

EXHIBIT A

Attachment C to Item 7d

FORA Board Meeting, 8/10/2012

FORT ORD REUSE AUTHORITY BOARD REPORT**OLD BUSINESS**

Subject:	Capital Improvement Program Review – Phase II Study	
Meeting Date:	July 13, 2012	INFORMATION/ACTION
Agenda Number:	6e	

RECOMMENDATION(S):

- i. Adopt Resolution 12-05, which would implement a formulaic approach to establishing the Fort Ord Reuse Authority (FORA) development fee schedule and Community Facilities District (CFD) Special Tax rates (**Attachment A**).
- ii. Authorize the Executive Officer to execute Amendment #1 to the FORA-jurisdictions Implementation Agreements, which would codify the formulaic approach to establish the FORA development fee schedule and CFD Special Tax rates (**Attachment B**).
- iii. Authorize the Executive Officer to execute contract amendment #5 with Economic and Planning Systems (EPS) to complete the Phase II Study in FY 12/13 (**Attachment C**), not to exceed additional budget authority of \$60,000.

BACKGROUND:

In 1997, the FORA Board adopted the Base Reuse Plan which contained a number of environmental mitigations. The Board also adopted a series of findings that include funding those environmental mitigation measures (habitat, traffic, transit, fire protection, storm drainage, etc.). In 1999, the FORA Board adopted a Development Fee Schedule that collects fees from Fort Ord reuse projects to finance the Base Reuse Plan mitigations and Board-determined base-wide obligations in FORA's Capital Improvement Program (CIP). The Board and five jurisdictions adopted Implementation Agreements in 2001 to ensure (among other items) funding of environmental mitigations and basewide obligations. The FORA Board confirmed its CIP financing program with adoption of the FORA Community Facilities District in May 2002.

FORA's successful implementation of CIP projects through Development Fee payments, CFD special tax collections, and State and Federal grant proceeds resulted in a need to review FORA's CIP in fiscal year (FY) 2010/2011. At the end of the process, the FORA Board determined that:

- 1) A reduction in the FORA Development Fee and CFD special tax rates was appropriate and reduced these rates by 27 percent.
- 2) Several important factors would impact fees in the FY 2012/2013 timeframe warranting a phase II study, which the Board subsequently authorized.

This recommendation for adopting a formula is a follow up to the FORA Development Fee and CFD special tax program and offers to FORA, its jurisdictions, developers, and the community a consistent and predictable approach to costs and revenues to meet all FORA CIP obligations.

Since redevelopment agencies were eliminated by State Law, FORA's land use jurisdictions have been looking for ways to fund their reuse programs. This formula would provide for diverting 10% of future FORA property tax revenues generated within FORA's land use

EXHIBIT A

jurisdictions to the underlying jurisdictions for this purpose. In order for this mechanism to have enforceability, time is of the essence. FORA's jurisdictions are seeking to confirm resources for annual budgets and adoption of this formula would help provide the community with a clear and predictable cost and revenue program.

Additional background: On July 9, 2010, the FORA Board directed staff to:

- 1) propose a 6-month Capital Improvement Program (CIP) work plan timeline;
- 2) review FORA's CIP obligations and resources; and
- 3) provide monthly updates.

That assignment was completed by the January 2011 target. At the January, February, and March 2011 meetings however, the Board requested additional information and received answers to specific questions about the CIP. The Board increased the consultant's scope and budget in January and April 2011 to generate supplemental information. At the April 8, 2011 meeting, the Board:

- 1) received a presentation from the Transportation Agency for Monterey County (TAMC) regarding their analysis of FORA's Transportation and Transit phasing,
- 2) received an EPS presentation responding to questions raised at the March 2011 Board meeting,
- 3) received information regarding benefits and impacts of a fee reduction,
- 4) directed staff to prepare documents and/or policy revisions necessary to a) approve an across the board 27% fee reduction (\$33,700 for new residential units, etc.) for the May 2011 Board meeting and b) implement accompanying policy adjustments, and
- 5) directed staff to work with EPS on a contract amendment for consideration at the May 2011 Board meeting, which would commence a Phase II CIP review to be completed during the following 2 fiscal years.

