. Otherwise, the SWRCB could intervene.

The groundwater extraction reporting requirements for unmanaged areas of a basin will begin on July 1, 2017, and are described in Part 5.2 of Division 2 of the Water Code, commencing with section 5200. The SWRCB's schedule of fees to recover costs associated with its intervention role is described in Water Code section 1529.5. Water Code References: section 1529.5, section 5200 et seq., section 10723 et seq., section 10724. The proposed SGMA Fee Schedule is provided under **Attachment E**.

The proposed SGMA Fee Schedule includes different tiers ranging from \$10 per acre-foot per year pumped to \$55 per acre-foot per year pumped. Also, if the state intervention requires special studies and the fees are insufficient to cover these costs, the state will assess groundwater extractors for these costs as well. If the GSA overlap dispute for the Monterey sub-basin of the Salinas Valley basin (Fort Ord) continues past the June 30, 2017 deadline and the State assesses fees for its intervention, MCWD, serving as the water purveyor under contract with FORA, would be assessed the fees. As a result, MCWD would be required to recover these additional costs from former Fort Ord ratepayers (Ord Community) until MCWD and the Salinas Valley GSA resolve the GSA formation dispute.

GSA formation dispute resolution before 6/30/2017 benefits local agencies and avoids state intervention/fees. The FORA Administrative Committee requested analysis of key questions (**Attachment F**).

On April 4, 2017, MCWD transmitted a letter to FORA requesting that FORA consider submitting a letter to support MCWD's efforts to be GSA for the former Fort Ord service area (**Attachment A**). The FORA Administrative Committee reviewed this letter on April 12 and May 3, 2017, recommending that FORA staff provide a draft MCWD endorsement letter for Executive Committee and Board consideration (**Attachment B**). Correspondence from SWRCB providing an advisory opinion that MCWD lacks authority to undertake groundwater management in former Fort Ord and correspondence from MCWD's legal counsel responding to the same issue are included under (**Attachment G**).

FISCAL IMPACT:

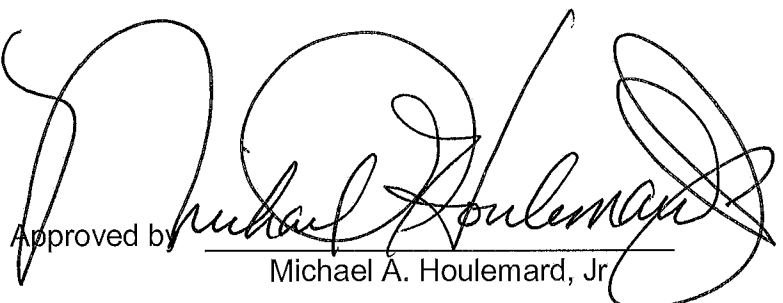
Reviewed by FORA Controller 

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

COORDINATION:

Administrative Committees, land use jurisdictions.

Prepared by 
Jonathan Brinkmann

Approved by 
Michael A. Houlemard, Jr.



MARINA COAST WATER DISTRICT

11 RESERVATION ROAD, MARINA, CA 93933-2099
Home Page: www.mcwd.org
TEL: (831) 384-6131 FAX: (831) 883-5995

DIRECTORS

HOWARD GUSTAFSON
President

THOMAS P. MOORE
Vice President

WILLIAM Y. LEE
JAN SHRINER
HERBERT CORTEZ

April 3, 2017

Fort Ord Reuse Authority
Michael Houlemard, Executive Officer
920 2nd Avenue, Suite A
Marina, CA 93933



Dear Mr. Houlemard:

Despite this winter's record rainfall, the greater Monterey Peninsula Region must continue to work together to find long term sustainable sources of water to supply our growing population and economy. This is an issue our community has grappled with for decades and will continue to do so as we search and identify feasible options to continue to build a water supply system that serves our community and environment. The Marina Coast Water District (MCWD) has been a strong voice in this process and I write to seek your support so that we may continue our efforts to work collaboratively in this regard.

For nearly 60 years, MCWD has served residents providing safe and affordable drinking water. Today we serve more than 30,000 customers and rely primarily on groundwater pumping for that supply. Careful management of our groundwater is of utmost importance to us at MCWD and we have undertaken numerous initiatives over the course of our history to maintain that stewardship, including:

- Development of an Urban Water Management Plan (UWMP) balancing supply with projected demand. The UWMP is updated every five years and was last updated in 2016.
- Invested heavily in hydrogeologic scientific studies to better understand the conditions and dynamics of the groundwater aquifers that provide our groundwater.
- Managed the placement of wells to plan for and minimize seawater intrusion.
- Initiated conservation programs that help make MCWD's per-capita usage rates among the lowest in the state.
- Invested substantial financial resources in the infrastructure necessary to build out the Regional Urban Water Augmentation Project (RUWAP). MCWD secured 1,427 acre feet per year of Pure Water Monterey advanced treated water for the Ord Community.
- Recently signed a three-party agreement with the Fort Ord Reuse Authority and Monterey Regional Water Pollution Control Agency to fund a study to identify potential sources of water to supply an additional 973 acre feet per year of water for the Ord Community.
- Planning a groundwater recharge project on our Armstrong Ranch property to further increase MCWD's water supplies and protect our groundwater aquifers.

Because of that stewardship, the District has taken action in response to the Sustainable Groundwater Management Act (SGMA), with the goal of becoming the exclusive Groundwater Sustainability Agency (GSA) for all lands within MCWD's jurisdictional and service area

April 3, 2017

Page 2

boundaries. MCWD has already been designated by the Department of Water Resources (DWR) as the exclusive GSA for all lands within MCWD's jurisdictional boundaries, which is MCWD's Central Marina service area. MCWD is moving forward to develop a groundwater sustainability plan for that area. MCWD also filed notice with DWR to be the exclusive GSA for MCWD's Ord Community service area, excluding the Adjudicated Seaside Groundwater Basin; however, at the last minute, Monterey County filed a competing notice with DWR even though the County does not provide any water service and does not own any water facilities within that area. The County's action blocks both MCWD's and the County's filings and makes that area subject to State intervention and enforcement. MCWD has also filed notices with DWR to be the exclusive GSA for lands within its jurisdictional boundaries and Ord Community service area within the adjoining DWR-designated 180/400 Foot Aquifer Subbasin.


