



# FORT ORD REUSE AUTHORITY

## REGULAR MEETING

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

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

## AGENDA

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

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

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

## 6. CONSENT AGENDA

## INFORMATION/ACTION

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

- a. Approve August 15, 2019 Special Meeting Minutes [\(p.1\)](#)  
**Recommendation:** Approve August 15, 2019 meeting minutes.
- b. Approve September 13, 2019 Meeting Minutes [\(p.4\)](#)  
**Recommendation:** Approve September 13, 2019 meeting minutes.
- c. Administrative Committee [\(p.9\)](#)  
**Recommendation:** Receive a report from the Administrative Committee.
- d. Veterans Issues Advisory Committee [\(p.17\)](#)  
**Recommendation:** Receive a report from the Veterans Issues Advisory Committee.
- e. Water/Wastewater Oversight Committee [\(p.18\)](#)  
**Recommendation:** Receive a report from the Water/Wastewater Oversight Committee.
- f. Environmental Services Cooperative Agreement Quarterly Report [\(p.24\)](#)  
**Recommendation:** Receive an Environmental Services Cooperative Agreement (ESCA) Status Report.
- g. Public Correspondence to the Board [\(p.27\)](#)  
**Recommendation:** Receive Public Correspondence to the Board.

## 7. BUSINESS ITEMS

## INFORMATION/ACTION

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

- a. Building Removal Bond Status Report (p.28)  
**Recommendation:** Receive a Building Removal Bond Status Report
- b. 2018 Transition Plan and Implementing Agreements Progress Report (p.34)  
**Recommendation:**
  - i. Receive a Transition Plan Implementing Agreements Progress Report.
  - ii. Provide direction to staff regarding Draft Implementation Agreements.
- c. "Side-by-Side" CIP/Transition Plan Contrast/Comparison/Linkage (p.46)  
**Recommendation:** Receive a staff report on key capital improvement program and community facilities district special tax as it pertains to the pending Fort Ord Reuse Authority Transition/Sunset.
- d. Post-FORA Employee Health Benefit Options and Retiree Medicare Reimbursement (p.48)  
**Recommendation:**
  - i. Authorize the Executive Officer to execute liability release terms for retiring staff upon authority counsel recommendation and approval, to include recent retirees.
  - ii. Approve health reimbursement account option to clarify administering post-employment health benefits for terminated employees.

## 8. PUBLIC COMMENT PERIOD

## INFORMATION

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

## 9. ITEMS FROM MEMBERS

## INFORMATION

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

## 10. ADJOURNMENT

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

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



**FORT ORD REUSE AUTHORITY**  
**BOARD OF DIRECTORS SPECIAL MEETING MINUTES**  
**1:00 p.m., Friday, August 15, 2019 | Carpenters Union Hall**  
910 2<sup>nd</sup> Avenue, Marina, CA 93933

**1. CALL TO ORDER**

Chair Supervisor Jane Parker called the meeting to order at 1:00 p.m.

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Mary Ann Carbone.

**3. CLOSED SESSION**

*\*Chair Parker noted she received a suggestion to move the closed session to the end of meeting and she concurred with the request. The closed session will be heard at the conclusion of the Business Items.*

- a. Conference with Legal Counsel – Gov. Code §54956.9(a), (d)(1): Marina Community Partners, LLC v. Fort Ord Reuse Authority, Monterey County Superior Court Case No.: 18CV000871, Pending Litigation.

**4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION**

None.

**5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

There were no Acknowledgements, Announcements, or Correspondence.

**6. ROLL CALL**

**Voting Members Present:**

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Frank O'Connell (City of Marina), Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember Jon Wizard (City of Seaside), Mayor Joe Gunter (City of Salinas), Councilmember Cynthia Garfield (City of Pacific Grove)

**Ex-officio (Non-Voting) Board Members** Colonel Gregory Ford (United States Army), Keith Van Der Maaten (Marina Coast Water District), Dr. Eduardo Ochoa (California State University Monterey Bay)

## 7. CONSENT AGENDA

There were no items on the Consent Agenda.

## 8. BUSINESS ITEMS

### a. Building Removal Financing Recommendation – 2<sup>nd</sup> Vote

Executive Officer Michael A. Houlemard, Jr. introduced the item stating this is a second vote, and noted for the Board members that the question of concern is not new rather it has been lingering for years. The original question was posed eight years ago, and at that time FORA authorized Special Counsel, who was the California Redevelopment Association Counsel, Brett Hawkins, to answer the question. Mr. Hawkins wrote an opinion regarding FORA's right to the revenue stream. Since that time, there have been other Attorneys including Authority Counsel office review, Michael Baker and Associates review, and it was reviewed last year by FORA's consultants working on building removal. Mr. Houlemard introduced NHA Advisors Principal, Mark Northcross to provide answers to the questions prior to the Board taking the second vote. Mr. Northcross introduced Brian Forbath and Vanessa Legbandt of Stradling, Yocca, Carlson & Rauth ("SYCR") to address the question. Mr. Forbath reiterated the question as he understood it, "does FORA have ability to issue bonds?" Mr. Forbath had the opportunity to speak with Redevelopment Counsel Karin Tiedemann representing the City of Marina, on this question. Ms. Tiedemann raised the issue, that has been addressed by the previous Counsel. "What is the nature of payments that FORA receives?" Currently, the County of Monterey administers the payments of the tax increment as a statutory pass-through. Mr. Forbath stated there is ambiguity in the Redevelopment Dissolution Law as to that question, in that there is a provision in the redevelopment law that says the priority of funds of how it gets paid and administered by the County. There is an omission from that section that speaks to statutory pass-throughs getting paid as to the FORA payment. However, in another section it specifically addresses the FORA payments that could be subordinated as if there is a statutory pass-through. That was the question raised by Ms. Tiedemann, and whether or not that would affect the ability to finance the projects. Mr. Forbath is confident that Stradling, as bond counsel to FORA, would be able to issue a clean legal opinion on this topic. He stated there is a clean, valid ability for FORA to receive this money. There is an issue as it pertains to disclosure to investors and how this payment is described. The real question is: if it is not a statutory pass-through payment, then is it considered under the dissolution law an enforceable obligation? The successor agencies would need to be put on a recognized payment schedule which is presented to the Department of Finance yearly in order to get paid. Mr. Forbath and Mr. Northcross then responded to questions from the Board.

**MOTION:** On motion by Board member Gunter and second by Board member Smith and carried by the following vote, the Board moved to approve: Authorize all necessary preparatory work to issue bonds for building removal and the Executive Officer to: Move forward with the draft schedule presented by NHA Advisors; Approve a Fiscal Consultant's Report from EPS- NTE \$40,000; Approve NHA Advisors as Municipal Advisor and SYCR as Bond Counsel for the amount NTE \$200,000 + \$65,000 contingency; Work with the County and jurisdictions on post-FORA administration;

Secure jurisdictional support for the proposed schedule; and Work with Monterey County Regional Fire District to guarantee replenishment of funds to ensure the Monterey County Regional Fire District doesn't have loss in revenue.

**MOTION PASSED UNANIMOUSLY**

**b. Signatory Authorization**

Mr. Houlemard advised the Board the item speaks for itself. There were no question or comments from the Board or public.

**MOTION:** On motion by Board member Haffa and second by Board member Oglesby and carried by the following vote, the Board moved to authorize Josh Metz as an official Fort Ord Reuse Authority signatory in Executive Officer's absence.

**MOTION PASSED UNANIMOUSLY**

**c. Amend Resolution 19-12 FORA Retention and Separation Resolution**

Mr. Houlemard introduced the item. He noted that this is a minor adjustment that would impact a limited number of people. However, it would allow for flexibility in order to follow general direction provided by the Board. After further discussion, it was determined that the Executive Officer has already been given the direction, by the Board, to negotiate terms that will achieve the intended goal.