EPS has been the principal consultant from the inception of the project. David Zehnder is the Managing Principal and Jamie Gomes is the Principal. Each have experience with California municipalities and county organizations reviewing CIP obligations and fee structures. During their initial CIP review, EPS completed updated development forecasts, a preliminary CIP analysis, a cost-burden analysis, a draft summary report on the CIP, a draft final report, four powerpoint presentations to the Board, and three additional reports in response to Board member questions.

Concurrent with EPS's work in 2011, FORA staff reviewed its CIP funding sources to ensure accuracy and TAMC reviewed phasing of FORA's CIP transportation project expenditures to coordinate regional transportation planning efforts. FORA is committed to continued consultation with TAMC in this manner.

DISCUSSION:

In May 2011, the Board adopted resolution 11-02 to reduce the developer fee approximately 27% across all fee categories (from \$46,205 to \$33,700 [also referred to as Option 2C] for new residential units). At the same meeting, the Board authorized FORA to enter into a contract with EPS to complete a Phase II CIP review study to ascertain whether further reductions in contingencies or costs would be feasible while ensuring FORA's CEQA and operational obligations are met. Due to the uncertainty related to the effects of the State of

EXHIBIT A

California's dissolution of redevelopment and endowment holder requirements for the future Habitat Conservation Plan, it was deemed prudent to have EPS study those elements of Phase II first. However, during legislative hearings on FORA's extension (AB1614), the issue of a change in FORA's approach to both the development fee and CFD Special Tax rates was proposed to reduce uncertainty for all parties. This is a uniquely FORA issue. It is not one that can be resolved by state legislation.

EPS, working with FORA staff, developed a standardized formula for establishing the development fee. That formula was reviewed by the FORA Administrative Committee at five meetings in May and June 2012. At its May 30, 2012 meeting, the committee considered the proposed formula as it might be implemented through a draft FORA Board resolution and an amendment to the FORA-jurisdictions Implementation Agreements. The proposed formula would match FORA revenue sources to FORA obligations and set an appropriate fee level consistent with obligations. Staff would apply any adjustments to FORA's development fee and CFD Special Tax resulting from the formula within 90 days of finalizing Implementation Agreement Amendment #1 with the five Jurisdictions and, thereafter, staff would integrate the formula into the FORA Board's consideration of the FORA Capital Improvement Program on a periodic basis. At its May 30, 2012 meeting, the Administrative Committee passed a motion recommending that a draft resolution and draft amendment to the Implementation Agreements be presented to the FORA Board after several edits were made. At its June 13, 2012 meeting, the Administrative Committee asked staff/EPS to return to its June 27, 2012 meeting with a model illustration (**Attachment D**) and calculation of the formula (**Attachment E**) so that every component of the proposed formulaic approach is easily understood and end-result modeled.

FISCAL IMPACT:


Reviewed by FORA Controller 

The funding for EPS's phase II CIP review study work has been funded through FORA's FY 10-11 and 11-12 budgets. The FY 12-13 budget includes \$60,000 for this proposed amendment.

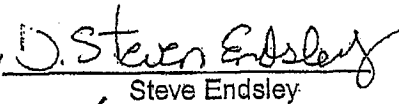
COORDINATION:

Administrative Committee, CIP Committee, Executive Committee, Authority Counsel, Assemblymember Bill Monning and Luis Alejo's offices, development teams, Development Planning & Financing Group, Inc., and EPS.

Prepared by


Jonathan Garcia

Reviewed by


Steve Endsley

Approved by

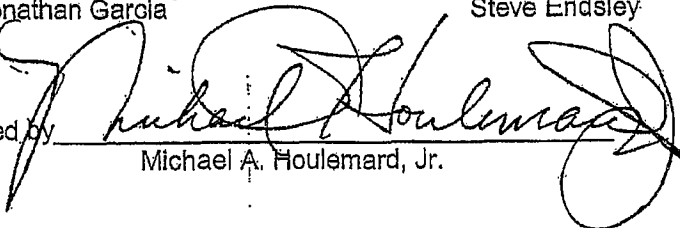

Michael A. Houlemard, Jr.

