



Legislation Details (With Board Report)

File #: A 20-168 **Name:** a. Approve and authorize the Chair of the Board of Supervisors to execute a Joint Community Facilities Agreement by and between the Fort Ord Reuse Authority (FORA) and the County of Monterey regarding transfer of FORA Community Facilities District (CFD)

Type: BoS Agreement **Status:** Passed - RMA Administration

File created: 5/27/2020 **In control:** Board of Supervisors

On agenda: 6/9/2020 **Final action:** 6/9/2020

Title: a. Approve and authorize the Chair of the Board of Supervisors to execute a Joint Community Facilities Agreement by and between the Fort Ord Reuse Authority (FORA) and the County of Monterey regarding transfer of FORA Community Facilities District (CFD) funds for habitat management; and
 b. Authorize and direct the Auditor-Controller (ACO) to deposit funds for the habitat management FORA CFD, estimated at \$13.58 million, in a Fund and/or Account to be determined by the ACO that allows for the accrual of interest earnings at the County investment pooled interest rate.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Revised Board Report (ADDED VIA SUPPLEMENTAL), 3. Attachment A-Community Facilities Agreement, 4. Item No. 52 Completed Board Order, 5. Joint Community Facilities Agreement, 6. Joint Community Facilities Executed Agreement

Date	Ver.	Action By	Action	Result
6/9/2020	1	Board of Supervisors		

a. Approve and authorize the Chair of the Board of Supervisors to execute a Joint Community Facilities Agreement by and between the Fort Ord Reuse Authority (FORA) and the County of Monterey regarding transfer of FORA Community Facilities District (CFD) funds for habitat management; and
 b. Authorize and direct the Auditor-Controller (ACO) to deposit funds for the habitat management FORA CFD, estimated at \$13.58 million, in a Fund and/or Account to be determined by the ACO that allows for the accrual of interest earnings at the County investment pooled interest rate.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Approve and authorize the Chair of the Board of Supervisors to execute a Joint Community Facilities Agreement by and between the Fort Ord Reuse Authority (FORA) and the County of Monterey regarding transfer of FORA Community Facilities District (CFD) funds for habitat management; and
 b. Authorize and direct the Auditor-Controller (ACO) to deposit funds for the habitat management FORA CFD, estimated at \$13.58 million, in a Fund and/or Account to be determined by the ACO that allows for the accrual of interest earnings at the County investment pooled interest rate.

SUMMARY/DISCUSSION:

The County owns/will own 2,641 acres of former Fort Ord lands with habitat management responsibility pursuant to the 1997 *Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord, California* (HMP). As categorized by the HMP, this acreage consists of: Habitat Management Area-1,571 acres; Development with Habitat Reserve-277 acres; Borderland-100 acres; and Development Parcels with

Interim Management-693 acres. The Fort Ord Reuse Authority (FORA) set aside a portion of the FORA Basewide Community Facilities District (CFD) funds for habitat management on the former Fort Ord. The FORA Board has voted to distribute these funds to the land-use jurisdictions pursuant to a formula based on the amount of various categories of habitat lands each land use jurisdiction owns/will own under the HMP. This formula allocates to the County 79.9% of the FORA CFD set-aside. FORA anticipates an approximate unexpended balance of \$17 million of CFD habitat set-aside funds to allocate among the jurisdictions, which would yield approximately \$13.58 million to the County.

Pursuant to the state law under which the CFD funds were collected, the mechanism for transfer of the funds is the proposed Joint Community Facilities Agreement (JCFA). On May 14, 2020, the FORA Board of Directors approved the template for the JCFA to deliver the unexpended CFD funds that have been set aside for habitat management. FORA intends to enter a JCFA with each jurisdiction receiving CFD habitat set-aside funds. The JCFA requires that the transferred funds be set aside, with interest earnings, in a segregated account used exclusively for payment of habitat management costs and related expenses on former Fort Ord land.

It is recommended that the Board of Supervisors approve the proposed JCFA between the County and FORA (Attachment A) to enable the transfer to the County of its share of FORA CFD funds set aside for habitat management.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has approved the JCFA as to form. 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 matters related to FORA's dissolution. The County Administrative Office, the Office of County Counsel, and RMA are part of the County's FORA transition team.

RMA consulted with the ACO regarding proper accounting of these funds to ensure the funds are set apart from all other funds in an account earning interest at the County investment pooled interest rate. RMA and ACO are still working together to identify the proper accounting treatment. The Treasurer-Tax Collector was also consulted to determine the optimal investment tools. The Treasurer recommended investing the funds in the County Investment Pool, to maximize returns and minimize costs.

FINANCING:

RMA staff time to participate in the FORA Habitat Working Group, evaluate FORA's habitat funding alternatives, and prepare this report is funded as part of the Fiscal Year (FY) 2019-20 Adopted Budget for the RMA, Fund 001, Appropriation Unit RMA013.

The County is required per the HMP to develop a County property-specific habitat management plan to guide its habitat management activities if it does not continue efforts to develop a regionwide habitat conservation plan in collaboration with the other jurisdictions. A County-specific plan will provide detailed management and monitoring activities and outline costs for the County. As part of the joint FORA Board Habitat Working Group -FORA Administrative Committee (collectively referred to as HWG) deliberations, FORA's consultant developed cost estimates for habitat management pursuant to the HMP and presented them at the February 21, 2020 HWG meeting. The cost estimate for Monterey County, excluding start-up costs, totals \$1,528,476 per year, including per year costs of \$185,786 for program administration and \$1,342,690 for habitat management, maintenance, and monitoring. These cost estimates were generally considered to be high with potentially erroneous assumptions.

In comparison, the County's rough cost estimate for habitat management, based on a County consultant contract for managing habitat land required for the incidental take permit issued by the State for the East Garrison Project, is \$159 per acre/per year (excluding start-up costs and program management). Habitat management and monitoring activities for the County lands would reasonably require a similar level of effort, \$419,919 per year (excluding start-up costs and program management).

The habitat management responsibilities required by the HMP continue in perpetuity. The approximate \$13.58 million habitat set-aside proposed for allocation to the County is the only funding source at this time. Staff recommends that the habitat program be sized according to the annual interest earnings. MA will return to the Board of Supervisors via the Budget Committee in July 2020 to appropriate funds in the FY 2020-21 Budget. The County may be eligible for future grant funds to support the habitat management program.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Executing the JCFA to receive funding for habitat management on former Fort Ord lands supports the Board of Supervisors' Economic Development Strategic Initiative by facilitating the County's habitat management activities pursuant to the HMP, which helped facilitate the transfer of properties from the U.S. Army to the local jurisdictions for redevelopment of the former Fort Ord area.

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

Prepared by: Melanie Beretti, Property Administration/Special Programs Manager (831) 755-5285

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

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

Attachment:

Attachment A-Joint Community Facilities Agreement

(Attachment is on file with the Clerk of the Board)