\*Chair Parker removed item 8c from the agenda.

*\*Director Phillips and Gagliotti departed and the quorum was lost. Due to the loss of the quorum there was no closed session.*

**9. PUBLIC COMMENT**

None.

**10. ITEMS FROM MEMBERS**

None.

**11. ADJOURNMENT** at 1:33 p.m.

Minutes Prepared by:  
Heidi L. Lizarbe  
Deputy Clerk

Approved by:

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Michael A. Houlemard, Jr. Executive Officer



**FORT ORD REUSE AUTHORITY**  
**BOARD OF DIRECTORS REGULAR MEETING MINUTES**  
**2:00 p.m., Friday, September 13, 2019 | Carpenters Union Hall**  
910 2<sup>nd</sup> Avenue, Marina, CA 93933

**1. CALL TO ORDER**

Chair Supervisor Jane Parker 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), (d)(1): Marina Community Partners, LLC v. Fort Ord Reuse Authority, Monterey County Superior Court Case No.: 18CV000871, Pending Litigation.
- b. Conference with Legal Counsel – One item of Potential Litigation, Gov. Code §54956.9(d).

Time Entered: 2:05 p.m.

Time Exited: 2:20 p.m.

**4. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION**

Authority Counsel Jon Giffen, announced the following:

- **Item 3a;** The Board heard from counsel on the status and approved the final settlement agreement under the following terms: FORA to pay MCP a settlement in the amount of \$4,666,399, of which \$3 million will go into an interest-bearing escrow account. The initial payment of \$1.5 million will be distributed once the building removal contractor has given notice to proceed and an additional \$1.5 million will be distributed when FORA receives a Notice of Completion of the project. The remaining \$1.6 million of the total settlement will be credited to MCP against FORA's share of land sales proceeds for Phase II of The Dunes project. This settlement agreement does not increase FORA's obligation for deconstruction costs beyond the terms provided in the Memorandum of Understanding or the Reimbursement Agreement.

*\*Director O'Connell stated for the record that representatives from the City of Marina were not involved in the settlement discussion and subsequent vote. Authority Counsel advised that as a party to the litigation the City of Marina did not have standing to be present in closed session.*

## 5. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Michael A. Houlemard, Jr. announced the following:

- Former FORA Associate Planner Mary Israel has accepted a position with the Monterey County Resource Management Agency (“RMA”) planning department.
- Former FORA Administrative Coordinator Shawn Hall has accepted a position within the Local Agency Formation Commission (“LAFCO”).
- FORA Controller/Finance Director Helen Rodriguez has returned to FORA staff full time.
- Despite submitting a bid for the UCMBEST property last year, The Rutherford Group has backed out of the development project.
- Consultant Kristie Reimer announced that FORA will be hosting the upcoming Association of Defense Committees (“ADC”) Base Redevelopment Forum September 30<sup>th</sup> - October 1<sup>st</sup>. For details and registration information visit: [www.baseredevlopment.org](http://www.baseredevlopment.org)
- Assistant Executive Officer Josh Metz announced Central Coast Marketing Team will be holding a Monterey Bay Opportunity Zone Investment Forum on Monday, October 14<sup>th</sup> (*subsequently rescheduled for Friday, November 15<sup>th</sup>*) at the CSUMB City Center. For more information visit: [www.mboz.org](http://www.mboz.org).
- Nicole Hollingsworth, District Director for Senator Bill Monning, read a letter from the Senator to the Board regarding Senate Bill (“SB”) 189. The Senator expressed his disappointment and confusion as to why SB 189 did not make it past the Assembly Appropriations Committee, as the bill had bipartisan support in the Senate, as well as the Assembly Local Government Committee. He wrote that at this juncture there is no legislative remedy to reverse the action taken in the Appropriations Committee and thanked the Cities of Monterey, Pacific Grove, Del Rey Oaks and Carmel, Monterey County, CSUMB and the veterans community for their collaboration and support throughout the legislative process.

## 6. ROLL CALL

### **Voting Members Present:**

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Supervisor Mary Adams (County of Monterey), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Frank O’Connell (City of Marina), Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember Jon Wizard (City of Seaside), Mayor Mary Ann Carbone (City of Sand City), Mayor Joe Gunter (City of Salinas), Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Jan Reimers (City of Carmel-by-the-Sea)

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

Kathleen Lee (20<sup>th</sup> Congressional District), Nicole Hollingsworth (17<sup>th</sup> State Senate District), Debbie Hale (TAMC), Dr. P.K. Diffenbaugh (MPUSD), Colonel Gregory Ford (United States Army), Keith Van Der Maaten (Marina Coast Water District), Dr. Eduardo Ochoa (California State University Monterey Bay), Bill Collins (BRAC), Steve Matarazzo (UCSC)

## 7. CONSENT AGENDA

- a. Approve Aug 9, 2019 Meeting Minutes
- b. Approve Aug 15, 2019 Special Meeting Minutes
- c. Administrative Committee
- d. Veterans Issues Advisory Committee
- e. Economic Development Quarterly Report

f. Public Correspondence to the Board

Chair Parker read the consent agenda items and asked if members had any comments or items to pull for discussion. Directors Adams and Morton requested item 7b August 15, 2019 Special Board Meeting Minutes be pulled for clarification.

*\*Board member Dr. Ochoa noted for the information of the Board that the “Seaside Clinic” referred to in item 7d is in fact the former Veterans Affairs site, which is fully enclosed by CSUMB campus lands.*

**MOTION:** On motion by Board member Adams and seconded by Board member Oglesby and carried by the following vote, the Board moved to approve items 7a and 7c - 7f. Director requested item 7b – August 15, 2018 special meeting minutes also brought back at the October Board Meeting for approval.

**MOTION PASSED UNANIMOUSLY**

**8. BUSINESS ITEMS**

**a. Building Removal Bonds**

Mr. Houlemard introduced the item and provided a brief background of the building removal bond process and a status update. He advised the Board that due to the current “inverted” bond market, FORA has the opportunity to receive \$35M-\$45M in bond issuance if the process is complete by the end of the year. He noted financial forecasts predict a shift in the bond market early next year and encouraged the Board to address two main goals in order to remain on schedule: 1) designate a successor entity and 2) develop a methodology for distribution of bond proceeds.

Senior Project Manager Peter Said stated that bond issuance requires the designation of a FORA successor entity to assume FORA’s responsibilities for waste generation, bond administration and excess fund distribution. Mr. Said provided an assessment of the implementation risks to consider, which include hazardous waste generation, construction liability, pollution liability, and multi-agency/cross-boundary coordination. Based on this analysis FORA staff believes that a Joint Powers Authority (“JPA”) Successor entity is the best solution and will present this information to the Administrative Committee for a recommendation. At the September 18, 2019 Administrative Committee meeting, the Committee will consider designation of a Bond Indenture Successor Entity, as well as building removal prioritization criteria and methodologies for bond proceed distribution and building removal implementation. Mr. Said noted staff is currently working with the Monterey County Regional Fire District to minimize the financial impact of the transition and will be discussing the various options at the Administrative Committee meeting. Staff responded to questions from the Board.

*\*Councilmember Berkley of the City of Marina noted that Marina counsel has not approved the proposed building removal bond process.*

*\*Ron Chesshire, formerly of the Monterey Santa Cruz Building Construction Trades Council stated that blight removal has been used as a tool to stop economic development on the*

*former Fort Ord. He urged the Board to move forward with the building removal bond process in order to see progress in Economic Development.*

*\*Director Oglesby emphasized that delaying the building removal bond process may cost up to \$5 million in lost proceeds. He encouraged the Board to have this done by December 2019 in order to take full advantage of the current bond market and prepare for FORA's dissolution.*

\*Director Morton commented regarding the method of prioritization by project area or jurisdiction. She requested that staff provide a project matrix based on project area jurisdiction in preparation for the October 7, 2019 Special Board meeting.