EXHIBIT A

Attachment D to Item 7d
FORA Board Meeting, 8/10/12

Questions from the July 13, 2012 FORA Board meeting concerning the Phase II study formulaic approach

1. Where did this item come from?

Further consideration of the appropriate level of developer fees has been included in the Phase II work plan from the outset. In addition, several concerns about FORA's development fee program surfaced at the Assembly Local Government Committee hearing on AB 1614, legislation proposing an extension to FORA. State legislators asked FORA to address these concerns in the short-term while AB 1614 was under consideration by the State legislature. Since EPS was already under contract to perform this work, FORA staff directed EPS to advance their work program in Phase II concerning a formula that would provide a higher degree of certainty for FORA's development fee program while ensuring that FORA would maintain its ability to fund all of its required obligations including CEQA mitigation measures, related basewide implementation costs (e.g., building removal, property management/caretaker costs), and FORA operational costs. The FORA Administrative and Executive Committees reviewed this proposed formula in May, June, and July.

2. Why should we adopt this formula at the current time? The proposed change in fee is less than 5%.

It is important to consider that adopting the formula at this time does not immediately adjust the Developer Fee or CFD Special Tax. The "change in fee" described at the July 13 Board hearing was based upon preliminary calculations completed at the request of the FORA Administrative Committee. The preliminary calculations were intended to provide an order of magnitude look at how the Developer Fee and CFD Special Tax might adjust if the formulaic approach were adopted as proposed. The response to question #3 below provides some additional context.

3. Why shouldn't we wait until the Phase II study and/or BRP Reassessment are complete?

FORA's development fee program was reviewed in Phase I through a process that looked at program assumptions, fee calculations, and results. In the end, the FORA Board reviewed the results and concluded that the fee could be reduced by 27%, keeping the program whole.

The FORA Board determined at that time that it also needed to conduct a Phase II CIP study because several factors warranted review. EPS is reviewing program assumptions, fee calculations, and results. EPS's work on the formulaic approach pertains to the fee calculations portion of their work program. EPS will still complete its review of assumptions and calculate results. Adopting a formula at this time does not prejudice future results. Implementing the formula in any given year may result in a fee decrease or a fee increase.

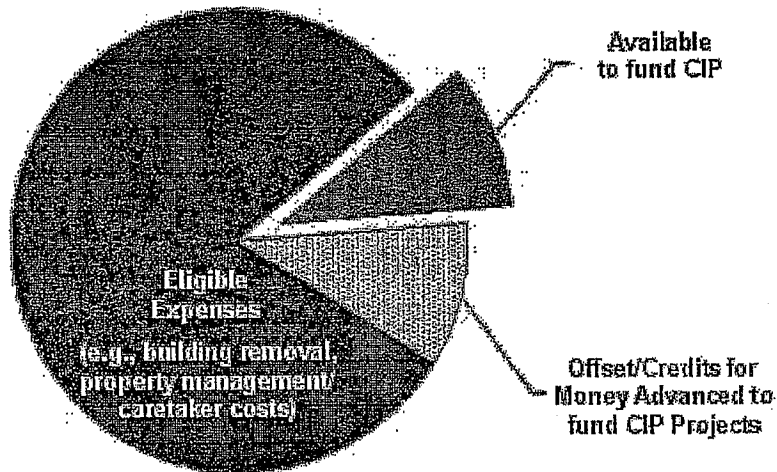
Waiting until completion of Phase II to adopt the formula would not provide any additional information about the applicability of the formula, its fairness, technical soundness, and so on. Likewise, waiting until completion of the BRP Reassessment provides no additional technical information about the soundness of the formula. The BRP Reassessment document is an informational report. The Board has discretion on whether or not to act on any items identified in the report. In both cases, once the formula is in place, all issues of policy remain ripe for further discussion.

EXHIBIT A

4. If we adopt this formula, how are FORA's operational costs covered?

FORA's operational costs will continue to be funded through the variety of existing funding mechanisms presently received.¹ As an example, the formulaic approach maintains that FORA would continue to receive the present level of property tax allocated to FORA. In the formulaic approach, only future property tax revenues, based upon growth after July 1, 2012, would be included as a potential offset to CIP costs.