While the environmental stewardship of our groundwater aquifers is a critical role for MCWD in the service it provides its customers, that role is currently in jeopardy. The new Salinas Valley Groundwater Sustainability Agency (Agency), formed in March 2017, may very soon try to become the exclusive GSA for the entire Salinas Valley Groundwater Basin (SVGB), excluding MCWD's already designated exclusive GSA. That means that the Agency may try to become a competing GSA within MCWD's Ord Community service area and possibly try to compete with MCWD's 180/400 Foot Aquifer GSA filings. The new Agency is governed by an 11-member board; a majority of those members are not representatives of local public water agencies.

The purpose of this letter is to seek your support for MCWD to continue to manage the groundwater aquifers, which our customers rely on, and to oppose having the Agency try to take over groundwater management authority from MCWD thereby giving this new Agency the ability to impose its own fees, rules, and restrictions on MCWD's customers. MCWD must be able to protect its groundwater rights on behalf of its customers, to develop augmented water supplies, to look out for its Ord Community water infrastructure, and to fulfill its obligation to its ratepayers to provide safe drinking water at affordable rates.

Moving forward, we intend to proactively engage with the Agency, the County, DWR, and other stakeholders so that we may continue in our historic role and move forward as the exclusive GSA within our jurisdictional boundaries and service area. To that end, I would greatly appreciate your consideration of signing and submitting the attached letter to support our efforts to be the GSA for our service area. The next Board meeting for the new Salinas Valley Groundwater Sustainability Agency is April 13, 2017, so it would be timely to have any letters of support sent to the Agency prior to that meeting, although it is still helpful if the letter of support is sent after that date and as soon as reasonably possible.

I am happy to address any questions or concerns you might have and will provide further updates as events warrant.

Sincerely,



Keith Van Der Maaten
General Manager
Marina Coast Water District

DATE

JPA Address

Dear JPA president;

On behalf of the ORGANIZATION, I write to convey our endorsement for the Marina Coast Water District's (MCWD) to become the exclusive Groundwater Sustainability Agency (GSA) for its service area.

MCWD was established in 1960 to be the exclusive water and sewer collection provider for residents in the City of Marina and later became the exclusive water and sewer collection provider for the Ord Community. In October 2001, as part of the Base Realignment and Closure process, the United States Army conveyed to MCWD through the Fort Ord Reuse Authority (FORA) all of Fort Ord's water and sewer infrastructure as well as the Army's groundwater allocation and sewer treatment capacity the Army did not reserve for its own needs.

The Sustainable Groundwater Management Act (SGMA) defines "basin" as subbasin or basin and the Department of Water Resources staff have explained that in multi-subbasin groundwater basins, such as the Salinas Valley Groundwater Basin (SVGB), which has eight subbasins, GSA and groundwater sustainability plan (GS Plan) requirements apply to each individual subbasin and not to the basin as a whole. It's fundamental to implementation of SGMA that each subbasin be viewed as the individual building block to effective management of groundwater resources. Under SGMA, each subbasin is required to have GSA or GSAs and a GS Plan or coordinated GS Plans. MCWD has been a strong regional collaborator and will continue coordinating with other GSAs within the SVGB.

Effective management of our precious groundwater resources comes through knowledge and understanding of the local hydrogeology. MCWD has invested significantly in research and studies with experts from Stanford University and others to more clearly understand the groundwater conditions and dynamics of the subbasins within MCWD's service area and in master planning and implementing projects and programs to sustainably protect and manage its groundwater resources for current and future customers. This alone, makes MCWD uniquely qualified to be the GSA over its service area.

Sincerely,

NAME



FORT ORD REUSE AUTHORITY

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

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

May XX, 2017

Attachment B to Item 8f
FORA Board Meeting 5/12/17

President Joe Gunter
Salinas Valley Basin Groundwater Sustainability Agency

RE: Endorsement of Marina Coast Water District as Fort Ord's Groundwater Sustainability Agency

Dear Salinas Valley GSA President Joe Gunter:

On behalf of the Fort Ord Reuse Authority (FORA), I write to convey our endorsement for the Marina Coast Water District (MCWD) to become the exclusive Groundwater Sustainability Agency (GSA) for its service area.

MCWD was established in 1960 to be the exclusive water and sewer collection provider for residents in the City of Marina and later became the exclusive water and sewer collection provider for the Ord Community. In October 2001, as part of the Base Realignment and Closure process, the United States Army conveyed to MCWD through FORA all of Fort Ord's water and sewer infrastructure as well as the Army's groundwater allocation and sewer treatment capacity the Army did not reserve for its own needs.

The Sustainable Groundwater Management Act (SGMA) defines "basin" as subbasin or basin and the Department of Water Resources staff have explained that in multi-subbasin groundwater basins, such as the Salinas Valley Groundwater Basin (SVGB), which has eight subbasins, GSA and groundwater sustainability plan (GSP) requirements apply to each individual subbasin and not to the basin as a whole. It's fundamental to implementation of SGMA that each subbasin be viewed as the individual building block to effective management of groundwater resources. Under SGMA, each subbasin is required to have GSA or GSAs and a GSP or coordinated GSPs. MCWD has been a strong regional collaborator and will continue coordinating with other GSAs within the SVGB.

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FORA has an interest to ensure implementation of its 1997 Fort Ord Reuse Plan. FORA recognizes that MCWD has not yet completed annexation of the former Fort Ord and serves the Ord Community through its 1998 Water and Wastewater Facilities Agreement with FORA. Legal uncertainty remains should FORA terminate in 2020 without MCWD completing annexation of the former Fort Ord and without FORA assigning its contractual obligations

under the 1998 FORA-MCWD Water and Wastewater Facilities Agreement. The FORA Board continues to advocate for MCWD to complete annexation of the Ord Community and would endeavor to assign its contractual obligations before its termination.