**b. 2018 Transition Plan Implementing Agreements Progress Report ("TPIA")**

Assistant Executive Officer Josh Metz provided a Progress Report in coordination with Regional Government Services ("RGS") consultant Kendall Flint. He reviewed the Path to Implementation and stated that FORA is currently in the "Final Drafts to Agencies" phase. He outlined an updated Master TPIA and reviewed the functions currently funded through FORA and the Agencies taking over the responsibilities for those functions. He presented a grid detailing all of TPIA's and the current status. A draft Master TPIA is available to the Board and Mr. Metz encouraged the jurisdictions to review and offer feedback. The Marina Coast Water District ("MCWD") Water TPIA are currently being coordinated and a draft ESCA TPIA is scheduled for Board review in December. Mr. Metz noted that the Economic Development Conveyance and the Local Redevelopment Authority Agreements are included in the draft Master TPIA. RGS provided an updated status list of the remaining TPIA's. They will provide these draft TPIA's to FORA legal counsel in early October and the Board in November. Remaining FORA TPIA's include the HCP/JPA (Cooperative), LAFCO Liability and Risk, as well as the Capital Improvement Program Projects South Boundary Road and General Jim Moore Boulevard completion. Staff heard questions from the Board. There were no comments from the public.

*\*Director Garfield noted for the record concern regarding the TPIA timeline. She stated it should be taken into consideration that these Agreements will need review and possible amending by each jurisdiction's counsel, which may cause significant delays. Mr. Metz and Authority counsel, Jon Giffen expressed confidence in RGS and stated the proposed schedule is well-organized. Mr. Giffen emphasized that it is the responsibility of the Board to bring the TPIA to their respective legal counsels.*

**c. Habitat Conservation Plan: Amendment to Consultant Services**

Mr. Houlemard introduced the item stating that consultants Erin Harwayne of Denise Duffy & Associates, Inc. ("DD&A") and Aaron Gabbe of Inner-City Fund International ("ICF"), have successfully completed the technical, background work required for the Habitat Conservation Plan ("HCP") and have published a draft for review. Mr. Metz reviewed the status of the HCP and Environmental Impact Report/Environmental Impact Statement (EIR/EIS), noting the target date of mid-October to issue a Notice of Availability in Federal Register Publication. The HCP will be under public/agency review for 45 days following its publication, with a final draft completed in early 2020, and the final approval sequences executed by FORA's June 30, 2020 sunset date. Mr. Metz reviewed the consultant contract amendments to the ICF and DD&A, providing a Scope of Work for each firm and a recommendation from staff to approve an NTE increase to consultants' current contracts.

This amendment would allow consultant work to continue through the public review period and response to comments. Staff heard questions from the Board. There were no public comments.

**MOTION:** On motion by Director Phillips, second by Director Carbone and carried by the following vote, the Board of Directors moved to approve staff's recommendation for the ICF and DD&A contract amendments.

**MOTION PASSED UNANIMOUSLY**

**9. PUBLIC COMMENT**

- Ron Chesshire stated FORA is disappearing just as mysteriously as it came into his life. There was a Defense Authorization act of 1993 that was created by the Federal Government to facilitate economic development conveyances to develop local reuse authorities. It was a preferred system, but not required by the Federal Government. Mr. Chesshire stated for years it has been said that FORA was established because the Federal Government just wanted one entity to deal with, and does not believe that is true. He however, would be interested in what the US Army and BRAC have to say about the possibilities of having to deal with LAFCO or multiple agencies and what their position maybe. He also noted it's disappointing to hear what has taken place in Sacramento, and it was not killed by the Committee but rather by the chair. It was a district bill that a State Senator submitted and should not have any problems with, something happened and will come out later.

**10. ITEMS FROM MEMBERS**

- Director Oglesby expressed his appreciation for Senator Monning and the jurisdictions for their hard work in supporting FORA and SB 189.
- Director Hale stated that TAMC is moving forward on Highway 68 improvements, a FORA CIP project. An Environmental Impact Report Scoping meeting will be held on October 3, 2019 at Monterey-Salinas Transit Center at 5:00 p.m.

**11. ADJOURNMENT at 4:10 p.m.**

Minutes Prepared by:  
Natalie Van Fleet  
Administrative Assistant

Approved by:

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Michael A. Houlemard, Jr. Executive Officer

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT AGENDA

**Subject:** Administrative Committee

**Meeting Date:** October 11, 2019

**Agenda Number:** 6c

**INFORMATION/ACTION**

### RECOMMENDATION:

Receive a report from the Administrative Committee.

### BACKGROUND/DISCUSSION:

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

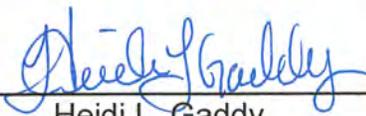
### FISCAL IMPACT:

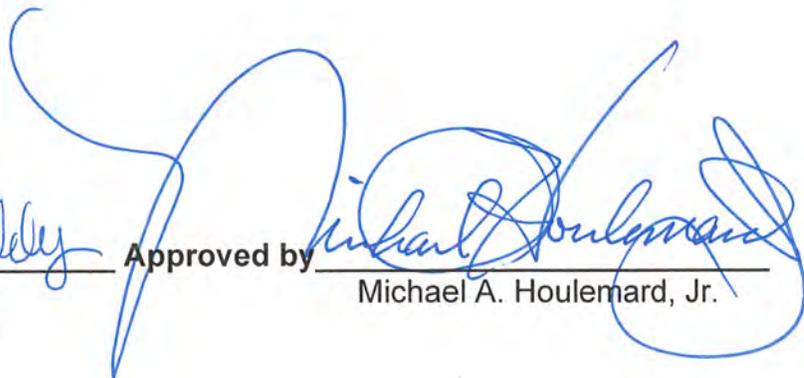
Reviewed by the FORA Controller 

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

### COORDINATION:

Administrative Committee

Prepared by   
Heidi L. Gaddy

Approved by   
Michael A. Houlemard, Jr.



APPROVED

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

**1. CALL TO ORDER**

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

The following members were present:

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

**2. PLEDGE OF ALLEGIANCE**

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

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

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

**4. PUBLIC COMMENT PERIOD**

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

**5. APPROVAL OF MEETING MINUTES**

**ACTION**

a. August 15, 2019 Special Meeting Minutes

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

**MOTION PASSED UNANIMOUSLY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There were no items from members.

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

Minutes Prepared By:  
Heidi Lizarbe  
Deputy Clerk



APPROVED

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

**1. CALL TO ORDER**

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

The following were present:

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

**2. PLEDGE OF ALLEGIANCE**

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

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

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

**4. PUBLIC COMMENT PERIOD**

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

No public comments were received.

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

## a. September 4, 2019 Regular Meeting Minutes

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

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

- 2018 Transition Plan: Implementing Agreements

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

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

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

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

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

## i. Review Issuance Documentation and Options

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

NHA Advisors Principal Consultant Mark Northcross explained that Stifel and Citi proposed a series of three bonds: 1) “normal series,” which is based on fiscal year (“FY”) 2020 revenues; 2) “occupancy permit series,” based on occupancy permits issued in FY 2021; 3) “speculative/future growth series,” based on estimated growth by calendar years 2020 and 2021. The Committee discussed the material provided. Mr. Northcross heard questions and will return to the next Committee meeting to provide further information.

