



Legislation Details (With Board Report)

File #: a 20-059 **Name:** FORA Bond HCP TPIA
Type: BoS Agreement **Status:** Passed - RMA Administration
File created: 3/13/2020 **In control:** Board of Supervisors
On agenda: 3/24/2020 **Final action:** 3/24/2020

Title: a. Consider the proposal to join a Joint Powers Authority to create a regional habitat cooperative for the former Fort Ord lands;
b. Consider the Fort Ord Reuse Authority’s proposal to issue a bond against its statutory share of property tax revenue for building removal in the former Fort Ord area;
c. Consider the Revised Draft Transition Plan Implementing Agreement;
d. Consider making a recommendation to the Fort Ord Reuse Authority; and
e. Provide direction to staff. (ADDED VIA ADDENDA)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A – Letter to FORA Bond Proceeds and Agreement, 3. Attachment B - FORA Funding Request, 4. MS PowerPoint Presentation, 5. Item No. 12.1 Completed Board Order

Date	Ver.	Action By	Action	Result
3/24/2020	1	Board of Supervisors		

a. Consider the proposal to join a Joint Powers Authority to create a regional habitat cooperative for the former Fort Ord lands;
b. Consider the Fort Ord Reuse Authority’s proposal to issue a bond against its statutory share of property tax revenue for building removal in the former Fort Ord area;
c. Consider the Revised Draft Transition Plan Implementing Agreement;
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e. Provide direction to staff. (ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Consider the proposal to join a Joint Powers Authority to create a regional habitat cooperative for the former Fort Ord lands;
b. Consider the Fort Ord Reuse Authority’s proposal to issue a bond against its statutory share of property tax revenue for building removal in the former Fort Ord area;
c. Consider the Revised Draft Transition Plan Implementing Agreement;
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e. Provide direction to staff.

SUMMARY/DISCUSSION:

Habitat Management

As part of ongoing discussions regarding Habitat Management and the Draft Habitat Conservation Plan at the FORA Habitat Working Group (HWG) and FORA Administrative Committee joint weekly meetings, several issues were identified that require input and direction from the County. These discussions prompted FORA to revisit the 2018 Transition Plan and develop proposed revisions for consideration of the FORA HWG and FORA Administrative Committee. County staff identified a number of unresolved key issues for discussion

related to FORA's June 30, 2020 dissolution and habitat management. These were considered by the Board's Fort Ord Committee on March 3, 2020, and below is a summary of the outcome of those discussions.

The FORA HWG/Administrative Committees continue discussions regarding alternatives for habitat management coordination, permitting, and funding. Several items remain to be resolved; some critical issues have surfaced that would benefit from Board of Supervisors' input.

- i. Habitat Conservation Plan (HCP)* - Staff feels that there is not enough support from all the parties for approval of the HCP as drafted. Discussions continue to determine the possible value and a pathway to develop a reduced footprint or phased HCP for the region.
- ii. Limited Authority Joint Powers Authority (JPA)* - The group is actively discussing and exploring establishment of a limited-purpose JPA to allow the permittees to continue discussions about habitat management and consideration of pursuing revision to the draft HCP, and possibly the EIR/EIS if not certified by FORA.
- iii. Funding for Habitat* - FORA has approximately \$17 million set-aside from the FORA CFD fee for habitat management. The disposition of these funds upon FORA's dissolution needs to be determined. There is support to keep this funding intact pending resolution of whether a version of an HCP is viable to move forward. If not, then the County (and others) wishes to ensure that the set-aside funds will be made available for existing habitat management responsibilities. On Friday March 13, 2020, the FORA HWG is considering formula options for distribution of these funds to be considered by the FORA Board and included in the JPA and the Transition Plan in the event no JPA is formed. The options will include: 1) all (jurisdictions, state and regional parks, educational institutions) habitat management and border land holders will receive a distribution; 2) all except state and regional parks provides for habitat management; and 3) only the landholding jurisdictions. If a limited-purpose JPA is formed, it is the opinion of FORA Counsel that the \$17 million could be used to fund the administration or additional technical and environmental work needed to advance discussions for alternative HCP approaches.

With FORA's dissolution, and in the absence of a limited-purpose JPA, the work completed to date toward a base wide HCP will remain incomplete. Without a HCP, County has substantial habitat management obligations under the Habitat Management Plan (HMP), which has fiscal implications. Staff feels that this should be considered for distributing the \$17 million in funds since collection of those funds was specific to habitat management.

FORA Bond Issuance

On March 20, 2020, the FORA Board is considering action to authorize issuing bonds to fund building removal on the former Fort Ord. The City of Marina is proposed to be the Successor to FORA for the bond issuance, and the Marina City Council has approved assuming this role. Staff and the County's consultant team have not yet received updated information and documents to support the issuance but is prepared to analyze these once made available. County staff sent FORA a letter regarding FORA bond proceed allocations and inter-agency agreements regarding the bond issuance (Attachment A). The FORA Administrative Committee considered this item at a Special Meeting on March 6, 2020 and its regular meeting on March 11, 2020. The FORA Administrative Committee recommended that the FORA Board accept the County's proposal related to bond proceed allocation but did not discuss or take action regarding an inter-agency agreement.