Sincerely,

Michael A. Houlemard, Jr.
Executive Officer

DRAFT

Statement of Principles

For the Former Fort Ord Groundwater Resource

Groundwater resources are the result of natural processes that benefit overlying communities' economy and quality of life. In 1993, the U.S. Army (Army) entered into an agreement with Monterey County Water Resources Agency (MCWRA) allowing the Army to withdraw a maximum of 6,600 acre-feet per year (AFY) of groundwater from the Salinas Valley groundwater basin within the Fort Ord area. Due to a seawater intrusion problem, the 1993 Army-MCWRA agreement identified MCWRA as the project proponent to provide a regional water supply system solution. In 2000, after base closure, the Army assigned 4,871 AFY of its groundwater to the Fort Ord Reuse Authority (FORA) to implement the 1997 Fort Ord Reuse Plan. Over the past few years, the State of California passed the Groundwater Sustainability Act, creating a mandate for eligible agencies to form Groundwater Sustainability Agencies (GSAs) and, after formation, adopt Groundwater Sustainability Plans (GSPs) for their respective groundwater basins or sub-basins. The Marina Coast Water District (MCWD) and Salinas Valley Basin Groundwater Sustainability Agency (Salinas Valley Basin GSA) have overlapping applications to become the GSA for the former Fort Ord area. If an overlapping dispute continues past June 30, 2017, the California Water Resources Control Board will manage the disputed area until the dispute is resolved. Regardless of how the dispute is settled, FORA upholds certain principles that should be maintained by the GSA managing the former Fort Ord groundwater resource.

Principle 1: Implement 1997 Fort Ord Reuse Plan

The 1997 Fort Ord Reuse Plan relies on 6,600 AFY of groundwater and 2,400 AFY of augmented water to reuse former Fort Ord. FORA recommends that the GSA facilitate Fort Ord Reuse Plan implementation through ensuring a water resource of 9,000 AFY for the former Fort Ord area.

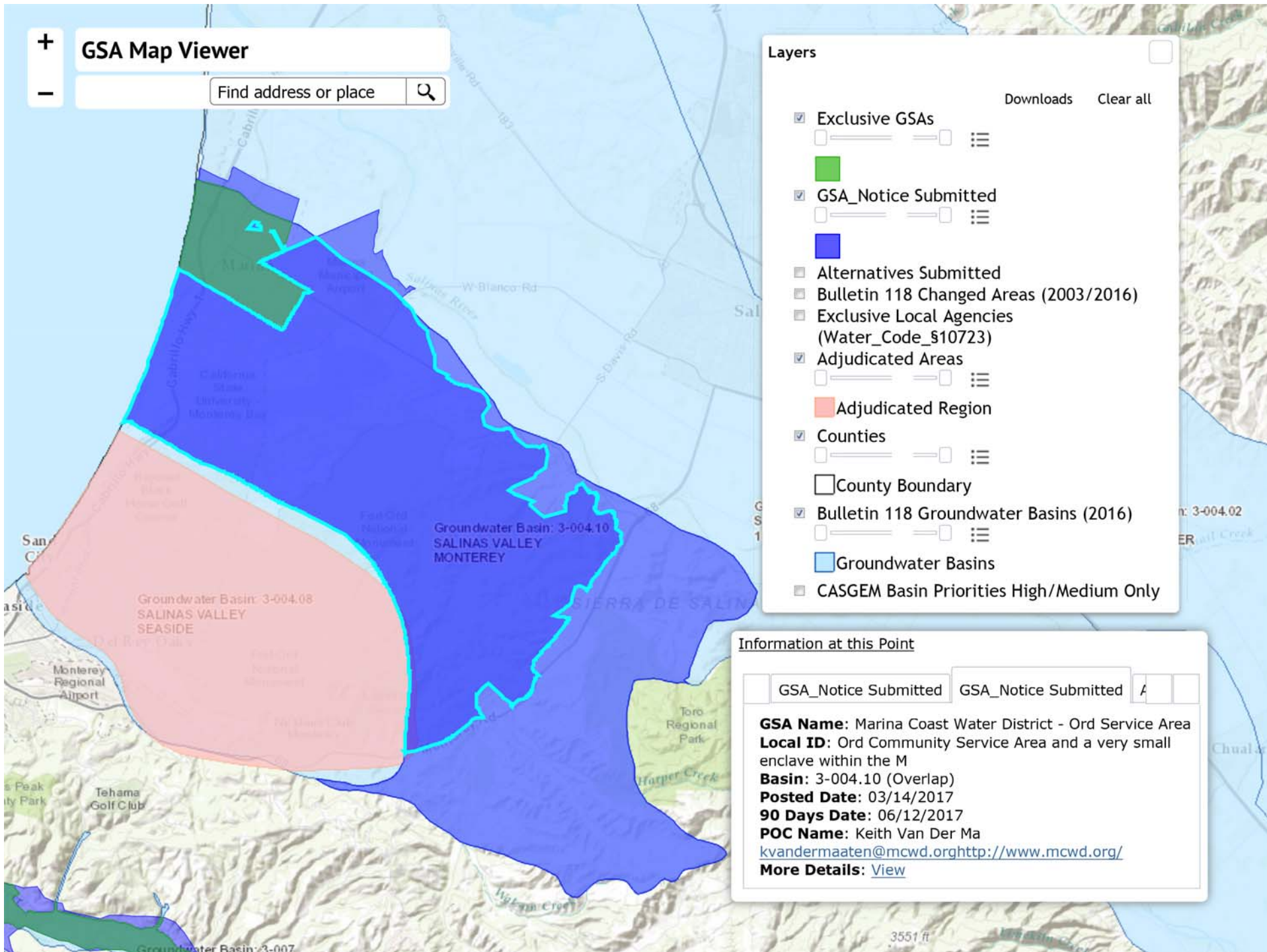
Principle 2: Implement Equitable Allocation of Water

The 1993 Army-MCWRA agreement includes a provision that, if an action results in diminished water supply to MCWRA, MCWRA agrees that the Army will be no more severely affected in a proportional sense than the members of other zones. The 2000 FORA-Army agreement assigning 4,871 AFY of Army groundwater to FORA also requires FORA to cooperate with water resource agencies and former Fort Ord property owners to ensure provision of an equitable supply of water to property owners. FORA recommends that the GSA continue to meet these requirements.