Furthermore, the Implementation Agreement Amendment #1 language describing revenue available to offset CIP costs is specific to ensure that it would only include revenue "not required for other obligations." The pie chart included below illustrates this concept as it relates to land sales and lease revenues. The first priority use for land sale/lease revenue is for existing obligations, which have been previously identified by the Board as building removal, followed by property management/caretaker costs and FORA operational costs. Future land sale/lease revenue calculations will also account for the recapture of previously advanced monies used to help fund CIP projects. The net remaining land sale/lease revenue proceeds would be available to offset CIP costs. This approach recognizes FORA's need to maintain adequate funding for ongoing operational costs and to meet existing and ongoing obligations.



5. Can you simplify the formula?

From the outset of this effort, every attempt has been made to maintain simplicity in the formulaic approach. The formula relies upon existing financing mechanisms and proposes a well defined, transparent and predictable process that is to be periodically applied. At its most basic level, the formula

¹ The question of FORA property tax revenue receipt remains an open question at this time, but only affects the land sale / other revenues total available for non-CEQA-related reuse.

EXHIBIT A

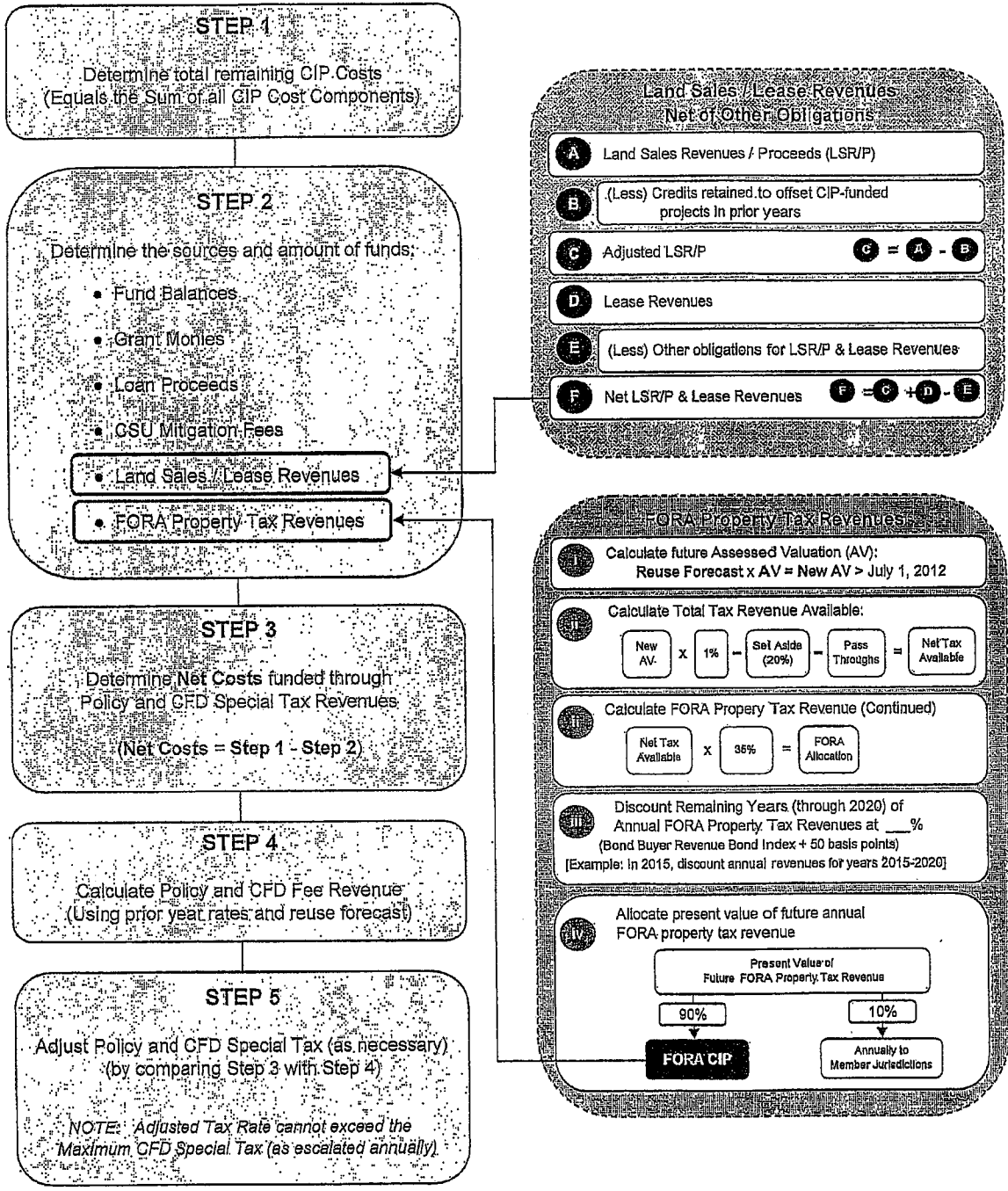
follows the original language from Section 7 of the Implementation Agreement(s) wherein identified revenues are subtracted from CIP costs to derive a remaining amount to be funded through the Developer Fee Policy and CFD Special Tax. With ten years experience in preparing the annual CIP updates and in administering the Fees and CFD Special Taxes, application of the formula can be routinized into the annual capital improvement program planning process the Board is familiar with.

