



# Monterey County

168 West Alisal Street,  
1st Floor  
Salinas, CA 93901  
831.755.5066

## Board Report

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Item #1

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**Matter Type:** General Agenda Item

- a. Consider terms for a Land Management Agreement between the County of Monterey and the Monterey Peninsula Regional Park District (MPRPD) to manage open space lands and trails owned by Monterey County in Fort Ord; and
- b. Provide direction for the Acting RMA Director to work cooperatively with MPRPD staff to develop a Land Management Agreement for consideration by the Board of Supervisors prior to December 31, 2015.

### RECOMMENDATION:

It is recommended that the Fort Ord Committee:

- a. Consider terms for a Land Management Agreement between the County of Monterey and the Monterey Peninsula Regional Park District (MPRPD) to manage open space lands and trails owned by Monterey County in Fort Ord; and
- b. Provide direction for the Acting RMA Director to work cooperatively with MPRPD staff to develop a Land Management Agreement for consideration by the Board of Supervisors prior to December 31, 2015.

About 2,625 acres of land in the 1997 Fort Ord Base Reuse Plan and the subsequent 2001 Implementation Agreement were allocated to be transferred to the County of Monterey. This was increased to 3,150 acres in the 2003 Land Swap Agreement.

As of the Board's action on September 9, 2014 the County has accepted ownership of a total of approximately 1,500 acres of real property and 110 acres of public roads on the former Fort Ord. In addition, the Successor Agency to the Redevelopment Agency has received about 342 acres of land that was recommended to the Department of Finance (DOF) to be transferred to the County. At this time the Successor Agency is waiting on DOF to make a determination as to the disposition of these lands. Other grant deeds totaling an additional 1,012 acres are expected to transfer over to the County in the next two years. Some of this land is designated for habitat management and some is not restricted. In all, the County may ultimately own and be responsible for management of over 2,841 acres of real property and 123 acres of public roads in the former Fort Ord.

Over the past couple of years, staff has explored options for managing open space lands and trails owned by Monterey County in Fort Ord. Monterey Peninsula Regional Park District (MPRPD) staff has expressed interest in managing and possibly acquiring these lands, but the funding source for long-term management will be subject to voter approval in 2019. Staff has worked together on potential terms for a 30-year Land Management Agreement that would be subject to review in three years. If the funding source is renewed, then the Land Management Agreement would be extended and the County could possibly transfer ownership of the lands to

MPRPD. If the funding source is not renewed, MPRPD could consider if they are able to continue with the land management. If the Land Management Agreement is extended, there would be opt out options for both parties at the end of ten (10) and twenty (20) years.

#### DISCUSSION:

##### **Background:**

Some of the lands to be owned by the County were designated for potential development while the rest were designated for open space, including trails and habitat management. There have been multiple actions affecting Monterey County lands, including:

- In 2003, Monterey County entered into the so-called Land Swap Agreement that resulted in reducing developable lands by 595 acres and increasing open space lands by 1,125 acres.
- Parcel L-5.7 (73 acres) was initially identified as a Public Benefit Conveyance (PBC) parcel because the City of Marina had interest in developing it as a community park or school site. In exchange, Monterey County had a PBC for Parcels L-20.17.1 and L-20.17.2 as a maintenance yard within the City of Marina. In 2003, both agencies rescinded their respective PBC interests. In 2005, Monterey Peninsula Unified School District expressed interest to use the site for an elementary school, but subsequently terminated that effort. In 2009, Amendment #1 to the Implementation Agreement memorialized the rescinding actions making them economic development conveyance (EDC) parcels. In 2006, the Board of Directors for Monterey County's Redevelopment Agency, as part of a workshop on a recommended short-term Fort Ord Redevelopment Strategy, received a report identifying the potential to develop Parcel L-5.7 as a business park. The land use designation for this parcel remains Open Space Recreation and the Eastside Road improvement is planned to divide the parcel.
- In 2012, Monterey County received approximately 145 acres referred to as the Youth Camp (now the Travel Camp). Approximately 52 acres of this land is available for limited development and the remaining 93 acres are to be maintained as habitat management.
- In 2013, Monterey County agreed for Fort Ord Reuse Authority (FORA) to transfer 84.4 acres directly to the State for development of a Veterans Cemetery.
- In April 2014, Monterey County's Successor Agency submitted a Long Range Property Management Plan to the State Department of Finance regarding disposition of lands that had been transferred to the former Redevelopment Agency. This plan proposed transferring 342 acres of land to County ownership, of which 232 acres designated for development would be retained as open space.
- In September 2014 Monterey County accepted ownership of additional lands under two deeds:
  - o The "County North Property" deed contained 507 acres, of which approximately 41 acres is proposed for annexation to the City of Seaside for future development, and the balance retained by the County for habitat reserve or open space.
  - o The "Parker Flat Phase I" deed contained a total of 337 acres, of which approximately 192 acres is proposed for annexation to the City of Seaside for future development, and the balance retained by the County for habitat reserve.