Principle 3: Manage Groundwater Resources with an Enduring Local Agency

One purpose of the Sustainable Groundwater Management Act is to enhance local management of groundwater to the greatest extent feasible. To carry out this purpose,

the former Fort Ord groundwater resource should be managed by a local agency with locally elected officials or directors appointed by locally elected officials. GSA application disputes over the former Fort Ord area should be resolved expeditiously to prevent State management of groundwater resources. Furthermore, FORA has a legislated dissolution of June 30, 2020. Therefore, FORA recommends that the GSA have long-term viability and eligibility.



Proposed Sustainable Groundwater Management Act (SGMA) Fee Schedule

INTRODUCTION

The State Water Resources Control Board (State Water Board) is conducting a series of stakeholder meetings throughout summer and fall 2016 to assist in the development of a groundwater extraction reporting fee schedule, as required by the Sustainable Groundwater Management Act (SGMA). The objectives of the stakeholder meetings are as follows:

- Engage stakeholders in the SGMA fee schedule development process.
- Explain issues considered in drafting the proposed fee schedule.
- Gain a better understanding of stakeholder interests and concerns.

Following the stakeholder meetings, State Water Board staff will develop and release a draft fee schedule emergency regulation for public comment and hold at least one public meeting to receive public comment on the draft emergency regulation. The State Water Board will consider adoption of the proposed fee schedule emergency regulation in spring 2017. The fee schedule must be effective by July 1, 2017.

BACKGROUND

SGMA requires the formation of local groundwater sustainability agencies (GSAs) in California's high- and medium-priority groundwater basins. Sustainability agencies are required to develop groundwater sustainability plans that will bring basins into sustainability within 20 years of plan implementation. If locals are unable or unwilling to sustainably manage their basin, the State Water Board is authorized to intervene. State intervention can only be triggered by one of the following events:

Date	Trigger
July 1, 2017	Failure to form a GSA.
January 31, 2020	Failure to adopt and/or adequately implement a groundwater sustainability plan for a basin in a critical condition of overdraft.
January 31, 2022	Failure to adopt and/or adequately implement a groundwater sustainability plan in all other high- or medium-priority basins.
January 31, 2025	There are significant depletions of interconnected surface waters and the sustainability plan is not being implemented adequately.

STATE WATER BOARD FEE AUTHORITY

Portions of basins that are not within the management area of a GSA by July 1, 2017, are considered unmanaged areas. Groundwater extractors in unmanaged areas are required to file an annual groundwater extraction report with the State Water Board. (Wat. Code §5202, subd. (a)(2).) If locals fail to form a GSA, fail to develop an adequate sustainability plan, or fail to implement the plan adequately (based on the deadlines outlined above), the State Water Board may designate the basin as probationary and step in to directly manage groundwater extractions in the basin. (Wat. Code §§ 10735.2 & 10735.8.) All extractors in a probationary basin are required to submit an annual groundwater extraction report, although the State Water Board has discretion to exempt certain probationary extractors from reporting if appropriate. (Wat. Code §5202(a)(1).) Each annual extraction report must be accompanied by a fee to cover associated programmatic costs. (Wat. Code §§ 1529.5 & 5202, subd. (f).)

The State Water Board is required to adopt, by emergency regulation, a fee schedule to cover SGMA-related costs. (Wat. Code §1530.) The emergency regulation format allows the State Water Board to update the fee

Proposed Sustainable Groundwater Management Act (SGMA) Fee Schedule

schedule annually to reflect changing conditions and programmatic costs. It also important to note that the fees described below will not be applicable if local implementation of SGMA is successful.

PROPOSED FEE SCHEDULE

There are three “levels” of State Water Board intervention, each level is associated with greater staff workloads and associated costs.

1. Unmanaged Area Intervention. Unmanaged areas are portions of basins that are outside of a GSA service area. Groundwater extractors in unmanaged areas are required to submit an annual report to the State Water Board detailing monthly groundwater extraction volumes, place of use, and purpose of use, and may be required to submit other information necessary to evaluate the basin.
2. Probationary Basin Intervention. A probationary basin is a basin that the State Water Board has designated to be probationary in accordance with the procedures described in Chapter 11 of SGMA. (Wat. Code §10735, et. seq.) The State Water Board will evaluate conditions in the basin and may designate the basin once one of the probationary triggers described by Water Code section 10735.2 has occurred. Probationary status will result in an increased amount of staff activities as solutions to deficiencies in basin management are developed or additional information necessary for basin management is acquired.
3. Interim Plan Intervention. The State Water Board may need to manage groundwater conditions in a probationary basin if the deficiencies that resulted in probation are not corrected. In such a scenario, the State Water Board will develop and implement an interim plan to manage groundwater extractions. (Wat. Code §10735.8.) The development and implementation of interim plans will require significant staff time, in addition to technical studies or data collection performed under contract.

The draft fee schedule ties the fees to the type of Board activity occurring in the basin, as follows:

Fee Category	Applicable Parties – Reporting Extractors	Fee Amount
Base Filing Fee ^(a)	Any extractor submitting an extraction report	\$100 per well
Fees based on intervention status ^(a)		
1. Unmanaged Area Rate	Extractors in an unmanaged area.	\$10 per acre-foot per year, if metered
		\$25 per acre-foot per year, if unmetered
2. Probationary Basin Rate	Extractors in a probationary basin.	\$40 per acre-foot per year
3. Interim Plan Rate	Extractors in a probationary basin after the time period identified by § 10735.4 or § 10735.6 (180 days or one year, accordingly).	\$55 per acre-foot per year
Fees independent of intervention status ^(b)		
Late Fee	Extractors that do not file reports by the due date.	25% of total fee amount, accrued monthly
Special Studies Fee	May apply to extractors when basin-specific special studies are required and the probationary or interim plan rates are insufficient. The additional cost of developing special technical studies such as groundwater investigations or modeling will be apportioned to extractors based on volume of water extracted.	

(a) Can apply to de minimis extractors in probationary basins at the Board’s discretion.

(b) These fees are paid in addition to the “Fees based on intervention status.”

Proposed Sustainable Groundwater Management Act (SGMA) Fee Schedule

CHALLENGES TO DEVELOPING THE SGMA FEE SCHEDULE

There are two primary challenges in developing the SGMA fee schedule that create difficulties in anticipating programmatic costs: 1) uncertainty regarding the number and scope of unmanaged areas and probationary basins, and 2) the level of reporting compliance.