EXHIBIT A

DRAFT

Attachment E
Annual Process to Update
Basewide Development Fee Policy
and CFD Special Tax

Attachment E to Item 7d
FORA Board Meeting, 8/10/2012





Fort Ord Reuse Authority

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

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

Attachment F to Item 7d
FORA Board Meeting, 8/10/12

MEMORANDUM

Date: July 26, 2012

To: Fort Ord Reuse Authority ("FORA") Administrative Committee

CC: Michael A. Houlemard, Jr., Executive Officer
Steve Endsley, Assistant Executive Officer

From: Jonathan Garcia, Senior Planner

Re: **Caretaker Costs, item 7b**

The purpose of this memo is to provide information on Caretaker/Property Management Costs on former Fort Ord. Over the last few months, Caretaker Costs have been discussed in conjunction with the FORA Capital Improvement Program ("CIP") Review - Phase II study/formulaic approach. It was suggested that FORA staff provide additional background on Caretaker costs for future discussion. In preparation of this memo, FORA staff reviewed background material on caretaker costs from the late 1990's to present.

Caretaker status has been defined by U.S. Army regulation as "the minimum required staffing to maintain an installation in a state of repair that maintains safety, security, and health standards." This Army term may have generated the context of FORA's analysis of Caretaker costs in the late 1990's. Caretaker costs were first described in the FORA CIP in FY 2001/2002 as a \$14 million dollar cost with footnote reading: "Costs associated with potential delays in redevelopment and represent interim capital costs associated with property maintenance prior to transfer for development (as per Keyser-Marston truthing of caretaker and other costs)."

FORA has maintained Caretaker costs in its annual CIPs since the initial FY 2001/2002 CIP. Within the last five years, FORA and County of Monterey Office of Housing and Redevelopment staff discussed property management costs associated with the County's habitat property described in the draft Fort Ord Habitat Conservation Plan ("HCP"). FORA and its HCP consultant note that trails planning/maintenance costs for public access on these properties are costs that the U.S. Fish and Wildlife Service/California Department of Fish and Game do not allow to be funded by the HCP, but should be funded by other jurisdictional resources.

During FORA's CIP review - Phase I Study, concluded in May 2011, FORA's financial consultant recommended that Caretaker/Property Management costs be removed from FORA's CIP Contingencies because no costs had been defined. FORA jurisdictions requested that Caretaker costs be added back in order to cover basewide property management costs, should they be demonstrated.

EXHIBIT A

FORA expended \$20,000 in the previous fiscal year toward Monterey County's Fort Ord Recreational Habitat Area ("FORHA") Master Plan preparation process, in which the County has undertaken planning for a proposed trail system. The Caretaker/Property Management costs line item is wholly dependent on whether sufficient revenue is received during the fiscal year. FORA Assessment District Counsel opined that FORA Community Facilities District Special Tax payments cannot fund caretaker costs. For this reason, funding for Caretaker costs would have to come from FORA's 50% share of lease and land sales proceeds on former Fort Ord, any reimbursements to those fund balances, or other designated resources should they materialize.