As a result of these actions, planned County ownership of open space lands have increased by

more than 1,415 acres, with a commensurate decrease in developable acreage. Monterey County may ultimately own and be responsible for management of over 2,964 acres in the former Fort Ord. To date, approximately 1,500 acres of land (not including road rights of way) have already transferred to the County and 342 acres have transferred to the Successor Agency.

Following the dissolution of Redevelopment Agencies, the County is tasked with management of Fort Ord lands that have or will be conveyed to the County. Without the availability of redevelopment tax increment to support this function (as originally planned), funding to date has been limited to trash pick-up and responding to miscellaneous calls. County has tried to work closely with FORA staff responding to calls because County Parks Rangers are not located near the area, and County Sheriff resources are limited.

**Proposed Approach:**

The Fort Ord Recreational Habitat Area (FORHA) Trails Master Plan, which is in its final preparation stage and has not been presented to the BOS, identifies on-going annual costs for maintaining and operating the open space area and trails at \$150,000 per year. It also identifies trail modifications and needed repairs ranging in cost from \$600,000 to \$1,000,000 over the next several years. One of the strategies suggested in the Trails Master Plan is to work in partnership with or turn ownership of the open space and trails to the MPRPD.

The MPRPD expressed interest in managing certain open space lands and trails in Fort Ord, which is within their district jurisdictional boundary. The MPRPD specializes in the management of open space and trail lands via rangers and staff with biological expertise, and those resources put them in a better position than the County to manage these lands. Preliminary discussions with MPRPD General Manager Rafael Payan indicated that MPRPD could allocate existing resources and absorb the new open space management responsibilities, otherwise Monterey County would need to allocate additional resources to manage these lands. The lands in question include both Habitat Management Areas (HMAs) and non-HMA open space. The HMAs are destined to be managed under special provisions of the Habitat Conservation Plan (HCP), which is currently being prepared by FORA. Additional details on the HCP and the HMAs are included in **Attachment A**, "Habitat Conservation Plan Summary". Costs for managing lands designated "non-HMA open space" will not be paid or subsidized by the HCP funding program, but will be funded by the owner of the property. Publically-accessible hiking, biking, and equestrian trails run through both land classifications. The trails will remain open to the public, whether they are located within an HMA or not. HMA lands managed under the HCP will require a much more intense level of environmental management and monitoring because the HMAs serve as mitigation for development impacts upon rare and endangered species. The annual cost for such management and monitoring activity currently assigned to the County under the most recent version of the HCP is \$678,000 per year. Funding for the required activities is expected to come from an endowment being funded by development impact fees paid by developers to the Fort Ord Reuse Authority through its Basewide Community Facilities District special tax as updated in FORA Resolution 14-13. Section II(d) of FORA's FY2014-15 Capital Improvement Program provides details regarding this funding program. (The HCP-related activity is planned to be cost-neutral to the County General Fund.)

MPRPD staff has expressed reservations about assuming the HCP responsibilities, should

MPRPD take over the Fort Ord lands, because staff perceives the obligations to be potential liabilities for the MPRPD and because the MPRPD neither created the development impact, nor benefits directly from any development in Fort Ord. MPRPD staff has also expressed reservations about assuming liabilities related to open space and trail activities, including liability arising from unexploded ordnance and other potential hazardous materials which may be present in these former U.S. Army lands. The County carries \$20 million in Pollution Legal Liability insurance coverage to address the risks associated with environmental hazards, and could arrange for other parties to be named as additional insured upon payment of a portion of the premium. The extent to which the County can pass its liability protection to the MPRPD needs to be further evaluated during the more detailed discussions necessary to reach a mutually acceptable Land Management Agreement.

#### **Agreement Terms to Consider:**

Given the nature of the issue under discussion and the length of time involved in drafting a mutually acceptable agreement, the staffs of both the County and MPRPD recommend expressing the intent of both parties in a resolution to be adopted by both governing bodies. The following are tentative principles that have emerged from the negotiations thus far between staffs of the two agencies and on which staff is seeking input from the FOC:

1. County and MPRPD will enter into a Land Management Agreement which will consist of an interim land management period through Calendar Year 2019 and which will provide for an automatic extension through Calendar Year 2045, if the MPRPD is successful in extending the existing district-wide parcel tax set to expire at the end of 2019. Should the District be unsuccessful in its efforts to extend the parcel tax, both parties agree to hold further discussions on the MPRPD's ability to continue managing the open space lands for the County. Should the agreement be automatically extended, there will be opt-out options for both parties after 10 and 20 years. If either party chooses to opt out, it must give the other party notice of such choice not later than nine (9) months prior to opting out. Should the District be successful in its efforts to extend the parcel tax, the agreement would afford the ability for County to transfer lands to the District by mutual consent.
2. The lands to be included in the Land Management Agreement total approximately 1,875 acres, and include currently owned by the County and the Successor Agency, and lands proposed for future transfer from FORA to the County. (This also includes the capped landfill cells presently owned and maintained by the US Army Corps of Engineers.) These lands include open space land, including HMA and non-HMA lands designated as open space, including the Travel Camp in its entirety. The properties are listed in the attached index and generally shown on the attached map (**Attachment B**).
3. The Land Management Agreement will exclude certain parcels designated as developable such as the existing Ord Market lease, the East Garrison I development project, County Roads, and the area east of 8th Avenue and Gigling Road.
4. The parties agree that management responsibility for all open space land not yet transferred to the County by FORA will be automatically added to the land under the Land Management Agreement upon transfer to the County.
5. As soon as the State Department of Finance approves the Property Management Plan, the parcels designated as open space will be automatically added to the lands under the Land Management Agreement.

6. Land Management terms and related activities shall comply with adopted plans and agreements (e.g. HMP and HCP-if/when adopted). County will remain responsible for HCP required activities and costs which are expected to be funded by the proceeds from an endowment financed by development impact fees being collected by FORA, within the Fort Ord Area.
7. If County adopts the FORHA Trails Master Plan, MPRPD will implement the Trails Master Plan, provided that the improvements proposed in the plan are stated in terms of desirable outcomes, rather than fixed obligations, within specified time frames. If HCP adoption requires amendment to the Trails Master Plan, MPRPD will agree to work collaboratively to implement the amendments to the Trails Master Plan.
8. MPRPD will manage the non-HMA open space and HMA lands and will be responsible for trail repair, maintenance, and management, including signage, ranger patrols, litter removal and all recreational activities, consistent with the FORHA Trails Master Plan.
9. To the extent possible and subject to cost considerations, County intends to reduce liability risk to MPRPD resulting from hazardous conditions (including pollution liability) and incidents occurring in the open space lands, except where such liability arises from passive or active negligence by MPRPD. The limits of such liability protection will be subject to further discussions which are expected to result in mutually acceptable provisions.
10. County agrees that if there are negotiations regarding annexation of County-owned development lands, County will seek mitigation and will support MPRPD pursuit of proportionate mitigation for open space management related costs assumed by the MPRPD.
11. To the extent that it is legally able, County agrees to support efforts by MPRPD to extend its existing parcel tax to prevent such parcel tax from expiring on the current end of 2019 expiration date.

#### **OTHER AGENCY INVOLVMENT**

Monterey County Parks Department, Fort Ord Reuse Authority (FORA), MPRPD, and the Monterey County Successor Agency have been involved in the discussions and will have a role in the final disposition.

#### **OTHER OPTIONS FOR CONSIDERATION**

Options available include staying with the current conditions of County managing these lands and allocating General Fund monies where required. The County could seek other revenue sources, such as a benefit assessment district, but that option seems unlikely to materialize. The County could seek partnerships with other agencies such as the Bureau of Land Management, but such partnerships are unlikely to come without funding obligations.

#### **FINANCING**

Ownership and management of the Fort Ord Open Space will require significant financial resources. Under the currently approved ownership structure, the County will bear the financial responsibility for the lands currently owned and those currently planned to be transferred to the County. One-time costs for trail capital improvements are expected to be in the range of \$600,000 and \$1,000,000 over the next several years. The current annual maintenance and management cost estimate is \$150,000 for trail and non-HMA open space lands. HMA designated lands will require considerably higher resources due to requirements of the proposed HCP. The HCP costs have an external funding source, but the trail maintenance and management activity and the non-HMA open space land management activity currently do not

have a funding source, other than the County General Fund. Transfer of the Fort Ord Lands to the MPRPD would relieve the County from some of the financial responsibility.

Prepared by: Melanie Beretti, RMA Service Manager

Approved by: Carl P. Holm, AICP, Acting Director, Resource Management Agency

Attachments:

- A. HCP/HMP Summary
- B. Map of lands considered

cc: N Chiulos; County Parks (M Mariscal); MPRPD (R Payan); FORA (M Houlemard); City of Seaside (D Ingersol, T Wissler-Adam); City of Marina (L Long). CSUMB (A Spear); UCSC (G Bice); MPCC (V. Nakamura), BLM (E. Morgan), EG LLC (J Fletcher); TAMC (D Hale)