- 1) Staff workload, and resulting fees, are contingent on the number and scope of unmanaged areas and probationary basins. However, at this time there is significant uncertainty regarding the number and scope of unmanaged areas and probationary basins. In addition, the State Water Board's authority to designate probationary basins is phased in over a 10-year period and is ongoing from that point forward. Because the Board cannot pre-determine the number of unmanaged areas and probationary basins, it must rely on estimating the level of program activities.
- 2) State Water Board staff anticipate 30 to 50 percent reporting and fee submittal compliance in the first year of collecting fees; 50 to 60 percent in the second year; and 70 to 80 percent through year five. This anticipated compliance rate is applicable to the total number of extractors that must report, not the number of basins or areas generally in compliance with SGMA deadlines. SGMA authorizes the State Water Board to recover costs over a period of years, which will allow staff to create a workload history to better estimate future fees.

As a note, although there is uncertainty regarding the magnitude of program actions, the nature of the emergency regulations allows the State Water Board to update its fee schedule as the challenges described above are better understood over time.

DISCUSSION ON PROPOSED FEE CATEGORIES

The following questions are aimed at focusing input on elements of the draft fee schedule.

Establishing the Fee Structure

1. What are other options the State Water Board should consider? Examples include a cap on the maximum fee amount, a larger base fee, or tiered rates.
2. Is it appropriate to scale the fees based on volumes of water used? Examples of other options include scaling by irrigated acreage, service area size, or crop type.

Incorporating Incentives

1. Will the late fee incentivize report submittal compliance?
2. Are there are other incentives the State Water Board should consider?
3. Will the metering discount for unmanaged areas incentivize more accurate data reporting?

Fee Stability

1. Is it appropriate to apply the Special Studies Fee to individual basins?
2. Do you have suggestions on how the State Water Board can recover programmatic costs resulting from activities in specific basins during probationary or interim plan periods?

Proposed Sustainable Groundwater Management Act (SGMA) Fee Schedule

SUPPORTING INFORMATION AND CLARIFICATIONS

Fee Example Scenarios

- The following table provides examples of how the proposed probationary fee rates for eight hypothetical farms would approximately relate to a fee based on irrigated acreage:

Crop	Irrigated Acreage	Acre Feet of Water Applied Annually Per Acre (DWR ^(b))	Probationary Rate	Cost per Acre	Total Cost
Alfalfa	150	5.05	\$40	\$202	\$30,300
Almonds	150	3.54	\$40	\$142	\$21,240
Corn	150	2.83	\$40	\$113	\$16,980
Cotton	150	3.09	\$40	\$124	\$18,540
Grapes	150	1.86	\$40	\$74	\$11,160
Misc. Fruit Trees	150	3.3	\$40	\$132	\$19,800
Pistachios	150	3.54	\$40	\$142	\$21,240
Rice	150	4.56	\$40	\$182	\$27,360

(b) State-wide averages, Department of Water Resources, Agricultural Land and Water Use Estimates, 2010

- The following table provides examples of how the proposed probationary fee rates would apply to a municipal water supplier and industrial user:

Purpose of Use	Example Volume	Probationary Rate	Total Cost
Municipal Water Supply	3,600 acre-feet	\$40	\$144,000
Semiconductor Factory (Industrial)	5,200 acre-feet	\$40	\$208,000

De Minimis Extractors

Water Code Section 10721, subdivision (e), defines a de minimis extractor as “a person who extracts, for domestic purposes, two-acre feet or less per year.” A person who extracts two acre-feet or less per year for a non-domestic purpose will not be considered a de minimis extractor. Domestic purposes do not include growing commercial crops or supporting commercial livestock. De minimis users are exempt from reporting in unmanaged areas. However Water Code Section 10735.2, subdivision (c)(2), authorizes the State Water Board to require de minimis extractors to report in a probationary basin if necessary. De minimis extractors that are required to report in a probationary basin will only pay the base filing fee and, if applicable, the late fee, but will not pay a per acre-foot rate.

Interim Plans and Groundwater Sustainability Plans

State intervention is intended to be a temporary measure to address conditions of long-term overdraft or significant depletions of interconnected surface waters. An interim plan is not intended for permanent management of a basin. Local efforts to address the deficiencies that caused state intervention will need to be funded by local agencies while groundwater extractors are also paying intervention fees to the State Water Board, likely resulting in the potential scenario of extractors paying both local and state fees.

State Water Board Flexibility during Intervention

SGMA provides the State Water Board flexibility in how intervention proceeds in three important ways:

- Areas in compliance with the sustainability goal will be excluded from probation. (Wat. Code §10735.2, subd. (e).);
- Extractors may be exempted from probationary reporting and related fees if appropriate. (Wat. Code §10735.2, subd. (c).); and
- Successful elements of a GSP will be incorporated into an interim plan. (Wat. Code §10735.8, subd. (e).)

Technical and Legal Analysis of Fort Ord Groundwater Sustainability Agency Application Overlap

Question	MCWD	Salinas Valley Basin GSA
How would the work plan of the GSA be different for each entity?	<ul style="list-style-type: none"> • Focus on Groundwater Sustainability Plan within Fort Ord and MCWD Service Area • Coordinate with Salinas Valley Basin GSA and other GSAs on their Groundwater Sustainability Plans 	<ul style="list-style-type: none"> • Focus on Groundwater Sustainability Plan within the majority of the Salinas Valley Groundwater Basin • Coordinate with MCWD, Arroyo Seco GSA and neighboring GSAs such as Paso Robles
Who has the right to set the pumping levels or amount of water available for Fort Ord customers?	<ul style="list-style-type: none"> • MCWD • Must coordinate with Salinas Valley Basin GSA 	<ul style="list-style-type: none"> • Salinas Valley Basin GSA • Must coordinate with MCWD
How would Fort Ord ratepayers be represented?	<ul style="list-style-type: none"> • FORA Board currently represents Fort Ord ratepayers • When MCWD annexes Fort Ord, voters living within former Fort Ord would also elect MCWD Board members 	<ul style="list-style-type: none"> • Salinas Valley JPA has an 11-member Board, one of whom is appointed by the Monterey County Board of Supervisors as an “other GSA eligible entity” (Fort Ord could be represented by this member)
How does each entity facilitate the FORA Board objective to Implement 1997 Fort Ord Reuse Plan?	<ul style="list-style-type: none"> • MCWD is accountable to FORA through FORA Board and committee oversight • MCWD owns, updates and expands the existing facilities on Fort Ord at FORA’s direction. • MCWD Provides Water Augmentation 	<ul style="list-style-type: none"> • Salinas Valley Basin GSA is not accountable to FORA Board and committee oversight • GSA responsible to ensure sustainability of the sub-basin from which BRP water resources are based • GSA would identify and facilitate implementation of projects that reduce water demands or augment water supplies for the Salinas valley groundwater Basin
What legal basis does each entity rely on in	<ul style="list-style-type: none"> • Through the 1998 FA, MCWD currently serves Fort Ord customers. 	<ul style="list-style-type: none"> • Monterey County is eligible to be the GSA if no claim for the sub-basin is made