From approximately 2000 to 2004, the U.S. Army entered into Cooperative/Caretaker Agreements with FORA's land use jurisdictions. On average, the Cooperative/Caretaker Agreements provided each jurisdiction with approximately \$132,000 per year. Whether it is FORA or the U.S. Army funding the caretaker costs, the premise is the same. Caretaker costs are a short-term bridge program to assist jurisdictions with property holding costs while lands transition to active reuse. Staff notes that there is a direct relationship between building removal and Caretaker Costs. As building removal occurs, fewer liability issues associated with property management remain. This provides a strong rationale for FORA to proceed with building removal as a high priority program.

A framework for FORA's Caretaker costs might be to set FORA's obligation to \$132,000 per jurisdiction annually (a total of \$660,000 per year). If FORA's land use jurisdictions can demonstrate caretaker costs during the first year of implementation, they can each receive up to \$132,000 as long as funding is available from FORA. Below is a hypothetical example of a table showing caretaker line items for \$132,000.

Hypothetical description of caretaker costs

Task #	Description	Budget
1	Tree Trimming	\$ 16,200
2	Mowing	\$ 26,000
3	Pavement Patching	\$ 8,900
4	Centerline/Stenciling	\$ 14,500
5	Barricades	\$ 8,100
6	Traffic Signs	\$ 5,400
7	Catch Basin/Storm Drain Maintenance	\$ 4,100
8	Vacant Buildings	\$ 18,500
9	Vegetation Control/Spraying	\$ 5,300
13	Paving/Slurry Seal	\$ 13,000
	Subtotal	\$120,000
14	Administration (10% of total)	\$ 12,000
	Totals	\$132,000

(end)

EXHIBIT A

Exhibit B to Item 8a
FORA Board Meeting, 8/29/12

Questions from the August 10, 2012 FORA Board meeting concerning the Phase II study formulaic approach

1. **Should FORA be in a position to fund Caretaker Costs, would FORA use its General Fund to reimburse jurisdictions for these costs?**

At the August 10, 2012 Board meeting, staff responded that FORA Assessment District Counsel opined that the FORA CFD Special Tax is not an eligible funding source for Caretaker Costs. Therefore, funding for Caretaker Costs would need to come from land sale proceeds or other FORA revenue sources.

2. **Would FORA only be able to fund Caretaker Costs in the first year?**

At the August 10, 2012 Board meeting, staff responded that this policy could be reviewed every two years or so, but FORA wouldn't have to lock itself into a particular trigger year for caretaker expenses. Also, as covered in a memorandum for Item 7b (August 10, 2012 meeting), jurisdictions will be expected to identify and document ongoing caretaker costs that are anticipated and the Board would approve expenditures at the time the CIP is adopted (usually May-June). The memorandum describes that as each jurisdiction documents the incidence of caretaker costs that jurisdiction could continue to request FORA funding for caretaker costs to the extent that funding is available.

3. **Would adopting this policy lock FORA in, preventing FORA from increasing its contributions to the Water Augmentation Program?**

At the August 10, 2012 Board meeting, staff responded that this issue dates back to a prior decision that this Board made to make a capped dollar amount contribution to the augmentation program. So, the matter is looking at what the cost of that water augmentation program might be, and the item dates back to the previous discussion where FORA is going to have to sit down with MCWD and discuss what exactly those costs are. It is possible that the costs could go down. Maybe the program will only need \$10 million, but that will need confirmation. What this process does is it allows us to be constantly working through those numbers so that we do it in a more formalized way rather than doing it on the fly so that FORA can work through some of the kinds of contingencies that are being suggested (such as a hypothetical situation of needing to increase FORA's contributions to the Fort Ord Water Augmentation Program).

The policy established by the Board was to provide an equitable way to distribute the cost of improvements across the augmentation system rather than having those that access the existing water pay less while future folks pay more, or vice versa. What is the proper balance between a rate-based system and the cost to connect (hook-up fees, etc.). There was a need to be equitable because the reuse is considered to be basewide. And that's been the policy that has been carried forward since the Board made that decision. It would be a policy change to change the cap. The other side was, the FORA Board said that the developers need to pay a fair share of this cost and there would be a future capital charge for developers. So the Board figured the identified amount was their equitable share.