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

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

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

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

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

**MOTION PASSED UNANIMOUSLY WITH 1 ABSTENTION**

*Committee member Layne Long Abstained*

**b. 2018 Transition Plan Transportation Study**

**i. Review Transportation Study Results**

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

**ii. Consider Network Completion Options**

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

**8. ITEMS FROM MEMBERS**

There were no items from members.

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

Minutes Prepared By:  
Natalie Van Fleet  
Administrative Assistant

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT AGENDA

**Subject:** Veterans Issues Advisory Committee

**Meeting Date:** October 11, 2019

**Agenda Number:** 6d

**INFORMATION/ACTION**

### RECOMMENDATION:

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

### BACKGROUND/DISCUSSION:

The VIAC met on September 26, 2019 and did not approve the August 22, 2019 minutes. The August 22, 2019 minutes will be approved at the next Committee meeting on October 26, 2019.

### FISCAL IMPACT:

Reviewed by FORA Controller 

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

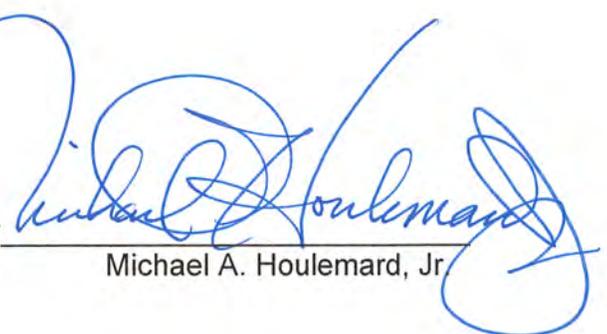
### COORDINATION:

VIAC

Prepared by

  
Natalie Van Fleet

Approved by

  
Michael A. Houlemard, Jr.

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT AGENDA

<b>Subject:</b>	Water/Wastewater Oversight Committee	
<b>Meeting Date:</b>	October 11, 2019	<b>INFORMATION/ACTION</b>
<b>Agenda Number:</b>	6e	

### RECOMMENDATION:

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

### BACKGROUND/DISCUSSION:

The WWOC approved minutes from April 25 (**ATTACHMENT A**), and July 11, 2019 (**ATTACHMENT B**). The committee then considered the Marina Coast Water District (MCWD) FINAL DRAFT Master Plans for Water, Wastewater, and Recycled Water. The WWOC also considered the Capacity Fee Report and asked questions of MCWD. The MCWD Master Plans and DRAFT Capacity Fee Study can be found at:

<https://www.mcwd.org/>

A number of the members from the development community asked questions pertaining to the slated FORA Transition/Sunset specifically pertaining to the collection of a portion of the Community Facilities District in the capacity fees. They also asked for more time to respond to the DRAFT documents received at the MCWD Stakeholder meetings. The chair reported that the transition solutions was not the purview of the WWOC and the discussion would be dealt with at the Administrative Committee and the FORA Board.

Because the WWOC wanted additional time to review the changes coming out of the stakeholder meetings held by MCWD, they moved to continue the item to October 24, 2019.

### FISCAL IMPACT:

Reviewed by FORA Controller 

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

### COORDINATION:

WWOC, Marina Coast Water District

### ATTACHMENTS:

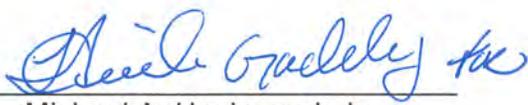
Attachment A: April 25, 2019 Meeting Minutes

Attachment B: July 11, 2019 Meeting Minutes

Prepared by

  
Peter Said

Approved by

  
Michael A. Houlemard, Jr.



APPROVED

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

920 2<sup>nd</sup> Avenue, Suite A, Marina CA 93933 | FORA CIC  
10:00 A.M., Thursday, April 25, 2019

**1. CALL TO ORDER**

Co-Chair McMinn called the meeting to order at 10:02 A.M.

**Committee Members Present:**

Mike Lerch, California State University Monterey Bay (CSUMB)  
Steve Matarazzo, University of California Santa Cruz  
Brian McMinn, City of Marina  
Scott Ottmar, City of Seaside (Alternate)

**Committee Members Absent:**

Melanie Beretti, County of Monterey  
Elizabeth Caraker, City of Monterey  
Dino Pick, City of Del Rey Oaks

**Other Attendees:**

Kelly Cadiante, Marina Coast Water District (MCWD)  
Mike Wegley, Marina Coast Water District

**FORA Staff:**

Jonathan Brinkmann

**2. PLEDGE OF ALLEGIANCE** led by Committee member Mike Lerch.

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

**4. PUBLIC COMMENT PERIOD**  
None.

**5. APPROVAL OF MEETING MINUTES**

**MOTION:** On motion by Committee member Matarazzo and second by Committee member Lerch, the Water/Wastewater Oversight Committee (WWOC) moved to approve the April 11, 2019 meeting minutes.

**MOTION PASSED: UNANIMOUSLY**

**6. BUSINESS ITEMS****a. MCWD FY 19-20 DRAFT Budget Review****ACTION**

MCWD's Kelly Cadiante provided an update regarding the revenue breakdown for water sales, confirming the formulas have been updated. A list of line item changes was provided to the Committee.

Ms. Cadiante provided the Committee MCWD General Manager's response to a question regarding CSUMB's irrigation conversion/improvements. Mr. VanDerMaaten communicated that MCWD will meet with CSUMB to work out schedules and coordination when appropriate. Currently, MCWD is still in the design and permitting phase of the distribution work.

The WWOC reviewed the budget and found it to be in order and in conformance with standard practices. The compensation plan's capacity fees were not addressed by the WWOC and will remain the same until the 2019 MCWD Master Plan and Capacity Charge Study has been completed and reviewed by the WWOC, the Administrative Committee, and the FORA Board.

**MOTION:** On motion by Committee member Ottmar and second by Committee member Lerch, the Water/Wastewater Oversight Committee moved to accept the FY 19-20 Draft Budget and recommend the FORA Board approve the FY 19-20 MCWD Ord Community Budget.

**MOTION PASSED: UNANIMOUSLY**

**7. ITEMS FROM MCWD**

Mr. Mike Wegley of MCWD confirmed that the transmission main project of the Regional Urban Water Augmentation Project (RUWAP) is substantially complete, but MCWD will need to install a mixing system in the reservoir to maintain freshness of water. Mr. Wegley responded to questions and comments from the Committee.

**8. ITEMS FROM MEMBERS**

None.

**9. ADJOURNMENT:** Co-Chair McMinn adjourned the meeting at 10:30 A.M.



APPROVED

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

920 2<sup>nd</sup> Avenue, Suite A, Marina CA 93933 | FORA CIC  
10:00 A.M., Thursday, July 11, 2019

**1. CALL TO ORDER**

Co-Chair McMinn called the meeting to order at 10:02 A.M.

**Committee Members Present:**

Mike Lerch, California State University Monterey Bay (CSUMB)  
Brian McMinn, City of Marina  
Rick Reidl, City of Seaside

**Committee Members Absent:**

County of Monterey  
City of Monterey  
City of Del Rey Oaks  
University of California Santa Cruz

**Other Attendees:**

Kelly Cadiante, Marina Coast Water District (MCWD)  
Mike Wegley, Marina Coast Water District  
Andre Racz, Marina Coast Water District  
Doug Dove, Bartle Wells Associates  
Abigail Seaman, Bartle Wells Associates  
Tony Akel, Akel Engineering Group  
Kevin Tuttle, Akel Engineering Group

Jeff Cooks, Nathen Castanos Homes  
Mary Kelasen, Shea Homes

**FORA Staff**

Peter Said, Project Manager  
Amber Watson, Administrative Assistant

**2. PLEDGE OF ALLEGIANCE** led by Committee member Brian McMinn.

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

American Public Works Association (“APWA”) is having their general meeting next Wednesday, July 24, 2019 at 5:30 p.m. at La Casa Del Sazon Restaurant in Salinas. Anyone is welcome and can go to the APWA website and RSVP for the meeting.