<p>making their GSA application?</p>	<ul style="list-style-type: none"> • SGMA rules do not limit GSA to district boundaries but include Service Area and boundaries of the basin • MCWD has contractual right to impose fees within Ord Community • MCWD already managing groundwater sustainability of sub-basin • Water Code Permits written agreements for fair funding in lieu of rate setting though MCWD intends to annex the service area as part of FORA dissolution plan • SGMA states Department of Water Resources (DWR) determines GSA Eligibility prior to SWRCB oversight (set for 2022) making SWRCB staff opinion letter unenforceable 	<ul style="list-style-type: none"> • Salinas Valley Basin GSA is eligible as the Monterey County selected GSA. • Monterey County claims there is no representation of FORA area after 2020 FORA dissolution • SVB-GSA eligibility relies on staff opinion from State Water Resource Control Board (SWRCB) the agency responsible to oversee the Groundwater Sustainability Plan after GSA Formation • MCWD claim is limited to its district boundary as it cannot impose fees outside of its limits
<p>Which entity has a stronger legal claim in the GSA application?</p>	<ul style="list-style-type: none"> • The uncertainty of FORA assigning the 1998 FA to another entity and MCWD not yet annexing Fort Ord may weaken MCWD’s legal claim after 2020 FORA dissolution • MCWD’s 20-year record of serving Fort Ord strengthens its legal claim. • Existing rulings within Monterey County support the Claim of MCWD 	<ul style="list-style-type: none"> • Appointing a Fort Ord representative on the Salinas Valley Basin GSA Board would strengthen their legal claim.
<p>How does FORA’s legislated 2020 dissolution affect each entity’s GSA application?</p>	<ul style="list-style-type: none"> • FORA dissolution creates uncertainty for MCWD until FORA assigns its role in the 1998 FA or MCWD annexes Fort Ord. 	<ul style="list-style-type: none"> • FORA dissolution is the basis for the claim, as Monterey County assumes no transition plan, assigns or MCWD Service Area annexation by 2020



State Water Resources Control Board

April 12, 2017

Mr. Leslie J. Girard, Chief Assistant County Counsel
County of Monterey
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

REQUEST FOR CLARIFICATION REGARDING GROUNDWATER SUSTAINABILITY AGENCY FORMATION NOTICES

Dear Mr. Girard:

I am responding to your request for advice from the State Water Resources Control Board (State Water Board) regarding the eligibility of Marina Coast Water District (District) to serve as a groundwater sustainability agency pursuant to the terms of the Sustainable Groundwater Management Act, Water Code section 10720, et seq. (SGMA), for a portion of the Monterey Subbasin outside of the District's jurisdictional boundaries.

On September 29, 2016, the Department of Water Resources (DWR) posted the District's notification of intent to be the groundwater sustainability agency for lands within the District's jurisdictional boundaries. This notice was revised by the District on February 7, 2017. On January 4, 2017, DWR posted notification by the County of Monterey of intent to manage that portion of the Monterey Subbasin within the county that is not within the District's jurisdictional boundaries. The areas covered by the District's and County's filings were mutually exclusive. On March 14, 2017, DWR posted notification by the District of its intent to be the groundwater sustainability agency for a portion of the Monterey Subbasin outside of the District's jurisdictional boundaries known as the Ord Community, thereby creating overlap with the notification filed by the County.

The District provides water and sewer service to the Ord Community, but the area is not within the District's jurisdictional boundaries. According to the District's five-year strategic plan, the District intends to work with LAFCO to expand the District's Sphere of Influence and legal boundary to include the Ord Community by 2018.

Any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin. (Wat. Code, § 10723, subd. (a).) The District's jurisdictional boundaries overlay a portion of the Monterey Subbasin, so the District can be a groundwater sustainability agency for the basin and exercise the powers and authorities granted by SGMA within its jurisdictional boundaries. (Wat. Code, § 10726.8, subd. (b).) The District cannot impose fees or regulatory requirements on activities outside of its jurisdictional boundaries, even if those areas are within its water and sewer service area. Due

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov



April 12, 2017

to the inability to impose fees or regulatory requirements, the District lacks the authority to undertake groundwater management in the Ord Community.

Because the District lacks the authority to undertake groundwater management in the Ord Community, the State Water Board does not consider the District's notice posted on March 14, 2017, to create overlap with the County's notification that would prevent the County from becoming a groundwater sustainability agency. Unless another local agency with jurisdiction files a competing notice, Monterey County will become the exclusive groundwater sustainability agency for the area on April 4, 2017. In that case, the reporting requirements of Water Code section 5202, subdivision (a)(2), will not apply to a person who extract groundwater within that portion of the Monterey Subbasin that the county intends to manage.

This letter offers a non-binding, advisory opinion. It is not a declaratory decision and does not bind the State Water Board in any future determination.

