



Legislation Details (With Board Report)

File #: RES 20-079 **Name:** FORA Bond
Type: BoS Resolution **Status:** Passed - RMA Administration
File created: 5/22/2020 **In control:** Board of Supervisors
On agenda: 5/26/2020 **Final action:** 5/26/2020

Title: Consider adoption of a resolution, in connection with issuance of bonds by the Fort Ord Reuse Authority, to:
a. Approve and authorize the Chair of the Board of Supervisors or other Authorized Officer to execute a Bond Certificate; and
b. Approve and authorize the County Auditor-Controller and Treasurer-Tax Collector to execute the Irrevocable Direction to Transfer Funds.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - Draft Resolution, 3. Attachment B - Bond Certificate, 4. Attachment C - Irrevocable Direction to Transfer Funds, 5. MS PowerPoint Presentation (Presented at Hearing), 6. Item No. 9 Board Order and Resolution, 7. Certificates Signed by Clerk

Date	Ver.	Action By	Action	Result
5/26/2020	1	Board of Supervisors		

Consider adoption of a resolution, in connection with issuance of bonds by the Fort Ord Reuse Authority, to:
a. Approve and authorize the Chair of the Board of Supervisors or other Authorized Officer to execute a Bond Certificate; and
b. Approve and authorize the County Auditor-Controller and Treasurer-Tax Collector to execute the Irrevocable Direction to Transfer Funds.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (Attachment A), in connection with issuance of bonds by the Fort Ord Reuse Authority, to:

- a. Approve and authorize the Chair of the Board of Supervisors or other Authorized Officer to execute a Bond Certificate; and
- b. Approve and authorize the County Auditor-Controller and Treasurer-Tax Collector to execute the Irrevocable Direction to Transfer Funds.

SUMMARY:

The Fort Ord Reuse Authority (FORA) intends to sell bonds prior to its dissolution on June 30, 2020 to fund costs of building removal and to allow for funding of FORA’s unfunded CalPERS obligations. Under FORA’s current bond proposal, tax increment from County’s East Garrison Redevelopment Project Area would not be used to repay the bonds, and County would not receive bond proceeds.

In connection with issuance of the bonds, FORA has requested that the County approve a Certificate of the County (Attachment B) and requested the Auditor-Controller and Treasurer-Tax Collector to acknowledge and accept the Irrevocable Direction to Transfer Funds (Attachment C).

DISCUSSION:

FORA plans to fund costs of building removal on the former Fort Ord and unexpected unfunded obligations of FORA to CalPERS through the issuance of bonds, which will become debts of FORA. The City of Marina will succeed FORA as Administrator of the bonds upon FORA dissolution.

California Health and Safety Code Section 33492.71(c)(1)(D) provides that after dissolution of FORA, the tax increment allocated to FORA shall continue to be paid to the accounts of FORA, insofar as needed to pay principal and interest and other amounts of debt incurred by FORA. Any amount remaining after servicing FORA debt (the Surplus) will be allocated as follows: 54 percent (54%) to the City or County Redevelopment Agency that established the project area; 38 percent (38%) to the County; and eight percent (8%) to other affected taxing entities.

As the bond is currently structured, future tax increment revenue from the Seaside-Fort Ord Project Area and the Marina Redevelopment Project No. 3 would be used to repay the bonds. The tax increment revenues from the County's East Garrison Redevelopment Project Area would not be used to repay the bonds. Bond proceeds would be allocated to the City of Seaside, City of Marina, Transportation Agency of Monterey County (TAMC), Marina Coast Water District (MCWD), and the Monterey-Salinas Transit District, based on a set distribution specified in the bond documents.. The County would not receive any bond proceeds.

FORA has requested that the County Auditor-Controller and Treasurer-Tax Collector acknowledge and accept the Irrevocable Direction to Transfer Funds. The Irrevocable Direction states the duties of the Auditor-Controller and the Treasurer-Tax Collector under California Health & Safety Code Sections 33492.71(c)(1)(A) and (D), as confirmed by the Superior Court of the State of California for the County of Monterey in its Judgment of Validation in Case No. 20CV000381 issued on March 12, 2020. The Irrevocable Direction directs the Auditor-Controller to transmit the tax increment from the Seaside-Fort Ord Project Area and Marina Redevelopment Project No. 3 to the bond trustee. The Irrevocable Direction acknowledges that the County shall have no responsibility with respect to the disposition of funds remitted to the bond trustee and no monetary liability in respect to the directions. Today's action before the Board of Supervisors includes Board of Supervisors' approval of the Irrevocable Direction and authorization of the Auditor-Controller and Treasurer-Tax Collector to execute the Irrevocable Direction.

FORA and the bond underwriter have also requested that County approve the Bond Certificate. In the Bond Certificate, the County agrees to comply with the terms of the Irrevocable Direction, and the County also certifies that it will not challenge the right of the bond trustee to receive the revenues pledged for debt service as contemplated under the bond indenture.

The FORA Board is scheduled to vote on legal documents for the bond on May 22, 2020, which is subsequent to the writing of this report. If the FORA Board were to choose a different course that were to include allocation of bond proceeds to the County, staff would return to the Board of Supervisors with appropriate agreements as needed.

OTHER AGENCY INVOLVEMENT:

FORA is legislatively scheduled to dissolve on June 30, 2020. Supervisors Parker and Phillips serve on the County Board of Supervisors' Fort Ord Committee; Supervisors Adams, Parker, and Phillips serve on the FORA Board; and Supervisor Phillips serves as Chair of the FORA Legislative Committee. The Resource Management Agency (RMA) represents the County on the FORA Administrative Committee, which is considering the FORA transition issues, including the issuance of bonds. The County Administrative Office, the Office of the County Counsel, and RMA are part of the County's FORA transition team which considers FORA transition issues and has been involved in the bond issuance review process.

FINANCING:

Under FORA’s current bond proposal, tax increment from County’s East Garrison Redevelopment Project Area would not be used to repay the bonds, and County would not receive bond proceeds.

RMA staff time to evaluate FORA transition matters and prepare this report is funded as part of the FY 2019-20 Adopted Budget for the RMA General Fund, Fund 001, RMA Administration Appropriation Unit RMA013. The Management Specialist and consultant costs associated with analysis of FORA transition matters are funded out of a Board-approved increase in appropriations of \$100,000 in the General Fund, Fund 001, Intergovernmental and Legislative Affairs Appropriation Unit CAO004, financed from Contingencies. RMA will work with CAO-Budget to true-up actual expenditures at the end of FY 2019-20 to ensure that any unexpended appropriations for outside consultants and expertise are returned to General Funds. The Management Specialist, the Financial Advisor, and special bond counsel have participated in analysis of the issues discussed in this report and review of the proposed documents related to the bond.

Staff is evaluating if tax increment received by the Successor Agency for former redevelopment activities may be used to fund County staff and consultant time related to this and other FORA transition matters.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Securing funding for the removal and remediation of abandoned Army buildings supports the Board of Supervisors’ Strategic Initiatives for Economic Development and Infrastructure by continuing to support and facilitate the redevelopment of the former Fort Ord area and economic recovery of the region following the base closure by funding removal of abandoned, blighted Army buildings.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Reviewed by: Shawne Ellerbee, RMA Deputy Director of Administrative Services

Approved by: Carl P. Holm, AICP, RMA Director

Attachments:

Attachment A - Draft Resolution

Attachment B - Bond Certificate

Attachment C - Irrevocable Direction to Transfer Funds

(Attachments are on file with the Clerk of the Board)