



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #: A 20-248 **Name:** a. Agreement Between the Fort Ord Reuse Authority (FORA) and County Regarding Administrative and Financial Matters Associated with FORA Dissolution

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

File created: 6/18/2020 **In control:** Board of Supervisors

On agenda: 6/23/2020 **Final action:** 6/23/2020

Title: a. Approve and authorize the Chair of the Board of Supervisors to execute an Agreement Between the Fort Ord Reuse Authority (FORA) and County of Monterey Regarding Administrative and Financial Matters Associated with FORA Dissolution (Fiscal Agreement);
 b. Authorize the County Administrative Officer to approve documents for assignment and assumption of a contract between FORA and Regional Government Services (RGS), a California Joint Powers Authority, related to winding up FORA's business affairs following FORA's Dissolution, if the contract is acceptable to the CAO and approved as to form by County Counsel;
 c. Authorize and direct the Auditor-Controller (ACO) to deposit funds in the amount of \$541,030 in a Fund and/or Account to be determined by the ACO pursuant to the Fiscal Agreement as follows: 1) \$15,000 for contract management of the RGS contract; 2) \$174,977 for management and storage of records; and 3) \$351,053 for Veterans Issues Advisory Committee facilitation;
 d. Authorize and direct the ACO to deposit funds in the approximate amount of \$150,000 in a Fund and/or Account to be determined by the ACO for payment to RGS for its services under the RGS contract; and
 e. Authorize and direct the ACO to deposit FORA's remaining fund balance in a Fund and/or Account to be determined by the ACO, estimated to be in the range of \$500,000 to \$1.5 million, to be expended pursuant to the terms of the Fiscal Agreement. (ADDED VIA ADDENDA)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A-Draft County-FORA Admin-Financial Agreement, 3. Item No. 20.1 Completed Board Order, 4. Agreement Between the FORA AND MoCo Admin and Financial Matters Associated with FORA Dissolutin, 5. Executed Agreement between FORA and MoCo re Admin & Financial Matters - Dissolution, 6. Executed Agreement Between FORA, MoCo and RGSA, 7. Executed A2 to Agreement 061621, 8. Executed A3 to Agreement 110121, 9. Executed A4 & Renewal with RGS for FORA 072622, 10. Executed A5 to Agreement A-14785_RGSA_2023-05-26, 11. Executed A1 to Agreement 042921

Date	Ver.	Action By	Action	Result
6/23/2020	1	Board of Supervisors		

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 c. Authorize and direct the Auditor-Controller (ACO) to deposit funds in the amount of \$541,030 in a Fund and/or Account to be determined by the ACO pursuant to the Fiscal Agreement as follows: 1) \$15,000 for contract management of the RGS contract; 2) \$174,977 for management and storage of records; and 3)

\$351,053 for Veterans Issues Advisory Committee facilitation;

d. Authorize and direct the ACO to deposit funds in the approximate amount of \$150,000 in a Fund and/or Account to be determined by the ACO for payment to RGS for its services under the RGS contract; and

e. Authorize and direct the ACO to deposit FORA's remaining fund balance in a Fund and/or Account to be determined by the ACO, estimated to be in the range of \$500,000 to \$1.5 million, to be expended pursuant to the terms of the Fiscal Agreement. (ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Approve and authorize the Chair of the Board of Supervisors to execute an Agreement Between the Fort Ord Reuse Authority (FORA) and County of Monterey Regarding Administrative and Financial Matters Associated with FORA Dissolution (Fiscal Agreement), in the same or substantially the same form;

b. Authorize the County Administrative Officer (CAO) to approve documents for assignment and assumption of a contract between FORA and Regional Government Services (RGS), a California Joint Powers Authority, related to winding up FORA's business affairs following FORA's Dissolution, if the contract is acceptable to the CAO and approved as to form by County Counsel;

c. Authorize and direct the Auditor-Controller (ACO) to deposit funds in the amount of \$541,030 in a Fund and/or Account to be determined by the ACO pursuant to the Fiscal Agreement as follows: 1) \$15,000 for contract management of the RGS contract; 2) \$174,977 for management and storage of records; and 3) \$351,053 for Veterans Issues Advisory Committee facilitation;

d. Authorize and direct the ACO to deposit funds in the approximate amount of \$150,000 in a Fund and/or Account to be determined by the ACO for payment to RGS for its services under the RGS contract; and

e. Authorize and direct the ACO to deposit FORA's remaining fund balance in a Fund and/or Account to be determined by the ACO, estimated to be in the range of \$500,000 to \$1.5 million, to be expended pursuant to the terms of the Fiscal Agreement.

SUMMARY/DISCUSSION:

Pursuant to California Government Code Section 67700, the Fort Ord Reuse Authority (FORA) will dissolve on June 30, 2020, and FORA has requested the County perform various administrative and fiscal activities associated with winding up FORA's business affairs after FORA dissolution. Additionally, FORA will transfer its records, with specified exceptions, to the County for the County to serve as custodian of FORA records. The proposed tasks and associated funding to be performed by the County are outlined in the proposed Agreement between FORA and the County regarding Administrative and Financial Matters Associated with FORA Dissolution (Fiscal Agreement). A draft of the Fiscal Agreement is attached as Attachment A. The Fiscal Agreement is under final review by FORA staff and has not yet been approved by the FORA Board. Accordingly, the Board action herein will authorize approval of the agreement in the same or substantially the same form, to enable non-material changes to be made if required by FORA.