**4. PUBLIC COMMENT PERIOD**

None.

**5. APPROVAL OF MEETING MINUTES**

A quorum was not established and a “meeting of the whole” was held.

**6. BUSINESS ITEMS**

**INFORMATION**

- a. Receive Presentation on the Draft Sewer, Water, and Recycled Water Master Plan Studies

Chair Reidl introduced Marina Coast Water District Engineer, Mike Wegley, who introduced Tony Akel of Akel Engineering Group to present the draft Sewer, Water and Recycled Water Master Plan Study. Mr. Akel gave a brief background on the master plan and advised the Committee that comments have been received and incorporated into the draft master plan. He noted revisions include the water supply strategies to be consistent with the MCWD strategies, and near term improvements compared to the long term, as the Capital Improvement Plan goes through 2035.

It was noted that as a result of the Fort Ord Reuse Authority (“FORA”) scheduled sunset date of June 30, 2020, the Community Facilities District (“CFD”) Capacity Fees will no longer exist. A portion of the capacity fees collected by FORA were meant to address recycled water/groundwater augmentation and there is dollar amount allocated in the FORA Capital Improvement Program (“CIP”) specifically towards water augmentation. The transition plan approved by the FORA Board includes implementing agreements that replace the CFD fees with an alternatives collection methodology. MCWD proposes that monies for water augmentation will be collected through the capacity fees.

Mr. Akel addressed comments and questions from the Committee members.

**This item was for information only.**

- b. Receive Presentation on the Draft Capacity Fees Report

Mike Wegley introduced Doug Dove of Bartle Wells & Associates. He stated there are increases in capacity fees and there is a balance between cost allocated to existing customers allocated to future customers. He advised the current fees of the central Marina and the Ord Community new growth be assessed on an equivalent dwelling unit basis. For Marina, the current combined fees for water and sewer are approximately \$68,150 and Ord Community is \$11,300. The fees were updated in 2013 and used factors of .33-acre foot per year. It was recommended use factors be updated to a lower number of .28-acre foot per year. For sewer, the EDU is based on the number of fixture units per the plumbing code.

There was further discussion among the Committee members. Mr. Dove and Marina Coast Water District staff members addressed comments and questions from the Committee.

**This item was for information only.**

- c. Annexation Update

Mike Wegley of MCWD stated that LAFCO has completed their review and has approved the annexation. It will be going to the Board of Equalization and it will then be finalized. Customers will not see any change other than they will be invited to vote for representation, which will take place in November of 2020.

**This item was for information only.**

**7. ITEMS FROM MCWD**

None.

**8. ITEMS FROM MEMBERS**

None.

**9. ADJOURNMENT:** Chair Reidl indicated he needed a motion to adjourn.

**MOTION:** On motion by Committee member Lerch and second by Committee member Zeller, the Water/Wastewater Oversight Committee (WWOC) moved to adjourn the July 11, 2019 Committee meeting at 11:34 a.m.

**MOTION PASSED: UNANIMOUSLY**

# FORT ORD REUSE AUTHORITY BOARD REPORT

## CONSENT AGENDA

**Subject:** Environmental Services Cooperative Agreement Quarterly Report

**Meeting Date:** October 11, 2019

**Agenda Number:** 6f

**INFORMATION/ACTION**

### **RECOMMENDATION:**

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

### **BACKGROUND:**

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

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

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

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

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

<b>Item</b>	<b>2017 &amp; 2019 Amendment Allocations</b>	<b>Accrued through June 2019</b>	<b>Invoiced to AIG Cost Cap-Policy</b>
<b>Line Item 0001</b> Environmental Services			
FORA Self-Insurance or Policy	\$916,056	\$916,056	N/A
State of California Surplus Lines Tax, Risk Transfer, Mobilization	6,100,000	6,100,000	N/A
Contractor's Pollution Liability Insurance	477,344	477,344	N/A
ARCADIS/AIG Commutation Account - plus- AIG insurance	82,117,553	82,117,553	\$5,817,277
Original FORA Administrative Fees	4,562,001	4,562,001	N/A
<b>Line Item 0001: Subtotal</b>	<b>\$94,172,954</b>	<b>\$94,172,954</b>	<b>N/A</b>
<b>Line Item 0001A:</b> Environmental Services Post-Cost-Cap Insurance - Hourly	192,201	0	N/A
<b>Line Item 0001B:</b> Environmental Services Post-Cost-Cap Insurance - Lump Sum	134,899	0	N/A
<b>Line Item 0002:</b> thru 31 Dec 2019 DTSC and EPA Technical Oversight Services	4,301,568	4,169,557	N/A
<b>Line Item 0003:</b> thru 30 June 2020 FORA ESCA Adm. Funds	1,865,848	679,923	N/A
<b>Line Item 0003A:</b> FORA ESCA Admin. Oversight Post-Cost-Cap Insurance	16,355	0	N/A
<b>Line Item 0004:</b> thru 30 June 2028 Post- Closure MEC Find Assessments	528,651	0	N/A
<b>Line Item 0005:</b> thru 30 June 2028 Long Term/LUC Management	3,705,792	0	N/A
<b>Total</b>	<b>\$104,918,268</b>	<b>\$99,022,434</b>	<b>\$5,817,277</b>
	<b>ESCA Remainder</b>	<b>\$5,895,834</b>	<b>N/A</b>

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

Please note that remedial completion Regulatory approval does not determine land use. FORA transfers land title to the appropriate jurisdiction for reuse. Underlying jurisdictions are authorized to impose or limit

zoning, decide property density or make related land use decisions in compliance with the FORA Base Reuse Plan.

**ESCA Amendments Update:**

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

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

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

In September 2019, FORA, as directed by the Army, requested a further ESCA extension and Arcadis and FORA accounting costs to December 31, 2019.

**FISCAL IMPACT:**

Reviewed by FORA Controller 

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

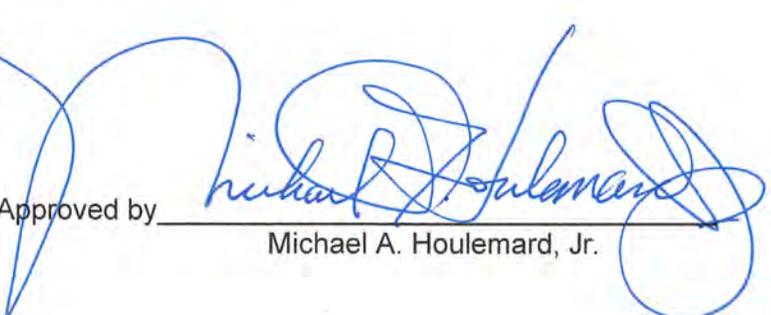
**COORDINATION:**

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

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

  
Stan Cook

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

  
Michael A. Houlemard, Jr.

<b>FORT ORD REUSE AUTHORITY BOARD REPORT</b>	
<b>CONSENT AGENDA</b>	
<b>Subject:</b>	Public Correspondence to the Board
<b>Meeting Date:</b>	October 11,2019
<b>Agenda Number:</b>	6g
	<b>INFORMATION/ACTION</b>

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

Correspondence may be submitted to the Board via email to [board@fora.org](mailto:board@fora.org) or mailed to the address below:

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

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEM

<b>Subject:</b>	Building Removal Bond Status Report	
<b>Meeting Date:</b>	October 11, 2019	<b>INFORMATION/ACTION</b>
<b>Agenda Number:</b>	7a	

**RECOMMENDATION:**

Receive a Building Removal Bond Status Report

**BACKGROUND:**

At the October 2018 meeting, the Fort Ord Reuse Authority (FORA) Board directed staff to investigate the legality and feasibility of issuing debt against FORA's statutory share of property tax revenue provided to FORA by the State Legislature as codified in the State of California Health and Safety Code. In January 2019, FORA released a competitive Request for Qualifications and selected NHA Advisors (NHA) to complete the bond feasibility and financial analysis. In July 2019, the Administrative Committee (AC) recommend the Board do the necessary work to prepare a bond package, and in August 2019, the Board approved the Executive Officer (EO) to do so.