Sincerely,



Sam Boland-Brien, Chief
Groundwater Management Program
State Water Resources Control Board

GRIFFITH & MASUDA

A PROFESSIONAL LAW CORPORATION

517 East Olive Street
Turlock, California 95380

(209) 667-5501

Fax (209) 667-8176

www.calwaterlaw.com

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W. Coburn Cook, 1892-1953
Lin H. Griffith, 1923-2014

Roger K. Masuda
rmasuda@calwaterlaw.com

*Celebrating Our
97th Anniversary*

April 19, 2017

VIA EMAIL

Mr. Gary Petersen, Interim General Manager
Salinas Valley Basin Groundwater Sustainability Agency

Re: SVBGSA Board Agenda Item 9, Public Hearing to Consider Filing a Notice of Intent to form a Groundwater Sustainability Agency

Dear Mr. Petersen:

On Thursday, April 13, 2017, Marina Coast Water District (MCWD) received a copy from you of the SWRCB staff's letter dated April 12, 2017, re: "Request for Clarification Regarding Groundwater Sustainability Formation Notices," by Sam Boland-Brien. Since the SVBGSA Board is meeting on April 20, the MCWD General Manager requested that I provide a quick response to the SWRCB staff's letter.

1. The SWRCB staff's letter is an illegal and unenforceable underground regulation.

The California Office of Administrative (OAL) is responsible for ensuring that California state agencies comply with the rulemaking procedures and standards set forth in California's Administrative Procedure Act. The OAL has a webpage on illegal "underground regulations" at http://www.oal.ca.gov/underground_regulations/. That webpage states in part the following:

State agencies, with few exceptions, are required to adopt regulations following the procedures established in the Administrative Procedure Act (APA). A regulation is defined in Government Code section 11342.600:

"Regulation means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure."

If a state agency issues, utilizes, enforces, or attempts to enforce a rule without following the APA when it is required to, the rule is called an "underground

regulation.” State agencies are prohibited from enforcing underground regulations.

The SGMA statute does not authorize the SWRCB to adopt regulations to define what constitutes a “valid” GSA as opposed to an exclusive GSA, which SGMA has explicitly delegated to the California Department of Water Resources (DWR).

The SWRCB staff’s letter sets forth a SWRCB rule that a local agency may only form a GSA for lands within its jurisdictional boundaries. As a result of that rule, the SWRCB staff’s letter goes on to state on page 2, “Unless another local agency with jurisdiction files a competing notice, Monterey County will become the exclusive groundwater sustainability agency for the area on April 4, 2017.” This is a perfect example of a State agency through its staff developing an illegal underground regulation and then enforcing that rule against MCWD.

2. The SWRCB staff’s letter is expressly “non-binding” and, therefore, not worth the paper it is written on.

The SWRCB staff’s letter itself declares that it is “a non-binding, advisory opinion” and that “[i]t is not a declaratory decision and does not bind the State Water Board in any future determination.” However, if the SVBGSA Board adopts a resolution directing the filing of an overlap with MCWD’s Ord Community service area, that would be additional proof that the SWRCB staff letter is an illegal underground resolution because it is being accepted by the SVBGSA as a binding opinion as already stated at the bottom paragraphs of page 3 and 5 of the SVBGSA staff report.

3. The SWRCB staff’s letter contradicts the author’s own presentation to the September 8, 2016 SVGB Stakeholder Forum that SWRCB “Intervention only occurs where local efforts fail.”

The SWRC staff member, Sam Boland-Brien, who drafted the April 12, 2017 non-binding, advisory opinion, made a PowerPoint presentation to the Stakeholder Forum wherein he stated that SWRCB “Intervention only occurs where local efforts fail.” That statement is consistent with Water Code Section 10720.1(h), which states,

In enacting this part, it is the intent of the Legislature to do all of the following:

(h) To manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner.

However, by writing his non-binding, advisory letter and declaring that on April 4, 2017, Monterey County had become the exclusive GSA, Mr. Boland-Brien contracted his own prior representations of the SWRCB’s proper role.

The Collaborative process and its facilitators were not interested in having a meaningful dialogue with MCWD on why MCWD should be its own GSA over its service area

because the facilitators and County Counsel were pushing the “one GSA, one GS Plan” concept for all eight SVGB Subbasins. MCWD has continually stated that it will negotiate in good faith to develop mutually beneficial intra-subbasin coordination agreements but the County and the SVBGSA must also be willing to negotiate in good faith. So far neither the County nor the SVBGSA have been willing to have meaningful, good faith discussions with MCWD.

4. Nothing in SGMA Chapter 11, State Intervention, Water Code Sections 10735 – 10736.6, authorizes the SWRCB to determine whether a GSA is “valid” or to rule that one GSA is invalid and award exclusive GSA status to a competing local agency as SWRCB staff did in his April 12, 2017 letter.

SGMA Chapter 4, Establishing Groundwater Sustainability Agencies, Water Code Sections 10723, et seq., provides DWR with full authority to determine whether a local agency’s proposed GSA NOI filing is valid by designating the local agency as the exclusive GSA. The SWRCB is not delegated any statutory authority over the GSA process under SGMA.

Come July 1, 2017, under Water Code Section 10735.2, the SWRCB is only authorized to determine whether a GSA has been formed and designated as an exclusive GSA by DWR. If an area is not within the boundaries of an exclusive GSA, then that area is deemed to be an unmanaged area. Chapter 11 does not give the SWRCB the authority to determine the validity of a GSA designated as an exclusive GSA by DWR. In addition, the SWRCB is not delegated any authority under SGMA to resolve overlap disputes between competing local GSAs. The local agencies are required to work out any such disputes among themselves.

5. After January 31, 2022, for the Monterey Subbasin, the SWRCB does have the authority to determine that a GSA’s groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal. But that is not now.

Under Water Code Section 10735.2, DWR in consultation with the SWRCB is authorized to determine “that a groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal” after applicable trigger date of January 31, 2022, for a medium-priority subbasin.

The Monterey Subbasin is classified as a medium-priority subbasin and, consequently, has until January 31, 2022, to adopt one groundwater sustainability plan (Plan) for the entire subbasin or to have coordinated multiple Plans. As the April 12, 2017 letter recognizes, “the District intends to work with LAFCO to expand the District’s Sphere of Influence and legal boundary to include the Ord Community by 2018.”

Between now and January 31, 2022, MCWD intends to do its part to develop a Plan for lands both within its then jurisdictional lands and any service area lands. We hope that

the SVBGSA and the County will work with MCWD in good faith and to our mutual benefit.