Administrative Wind-Up - FORA proposes to enter into and fund a \$150,000 contract with Regional Government Services (RGS) to carry out and be the primary responsible party for all tasks associated with winding-up FORA's business affairs following dissolution. FORA is proposing to assign the contract with RGS and transfer funds for the contract to the County. The RGS contract is still under preparation. Accordingly, the Fiscal Agreement authorizes the County to accept assignment of the RGS contract, and associated funding for it, if the terms of the RGS contract are acceptable to the County and the contract is approved as to form by County Counsel. FORA also proposes to transfer all its remaining unspent funds to the County before dissolution, as discussed below. The County's role would be limited to oversight of the RGS contract and fiscal oversight of the wind-up of FORA's business affairs. FORA has agreed to transfer \$15,000 (ten percent (10%) of the RGS contract amount) to the County to defray costs for contract and fiscal oversight.

Staff provided input to FORA on the RGS scope of services and finds it is as encompassing as feasible to address known and possible unforeseen issues pertaining to FORA's business wind-up.

Fiscal Administration and Final Accounting - FORA estimates it will have between \$500,000 and \$1.5 million remaining fund balance at the time of dissolution and proposes that the County oversee FORA's remaining fund balance beginning July 1, 2020. In this role the County will provide fiscal oversight, pay outstanding invoices, require third-party final accounting once all outstanding invoices and debts are paid, and distribute final unspent funds as outlined in the Fiscal Agreement. These expenditures do not include any expenses, costs, or monetary obligations associated with pending or potential future claims or litigation against FORA. RGS will provide administrative and wind-up services, which will include reviewing/approving invoices, but the County will be responsible for making payments. Language has been added to the Agreement to ensure that the County has no fiscal obligation to fund these wind-up services beyond the funding made available for these purposes by FORA. California Health and Safety Code Section 33492.71 provides that upon dissolution, the amount of tax increment allocated to FORA shall continue to be paid to the accounts of FORA insofar as needed to pay principal and interest or other amounts on debt that was incurred by FORA as of June 30, 2020. The Fiscal Agreement provides that if, in the event that an unanticipated obligation arises after June 30th that results in a FORA debt greater than the funds remaining, tax increment generated by the East Garrison development as well as any surplus tax increment from the Cities of Seaside's and Marina's redevelopment areas, after making FORA bond payment (for building removal) would be available to pay for FORA's debt.

Records Retention - FORA proposes to transfer all FORA hard copy and electronic records to the County, except for attorney-client records that will transfer to FORA's former attorney's firm and records that will transfer to the City of Seaside in the City's capacity as successor Local Redevelopment Authority (LRA) under the Economic Development Conveyance (EDC) Agreement and successor FORA's Environmental Services Cooperative Agreement (ESCA). Managing FORA's records will entail file storage, response to public records requests, and making records reasonably available to FORA's former members. Staff will work with former FORA members to identify a procedure, outside a formal public records request, to facilitate access to FORA files after dissolution. FORA has agreed to transfer \$174,977 to the County to defray costs for management and storage of records. The funding covers three (3) years file storage and a part-time Office Assistant to facilitate public records requests and access by former FORA member agencies.

Veterans' Issues Advisory Committee - FORA proposes that the County facilitate the Veterans Issues Advisory Committee (VIAC). The VIAC identifies, discusses, evaluates, and advises regarding the development of the former Fort Ord issues that directly impact Monterey Bay Area veterans. FORA has agreed to transfer \$351,053 to the County to defray costs associated with VIAC facilitation. The funding provides for approximately three (3) years of a Management Analyst to facilitate the VIAC.

Recommendation - Staff recommends the County approve the Fiscal Agreement and accept funding for administrative activities related to FORA's dissolution and to facilitate the wind-up of the agency.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has assisted in negotiating the Fiscal Agreement and approved the agreement as to form. FORA is legislatively scheduled to dissolve on June 30, 2020. The Monterey County Military and Veterans' Affairs Office will facilitate the VIAC. RMA will coordinate with County Contracts/Purchasing Division to facilitate hardcopy records transfer, and County Information Technology Department is working with FORA to facilitate website hosting and electronic record transfer. RMA will consult with the Auditor-Controller's Office (ACO) regarding the proper accounting of these funds, related to the overall FORA dissolution.

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, negotiate the agreements, and prepare this report is funded as part of the Fiscal Year (FY) 2019-20 Adopted Budget for the Redevelopment Obligation Retirement Fund, Fund 406, Appropriation Unit RMA109. By accepting the assignment of RGS's agreement, the \$541,030, and FORA's remaining unspent funds, the County must use the funds from FORA to pay for the respective tasks outlined in the Fiscal Agreement. There is no obligation under these agreements for the County to pay any sum additional to the amount transferred from FORA. RMA staff time to manage the RGS contract and handle public records requests will be funded as part of a modification to the FY 2020-21 adopted budgets for RMA, Fund 001, Appropriation Unit RMA013, once the above actions are adopted by the Board. Staff will return to the Board via the Budget Committee to amend the adopted budget and appropriate funds in the summer.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Today's action to accept FORA funding and perform certain administrative post-FORA and wind-down tasks supports the Board's Strategic Initiatives for Economic Development and Administration. Oversight of FORA's administrative wind-up and FORA records retention by the County will ensure the orderly dissolution of FORA's business functions. Facilitating the VIAC will support the economic recovery of the region by providing a forum for the County's veterans to advise on former Fort Ord development issues and impacts to the region's veterans.

- 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-Draft Agreement for Administrative & Financial Matters regarding FORA Dissolution
(Attachment is on file with the Clerk of the Board)