**Successor Agency and Bond Fund Allocation**

At the September 18<sup>th</sup> meeting, the AC unanimously recommended the following actions related to the building removal bond: 1) the FORA Board consider naming the City of Marina as the bond successor agency (SA), pending contingency (Marina City Council review and acceptance of SA responsibilities) (**Attachment A**); 2) each stakeholder receive a specific percentage share of the bond funds as follows (Table 1), with the Monterey County permitting the funds it could receive (from the percentage of tax generated in its jurisdiction), be assigned for the public benefit with Transportation Agency of Monterey County (TAMC), California State Parks (State Parks), Marina Coast Water District (MCWD), and Monterey-Salinas Transit (MST) being recipients having buildings on their former Fort Ord parcels; and 3) fund use be limited to removal of existing military buildings within the project area of the former Fort Ord (**Attachment B**).

*Table 1. Proposed Bond Fund Allocations by Account Owner*

Account Owner	% of Proceeds	Project List
Marina	50.00%	Park, Arts District, Cypress Knolls, Stockade, Other
Seaside	32.25%	Surplus II, Fast Food, Church, Other
TAMC	6.25%	Transit Center
MCWD	5.25%	Waste Treatment Plant (State Parks), Storage Yard
Monterey County	4.50%	Ammo Supply Point, Other
MST	1.75%	Transit Center, Storage

**Use of Funds: Monterey County Regional Fire District**

NHA identified a benefit to all stakeholders. It also identified Monterey County Regional Fire District (MCRFD) as a silent stakeholder impacted by the County's tax increment dedication to bond repayment. The Fire Districts cash flow is estimated to be impacted \$500K in year one, with a sum of \$1.8M by year seven, and MCRFD would begin to see positive revenue by year 8 assuming buildout meets projections. Therefore, the FORA Board instructed its Executive Officer (EO) to guarantee the replenishment of funds so that MCRFD does not have a loss in revenue. The EO, in coordination with the AC identified a solution whereby Monterey County, City of Marina, and City of Seaside would

establish payment of a pro-rata share based on the % of proceeds. The three jurisdictions are coordinating details of an agreement.

**Use of Funds: Insurance, Litigation, Administration, Management**

At the September 18<sup>th</sup> meeting, the AC reviewed building removal insurance requirements. These include a Pollution Legal Liability (PLL) policy and "Cradle-to-Grave Insurance" in addition to the standard general liability, and construction coverages. Often there is a requirement that the Contractor carry additional PLL insurance, as well as performance bonds. Depending on the size of the removal project, and EPA requirements, a "Cradle-to-Grave Insurance" may be required. Therefore, the AC recommended the Board allow the use of bond proceeds for insurance and legal costs associated with building removal.

**Next Steps: Monterey County Marks-Roos Public Hearing**

The FORA authorizing statute identified the Marks Roos law as the method for FORA to issue bonds. The authorizing statute incorporated Marks Roos by reference without considering FORA is not a JPA. Specifically, the Marks Roos Act requires that "a public agency within whose jurisdiction bond proceeds will be spent acknowledge the public benefit of such an expenditure". Because of this inclusion, the FORA Bond Counsel recommends that FORA and Monterey County meet this requirement via a public hearing. FORA staff concurs in the AC recommendation that the County Board of Supervisors recognize the public benefit of using bond funds for building removal on the former Fort Ord.

**Next Steps: Monterey County Commitment to continue FORA fund intercept**

Currently, the Monterey County conducts a tax increment "intercept" whereby the County Auditor provides FORA its share of tax increment via a statutory pass through, which is then regularly reviewed by the Department of Finance (DOF). In order to finalize the legal documents for bond issuance, the County must resolve to continue this intercept, but change the recipient from FORA to the FORA Successor Agency, who will in-turn commit to provide the intercept to the Bond Trustee, starting Jul 1, 2020. Staff provided draft language for Board of Supervisors consideration at the earliest possible date.

**Next Steps: FORA Board Action**

The FORA Board will need to approve bond legal documents following a Monterey County public hearing and resolution to commit fund intercept. Staff provided draft legal documents to the AC and Authority Counsel for review. Staff anticipates FORA Board consideration of: 1) the City of Marina as the building removal bond administration Successor Agency, 2) bond proceed allocations, 3) approved fund uses, and 3) an approved project list at its next regular meeting.

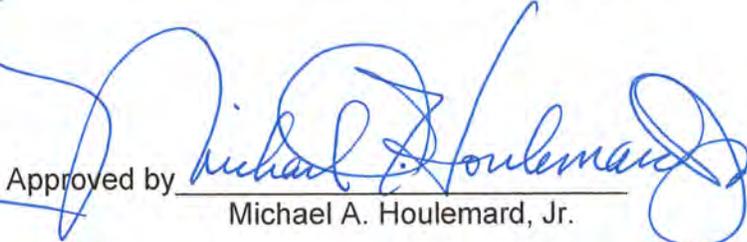
**FISCAL IMPACT**

Reviewed by FORA Controller 

Staff time to support the AC is included in the approved annual budget.

**COORDINATION:**

County of Monterey, the County Fort Ord Committee, Cities of Seaside and Marina, Administrative Committee, Executive Committee, NHA Advisors, Monterey Peninsula College, Monterey County Regional Fire District, California State Parks, Marina Coast Water District, Transportation Agency of Monterey County, Monterey-Salinas Transit.

Prepared by  Peter Said Approved by  Michael A. Houlemard, Jr.

STRADLING YOCCA CARLSON & RAUTH  
A PROFESSIONAL CORPORATION

MEMORANDUM

**TO:** FORT ORD REUSE AUTHORITY **FILE NUMBER:** 200840-0000  
**FROM:** BRIAN P. FORBATH  
VANESSA S. LEGBANDT  
**DATE:** September 30, 2019  
**SUBJECT:** RESPONSIBILITIES AND LIABILITIES OF THE SUCCESSOR AGENCY TO  
THE FORT ORD REUSE AUTHORITY

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The Fort Ord Reuse Authority (“FORA”) will cease to exist as of June 30, 2020, unless there is a legislative extension. FORA and its members desire that FORA issue bonds (the “Bonds”) prior to its dissolution in order to finance building removal and remediation projects. In order to do so, a successor entity needs to be chosen by FORA and its members in order to administer the bonds and protect the interests of bond owners post FORA dissolution. Responsibilities of the successor entity include:

- Preserve and protect the security of the Bonds and the rights of Bond Owners
- Ensure allocation and payment of moneys pledged to payment of the Bonds, consisting solely of moneys allocated to FORA from each of the redevelopment project areas within its boundaries pursuant to Health and Safety Code Section 33492.71(c)(1)(A) or (D), as applicable (“Pledged Revenues”)
- Continuing Disclosure, including information regarding outstanding FORA debt obligations, assessed valuation of property within the redevelopment project areas established by the cities of Marina and Seaside and the County of Monterey, and amount of Pledged Revenues generated in the prior or then-current Fiscal Year
- Approve expenditure of administrative expenses
- Direct Trustee as necessary under the Bond Indenture

- Direct investment of Reserve Fund
  - Direct future redemption of Bonds
  - Replace Trustee, if needed
  - Amend Bond Indenture, if needed
- Account for and possibly audit Pledged Revenues.