6. The SWRCB staff's interpretation of Water Code Section 10726.8(b) conflicts with the explicit wording of Sections 10723.8(a)(1) and (d). SGMA expressly provides that a local agency GSA may only include a local agency's "service area" within its GSA boundaries.¹

The SWRCB staff is arguing that the section 10726.8(b) limitation on the authority of a local agency GSA after it is formed to impose fees or regulatory requirements on activities outside the boundaries of the local agency trumps the explicit SGMA requirement that a local agency GSA may only include its service area within its GSA boundaries.

Water Code section 10723.8(a)(1) in specifying what is required to be included in the GSA formation notification states, "The service area boundaries, the boundaries of the basin or portion of the basin the agency intends to manage pursuant to this part" [Emphasis added.]

At the same time SB13² amended Water Code section 10726.8(b), SB13 also amended Section 10723.8(d) to reaffirm for GSA formation purposes that "service area" means "service area" by adding the following underlined language, ". . . after the decision to be a groundwater sustainability agency takes effect, the groundwater sustainability agency shall be presumed to be the exclusive groundwater sustainability agency within the area of the basin within the service area of the local agency that the local agency is managing as described in the notice." Water Code section 10723.8(a)(1) had already required that "service area boundaries" be specified in the GSA formation notification filed with DWR.

Water Code Section 10720.1(h), states,

In enacting this part, it is the intent of the Legislature to do all of the following:

(d) To provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.

Once a local agency is designated by DWR to be the exclusive GSA for the lands within the GSA's service area, then those SGMA authorities and powers flow to the GSA.

¹ The terms "local agency" and "service area" were similarly used in the Groundwater Management statute, Water Code sections 10750, et seq. "Local agency" under that statute is defined as "a local public agency that provides water service to all or a portion of its service area." Section 10750.10 states that the statute "is in addition to, and not a limitation on, the authority granted to a local agency pursuant to other provisions of law."

² Stats. 2015, chapter 255 (SB13).

Given SGMA's very explicit use of the terms "service area boundaries" and "service area" in section 10723.8(a)(1) and (d) and given the statutory interpretation requirement to harmonize the explicit language of section 10723.8 with the ambiguous language in section 10726.8(b), the term "boundaries" in section 10726.8(b) should be interpreted to mean "service area boundaries."

7. The SWRCB staff's letter demonstrates a lack of due process and fairness to MCWD and a lack of knowledge of MCWD's water service rights and responsibilities to the Ord Community. The letter also interferes with the Federal mandate for the economic redevelopment of the former Fort Ord.

The SWRCB staff accepted the representations or misrepresentations by the Monterey County Counsel without doing any investigation of MCWD's right to impose fees and regulatory requirements within its Ord Community service area. That is a natural outgrowth of the SWRCB staff's failure to provide a copy of the Monterey County Counsel's request to MCWD and to ask MCWD's views on the applicable facts and law. These are failures on the part of Mr. Boland-Brien and demonstrate a lack of due process and fairness.

The SWRCB staff letter cites to Section 10726.8(b) but fails to mention Section 10726.8(a). Subsections 10726.8(a) and (b) state:

(a) This part is in addition to, and not a limitation on, the authority granted to a local agency under any other law. The local agency may use the local agency's authority under any other law to apply and enforce any requirements of this part, including, but not limited to, the collection of fees.

(b) Nothing in this part shall be construed as authorizing a local agency to make a binding determination of the water rights of any person or entity, or to impose fees or regulatory requirements on activities outside the boundaries of the local agency.

MCWD is the exclusive water service provider for the Ord Community pursuant to Federal law and implementing agreements thereunder. Effective June 2, 1997, MCWD became the operator of the Fort Ord water system. The Ord Community is within MCWD's water service area pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, the Fort Ord Base Reuse Plan, the 1998 MCWD-FORA Water/Wastewater Facilities Agreement, the June 20, 2000 Memorandum of Agreement between the Army and the Fort Ord Reuse Authority (FORA), and the Potable Water Service Contract with the Army, which all cumulated in the October 2001 conveyance by the Army through FORA to MCWD of all of Fort Ord's water and sewer infrastructure and 4,871 AFY of the 6,600 AFY of the Army's groundwater allocation from the Monterey County Water Resources Agency. The FORA Board includes three Monterey County Supervisors, which constitute a quorum of the Board of Supervisors.

Pursuant to that Federal mandate, MCWD has made a substantial investment of time and money to bring the Army's water system infrastructure up to California standards and MCWD has expanded the water system to serve new economic redevelopment within the Ord Community. Five of MCWD's production wells are located within the Ord Community. In 2007, MCWD combined the water system permits for the Central Marina and Ord Community service areas into a single California Department of Public Health permit. Pursuant to its water supply responsibilities, MCWD has secured 1,427 AFY of advance treated wastewater for in-lieu potable groundwater use within both the Monterey Subbasin and the Adjudicated Seaside Basin portions of the Ord Community. This and other in-lieu and direct groundwater recharge projects will become an integral part of MCWD GSA's groundwater sustainability plan. Since another public agency has no legal right to condemn MCWD property for its own use, MCWD is the exclusive water service provider within its Ord Community service area.

As the owner of the water infrastructure and groundwater rights and as the exclusive water service provider, MCWD already has the right to impose water service fees and charges and to regulate water activities within the Ord Community independent of any additional powers granted by SGMA.

In conclusion, the SWRCB staff's April 12, 2017 letter is illegal and the SVBGSA should avoid filing a competing GSA NOI with any already filed MCWD GSA NOIs. MCWD is the exclusive water service provider for the Ord Community with the authority to impose fees and charges, regulate water activities, and to manage groundwater. A competing GSA NOI from the SVBSA only serves to move us away from coordination and distracts from the effort to achieve the sustainability goal. MCWD continues to have a strong desire to resolve these disputes in good faith and in a mutually beneficial manner.

It is my understanding that MCWD's General Manager, Keith Van Der Maaten, will be attending the Board meeting to address this and additional issues raised by the Agenda Item 9 staff report.

Very truly yours,



Roger K. Masuda
Legal Counsel
Marina Coast Water District

cc: MCWD Board of Directors and General Manager
Clark Colony
City of Greenfield