Transition Plan Implementing Agreement

At multiple meetings, the FORA Administrative Committee has considered and discussed the draft Transition Plan Implementing Agreement (TPIA) to be entered into by and among the County of Monterey; Cities of Marina, Seaside, Del Rey Oaks, and Monterey; California Department of Parks and Recreation (State Parks); Regents of the University of California (UC); and Board of Trustees of the California State University of Monterey Bay (CSUMB). Pursuant to that meeting, FORA staff revised the draft TPIA and published in on

February 28, 2020 for the FORA Administrative Committee to consider at its March 3, 2020 meeting (Attachment C), during which discussions were animated whether or not to include a section addressing water allocations. The FORA Administrative Committee held a Special Meeting on March 11, 2020 to focus on the discussion of water allocations and the TPIA, following which FORA staff committed to providing updated draft language options for consideration at the March 18, 2020 FORA Administrative Committee meeting.

County staff identified the following unresolved key issues for discussion related to FORA's June 30, 2020 dissolution identified in the TPIA:

1. Disposal of FORA Physical and Electronic Assets

i. Records, including Website - It is proposed that the County become the repository for FORA records, including its website content. County staff met with FORA to develop a preliminary strategy for working with FORA to prepare and transfer the records and staff is preparing a funding request to cover costs to facilitate records transfer for consideration by the FORA Board. Staff recommends that if the County assumes this role, that it be limited strictly to maintaining and making available FORA records as an archive.

Staff and the Fort Ord Committee support County assuming these obligations provided we receive funding from FORA. Staff is preparing a funding request to include this obligation to send to FORA for consideration in their mid-year budget discussions planned in April 2020.

2. Management of FORA Debt - FORA property tax revenues may continue to be collected after FORA's dissolution to pay for any remaining outstanding debt. It is proposed that the County would ensure payment of any remaining debt and assume responsibility for distribution of any remaining tax revenue per applicable law. Staff will request a list of known and/or possible debt (e.g., bond for building removal; contractor invoices; CalPERS) from FORA.

Staff supports County managing the debt depending on the list of obligations and funding available from FORA. County staff requested, via the FORA Admin Committee, that FORA provide a list of financial obligations so the FORA Board can determine what contracts can/will be terminated or completed prior to dissolution. Questions include: 1) Does the County want to assume these roles; and 2) should the County submit a budget request to FORA or enter into agreement with FORA regarding funding?

Staff and the Fort Ord Committee support County administratively managing FORA's remaining debt provided we receive funding from FORA. Staff is preparing a funding request to include this obligation to send to FORA for consideration in their mid-year budget discussions planned in April 2020.

Summary

Staff requests the Board consider and provide direction to staff for recommendation to the FORA Board regarding the: 1) proposed role and potential impacts to the County related to FORA's June 30, 2020 dissolution and the County-related roles and responsibilities per the revised draft TPIA; 2) whether to consider joining a JPA for the creation of a habitat cooperative; and 3) FORA bond issuance.

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. RMA represents the County on the FORA Administrative Committee, which is considering the FORA transition issues. The County Administrative Office, the Office of the County Counsel, and Resource Management Agency (RMA) are part of the County's FORA transition team.

FINANCING:

RMA staff time to evaluate FORA transition issues and to prepare this report is funded as part of the FY 2019-20 Adopted Budget for the RMA, Fund 001, Appropriation Unit RMA013. Management Specialist and consultant costs associated with analysis of FORA transition issues are funded out of the Board-approved increase in appropriations by \$100,000, financed by an operating transfer from General Fund Contingencies, Fund 001, Appropriation Unit CAO020, to RMA, Fund 001, Appropriation Unit CAO004. Additional consulting and legal services for analyzing FORA's proposed bond issuance for building removal is funded out of the Board-approved increase in appropriations by \$25,000 each, respectively financed by an operating transfer from General Fund Contingencies, Fund 001, Appropriation Unit CAO020, to CAO, Fund 001, Appropriation Unit CAO004. RMA will work with CAO-Budget to true-up actual expenditures at the end of FY 2019-20 to ensure that any unexpended funds for outside consultants and experts are returned to General Fund Contingencies, Fund 001.

RMA is preparing a cost estimate for the County effort required to work with FORA. The funding requests will include four (4) years funding for RMA and Military and Veterans Affairs Office (MVAO) staff. The FY 2020-21 MVAO request for a Management Analyst I, to facilitate the Veterans Issues Advisory Committee, is \$115,748 and escalated over the next three (3) years through FY 2022-23 is estimated to be \$351,053. The RMA request includes a four (4) year cost estimate of \$1,239,276 to facilitate records transfer to the County prior to June 30, 2020 and provide ongoing administrative management support and regulatory compliance through FY 2022-23. Details of the County funding requests to FORA are included as Attachment B. Augmentations for these costs have been submitted to the budget office to be included in the FY 2020-21 budget process in the case that FORA does not fund this request.

Staff continues to evaluate the County effort needed to perform other functions proposed/likely. Currently, it is unknown what additional staff/resources will be needed. In some instances, funding has been proposed by FORA to offset these costs and retain a reasonable cost for administration (e.g., property disposal sale proceeds; property tax for FORA debt administration); however, funding for other functions has not been clearly identified or secured (e.g., litigation; FORA CFD replacement; habitat management, and/or conservation plan implementation beyond the \$17 million FORA set-aside).

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Ensuring a smooth transition after FORA's dissolution supports the Board's Strategic Initiative for Economic Development by continuing to support and facilitate the redevelopment of the former Fort Ord area and economic recovery to the region for the base closure. It is important that County is prepared for potential impacts resulting from this transition.

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

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Approved by: Shawne Ellerbee, RMA Deputy Director of Administrative Services
Approved by: Carl P. Holm, AICP, RMA Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Letter to FORA Bond Proceeds and Agreement

Attachment B - County Funding Request to FORA