EXHIBIT A

4. **When will the Phase II Capital Improvement Program (CIP) Study be completed? Can the study be brought forward in the near-term to inform the Board? Is the analysis from the Phase II study required to decide about the formulaic approach?**

At the August 10, 2012 Board meeting, Economic and Planning Systems (EPS) responded that it anticipates 6-8 weeks for draft recommendations and draft conclusions for the Phase II study to be brought forward for discussion. EPS suggested that it was not necessary to tie the formula together with the mechanical calculation. As previously noted, waiting until completion of the Phase II study to adopt the formula would not provide any additional information about the applicability of the formula, its fairness or technical soundness. Information and data from the Phase II study would inform future calculation of the CFD Special Tax if the formulaic approach is adopted. If adopted as of today, the formula might result in a \$5,000 change in the developer fee, up or down, but the nature of the process is subject to periodic review.

5. **Is there accountability concerning how the FORA development fee will be fairly applied? What if fees change dramatically from one year to the next?**

At the August 10, 2012 Board meeting, staff responded that each entity pays the same fee rate. FORA Assessment District Counsel reviewed the issue of fee changes from one year to the next and recommended a periodic process, such as every two-years as opposed to an annual process so the fee doesn't fluctuate. The fee would be set during the CIP approval process (May-June).

6. **What are the jurisdictional resources for trail connections and maintenance?**

At the August 10, 2012 Board meeting, staff responded that, if the jurisdictions want trail connections, the jurisdictions will be responsible for funding them. The Habitat Conservation Plan (HCP) cannot include such connections as the HCP's purpose is restricted to habitat management, not recreation. In this case, Monterey County would be on the hook in the event that they wished to install trail connections. If FORA wished to fund all or a portion of future trail connections, the FORA Board would have to take its own action to fund those costs with available funds should it decide to do so. However, this formulaic approach does make 10% of future property tax revenues available to the jurisdictions, so that is one potential source.

7. **Does this policy have the potential to lock us in to the current FORA CIP, and thereby ties the hands of this board and future boards to possibly change that if needed?**

This question was not specifically addressed during the August 10, 2012 Board meeting. This policy would implement a formula that utilizes the current FORA CIP to determine the cost of FORA CIP and related base-wide obligations. The CIP obligations listed in the policy are limited to eligible expenses under the FORA Development Fee and Community Facilities District (CFD) Special Tax. Building removal is not an eligible expense of the FORA Development Fee and CFD Special Tax. However, it is an eligible expense to be paid for with land sale and lease revenues. It is important to recall that most of FORA's CIP obligations are subject to cost indexing. So, in general, this board and future boards would be able to make cost escalation adjustments on the expense side of the equation as needed in the future.

EXHIBIT A

8. Does this formulaic approach commit FORA funds upfront, including fund balances, loan proceeds, and grant monies?

The formulaic approach identifies all sources of revenue and funding that can be used to fund FORA's CIP and related Board-determined basewide obligations. Existing fund balances, loan proceeds and grant monies are examples of revenue sources that would be quantified as the formulaic approach is periodically updated. While the formulaic approach identifies funding from all available sources, it does not specify or commit FORA to any specific costs or timing within which certain funding sources would be used. Obviously, grant funds, fund balances, and loan proceeds will be used for the original intended purpose, unless unrestricted. The timing of revenues and expenditures would continue to be reviewed and approved by the FORA Board through its annual CIP update process.

9. By voting for this policy, can we look at fees and caretaker issues as needed, or are we saying that we are locked in for an indefinite period of time?

At the August 10, 2012 Board meeting, staff responded that, if the motion that was made calls for a decision that will be reviewed in a year, then, in fact, you are making a decision today that will be reviewed with the CIP next year (9 months from now). If the formulaic approach is adopted today, it is likely that the Phase II Study to apply the new formula could return to the Board in two to three months. This means the Board has an opportunity to proceed in a stepwise process with frequent opportunity to test assumptions. Staff thinks the Board's hands are not tied by voting for the motion. The idea is to give more definition and to give more reliability, and at the same time provide sufficient flexibility for the FORA Board to make future decisions. It's a delicate balance. Depending on how you read it, you might see flexibility or restriction.