The bonds will be special limited obligations of FORA payable solely from Pledged Revenues. **Neither FORA nor the successor entity will grant the Bond Owners a pledge or lien nor be obligated to make payments to Bond Owners from funds other than Pledged Revenues.** In connection with the issuance of the bonds, FORA will provide the County of Monterey with an irrevocable instruction directing the County to transfer Pledged Revenues sufficient to pay debt service on the Bonds and to pay administrative expenses of the successor entity, the bond trustee and other costs needed to administer the Bonds directly to the Trustee.

Although the successor entity will have no financial responsibility for the Bonds, there are situations that could potentially require the successor entity to expend its own funds. In particular, litigation among FORA's former members, litigation by bond owners if an event of default occurs under the Bond Indenture, or the filing of third-party lawsuits could require the successor entity to advance its own funds if there are insufficient Pledged Revenues to pay all of the successor entity's administrative expenses. Due to the successor entity's very limited role in administering the Bonds, the potential for liability without actual negligence by the successor entity is very limited. Moneys advanced by the successor entity in connection with the administration of the Bonds or the Bond Indenture would be eligible for reimbursement from Pledged Revenues, as such moneys become available. Despite the very limited exposure, the successor entity nonetheless could be required to

expend its own funds to defend itself in such litigation, even if the successor entity has no liability or did nothing wrong. Projections of Pledged Revenues expected to be generated in excess of estimated debt service on the Bonds will help to inform the proposed successor entity of the likelihood that administrative expenses could be incurred by the successor entity in excess of expected Pledged Revenues available to pay such expenses.

List of Project Parcels by U.S Army Corps of Engineers (“Army”) Parcel Number.

For an interactive parcel map, please visit [www.fortordcleanup.com](http://www.fortordcleanup.com)

<b>Jurisdiction</b>	<b>USACE Parcel Number</b>	<b>Description</b>	<b>Bond Account Owner</b>
City of Marina	E4.1.1	Cypress Knolls	City of Marina
City of Marina	E4.1.2.1	Cypress Knolls	City of Marina
City of Marina	E4.1.2.2	Cypress Knolls	City of Marina
City of Marina	L5.9.1.1	Marina Radio Club	City of Marina
City of Marina	L5.4.2	Marina Park	City of Marina
City of Marina	E2b.3.1.1	Marina Arts District	City of Marina
City of Marina	E2c.4.2.1	Stockade	City of Marina
City of Marina	L20.16.1	TAMC Transit Center	TAMC
City of Marina	L2.1	MST Transit Center	MST
City of Marina	L35.1	MCWD Storage	MCWD
City of Seaside	L2.4.3.1	MST Storage	MST
City of Seaside	L32.4.1.1	Surplus II	City of Seaside
City of Seaside	L19.4	Surplus II	City of Seaside
City of Seaside	F2.3.2	Main Gate	City of Seaside
City of Seaside	F2.3.3	GJMB Parcel	City of Seaside
City of Seaside	L15.1	Surplus II	City of Seaside
City of Seaside	F5.2	National Guard	City of Seaside
City of Seaside	L23.5.1	Chartwell School	City of Seaside
City of Seaside	E18.1.3	Nurses Barracks	City of Seaside
County of Monterey	E11b.8	Ammo Supply Point	County of Monterey
County of Monterey	L23.3.2.1	East Garrison	County of Monterey
County of Monterey	L23.3.2.2	Open Space	County of Monterey
County of Monterey	L23.3.3.1	Open Space	County of Monterey
County of Monterey	L23.3.3.2	Open Space	County of Monterey
County of Monterey	L20.2.1	Open Space	County of Monterey
County of Monterey	L20.2.2	Open Space	County of Monterey
County of Monterey	S3.1.1	Wastewater Plant	Department of Parks and Recreation (“State Parks”)

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEM

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

**Meeting Date:** October 11, 2019

**Agenda Number:** 7b

**INFORMATION/ACTION**

### RECOMMENDATION:

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

### BACKGROUND:

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

### TRANSITION PLANNING PROGRESS REPORT:

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

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

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

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

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

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

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

**FISCAL IMPACT:**

Reviewed by FORA Controller 

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

**COORDINATION:**

Executive Officer.

**ATTACHMENTS:**

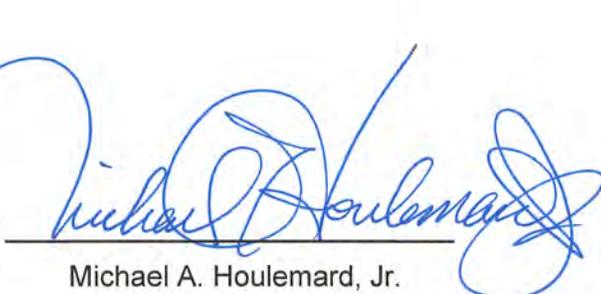
Attachment A: TPIA Status Chart

Attachment B: DRAFT Multi-Agency TPIA

Prepared by

  
Josh Metz

Approved by

  
Michael A. Houlemard, Jr.

FORA Transition Documents Status Chart

RGS Consultants

Transition Document	By	Parties	Draft to Board	Draft to FORA Legal Counsel	Revised Draft	Final Draft
Implementing Agreements	RGS	Del Rey Oaks Marina Monterey Monterey County Seaside	9/13/19	9/13/19	11/8/19	12/13/19
MCCWD Water Agreements	MCCWD	Del Rey Oaks Marina Seaside Monterey Monterey County UC Santa Cruz Monterey Peninsula College			11/8/19	12/13/19
ESCA	RGS FORA Seaside	Del Rey Oaks Seaside Monterey Monterey County MPC CSUMB	12/13/19			1/10/20
EDC Successor	RGS		9/13/19	9/13/19	11/8/19	12/13/19
LRA Successor	RGS		9/13/19	9/13/19	11/8/19	12/13/19
FORA-UCSC Agreement Concerning Funding of Habitat Management Related Expenses on the Fort Ord Natural Reserve	RGS	FORA UCSC				
Del Rey Oaks-FORA-Developer Endangered Species MOA	RGS	FORA Del Rey Oaks		10/1/19	11/1/19	
FORA-UCSC FONR-Extension of Funding	RGS	FORA UCSC		10/1/19	11/1/19	
County-FORA-Developer Endangered Species MOA	RGS	FORA County		10/1/19	11/1/19	
County-FORA-EG Partners LLC Funding Obligations	RGS	FORA County EG Partners		10/1/19	11/1/19	

FORA Transition Documents Status Chart

RGS Consultants

Transition Document	By	Parties	Draft to Board	Draft to FORA Legal Counsel	Revised Draft	Final Draft
Writ of Mandate	RGS			10/1/19	11/1/19	
Stipulation to Discharge Peremptory Writ of Mandate (CSUMB)	RGS	FORA CSUMB		10/1/19	11/1/19	
FORA-Seaside-County-VCF Cemetery Land Sale Agreement2012	RGS	FORA Seaside County Veterans		10/1/19	11/1/19	
Water/Wastewater Facilities Agreement	RGS	FORA MCWD		10/1/19	11/1/19	
HCP JPA (Cooperative)	Member Agencies	Del Rey Oaks Marina Seaside Monterey Monterey County UC Santa Cruz Monterey Peninsula College Veterans Cemetery County of Monterey California State Parks Monterey Peninsula Regional Park District Marina Coast Water District Bureau of Land Management (BLM)				4/1/20
LAFCO Liability and Risk	FORA LAFCO					
South Boundary Road Project	FORA					
Gen Jim Completion	FORA					

## IMPLEMENTING AGREEMENT

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

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

### RECITALS:

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

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

### Section 1 Definitions

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

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

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

## Section 2      Compliance with Water/Waste Water Allocations

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

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

### Section 3. Capital Improvements: Local Roads

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

These include:

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

### Section 4 Capital Improvements: Regional Roads

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

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

### Section 5 Habitat Conservation Plan Implementation

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

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

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

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

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

#### Section 7 Records Retention and Management

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

#### Section 8 Land Transfer Reporting Requirements

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

Section 9

Dissolution of the Authority

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

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

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

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

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

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

Section 10

Severability

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

## Section 11 Dispute Resolution

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

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

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

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

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

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

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

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

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

Section 12                    Entire Agreement

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

Section 13                    Multiple Originals: Counterparts

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

Section 14                    Modifications

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

Section 16                    Interpretation

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

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

Section 16                    Relationship of the Parties

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

Section 17                    Waiver

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

Section 18                    Further Assurances

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

Section 29                    Days

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

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

Signatories:

FORA

City of Del Rey Oaks

City of Marina

City of Monterey

County of Monterey

TAMC

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEM

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

**Meeting Date:** October 11, 2019

**Agenda Number:** 7c

**INFORMATION/ACTION**

### RECOMMENDATION:

Receive a staff report on key capital improvement program and community facilities district special tax as it pertains to the pending Fort Ord Reuse Authority Transition/Sunset.

### BACKGROUND:

The Fort Ord Reuse Authority (FORA) was created for the purpose of integrating landuse compliance and adoption measures, financing and constructing basewide infrastructure, and protecting cross boundary environmental reserves. FORA is slated to sunset on June 30, 2020 per the California Government Code. To do so, it must unlink the integrated responsibilities and assign them to individual Successor Agencies.

The purpose of this report is to identify the integrated responsibilities of FORA so that they can be unlinked and assigned to the appropriate agencies. Many of the easily assigned responsibilities have been addressed in the 2018 Transition Plan, however, the more complex ones remain to be resolved through Transition Plan Implementing Agreements (TPIA).

### Underlying Drivers

The foundational element of the integrated responsibilities starts with FORA's primary responsibility to facilitate the transfer and reuse of real property (Title 7.85, 67651 (a)). An Environmental Impact Review was conducted to identify the impact of the Secretary of the Army (Army) closing the base and assigning the property for reuse, and a Base Reuse Plan (BRP) was created in coordination with the five coastal cities, the county, and the public. The BRP identified CEQA mitigations which identified specific public facility needs and ultimately resulted in a public facility implementation plan (PFIP). The FORA Development Resource Management Plan required the PFIP be updated annually through the FORA Capital Improvement Program (CIP). The California Legislature provided FORA with the authority to finance and fund the public facilities with a community facility district (CFD) and by allowing FORA to retain 50% of the land sale revenues. **Therefore, the private reuse of former Army land is tied to the funding of the public facilities required to reuse the land, which is linked to the environmental impact of the land, which is linked to transfer of the property from FORA to the new owner.**

The Army utilized numerous land transfer mechanisms to transfer property prior to the 2000 Memorandum of Agreement (MOA) between the Secretary of the Army (Army) and FORA for the sale of portions of the former Fort Ord, also known as the "Economic Development Conveyance" (EDC) Agreement. Under this MOA Deeds were transferred from the Army to FORA and then, through the Implementing Agreements (IA) on to the land owner or jurisdiction. In each Deed is a requirement to complete the implementation of the Base Reuse Plan, which means the public facilities implementation plan must be undertaken, and the most up to date CIP identifies what public facilities remain to be completed. Therefore, completion of the FORA CIP is a requirement that came with the transfer of land from the Army to the new owners or jurisdictions. **This obligation to complete the CIP public facilities is also specified through the EDC Agreement and is not dependent upon the existence of FORA.** Therefore, FORA staff is working to ensure

this obligation is assigned by the June 30, 2020 Sunset, lest the region be put at substantial legal risk.

**The CIP, TPIA, and CFD Fee**

FORA policy is to collect revenues equal to the level of expenditure identified in the CIP. The CIP is fixed to the five programs necessary to implement the BRP: Water Augmentation, Transportation, Habitat Management, Fire-fighting Enhancements, Stormwater Outfall Removal, and Water-Wastewater Management. The CIP is adjusted annually in order to update the estimated costs as the projects advance, and set priority for the “pay-as-you-go” funds. Therefore, the CFD Special Tax (CFD Fee) is adjusted biennially to match the estimated cost of the CIP, and is linked to the. **Simply put: The CFD Fee is the estimated cost that each building must pay in order to implement the complete the CIP and the BRP fully, regardless of jurisdiction.**

The TPIA purpose, in part, is to identify which agency will be responsible for a component of the CIP. Therefore, FORA staff is working with the Administrative Committee, to set the final year list of Capital Improvements in October, so that the CFD Fee can be identified in November. This will allow each jurisdiction to be clear about what the CFD Replacement must be in order to complete the CIP, the BRP, and ultimately fulfill the terms of the transferred Deeds. Further, it will allow the TPIA to identify the specific obligation of Successor Agency’s moving forward.

Therefore, FORA staff will bring a Final Year CIP in November for Board consideration, and report on the Final Year CFD Fee in January.

**FISCAL IMPACT:**

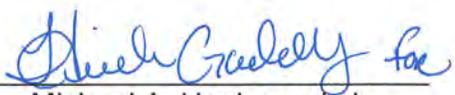
Reviewed by FORA Controller 

Staff time to support the AC is included in the approved annual budget.

**COORDINATION:**

County of Monterey, Cities of Seaside and Marina, Administrative Committee, Executive Committee,

Prepared by   
Peter Said

Approved by   
Michael A. Houlemard, Jr.

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEMS

<b>Subject:</b>	Post-FORA Employee Health Benefit Options and Retiree Medicare Reimbursement	
<b>Meeting Date:</b>	October 11, 2019	<b>ACTION</b>
<b>Agenda Number:</b>	7d	

### RECOMMENDATIONS:

- i. Authorize the Executive Officer to execute liability release terms for retiring staff upon authority counsel recommendation and approval, to include recent retirees.
- ii. Approve health reimbursement account option to clarify administering post-employment health benefits for terminated employees.

### BACKGROUND/DISCUSSION:

1. Authority Counsel and Human Resources consultant, Regional Governmental Services have recommended FORA execute release of liability agreements with retiring employees. Consequently, they are recommending the Board authorize the Executive Officer to execute liability release terms for retiring staff to include recent retirees.
2. With the termination of CalPERS retirement and health plan, employees will be unable to continue in the existing group plan under COBRA. Employees will be eligible for individual plans in the healthcare marketplace. However, these plans will vary in premium cost, deductible, and annual out-of-pocket limit. In order to provide a comparable level of benefits and flexibility, two options were considered.

At the recommendation of RGS Human Resources consultant and after potential beneficiaries' review, staff recommends setting up a health reimbursement account (HRA). The HRA would be employer-funded upfront with full year cost for health, dental, and vision premium. Employees would use funds to pay premiums and other health expenses. Key considerations for this option are:

- a. Slightly more expensive. Approximately 6%-10% higher than the current FORA estimated contributions.
- b. No administrative overhead to successor. Estimated HRA administrative \$6,500.
- c. May potentially not meet underwriting requirements based on number of employees remaining.

Alternatively, the Board may select the following option:

Employees choose a plan from the healthcare marketplace with premium up to 10% higher than existing plan. Key considerations for these options are:

- a. Potentially lower cost to actual budget than HRA option.
- b. Requires overhead, processing, and audit expenses post-FORA.

**FISCAL IMPACT:**

Reviewed by FORA Controller   
Staff time for this item is included in the approved annual budget.

**COORDINATION:**

Executive Committee.

Prepared by   
Helen Rodriguez

Approved by   
Michael A. Houlemard, Jr.