



# County of Monterey

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

## Board Report

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**File #: 20-163, Version: 1**

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- 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 Proposed Revisions to Fort Ord Reuse Authority's 2018 Transition Plan and the Revised Draft Transition Plan Implementing Agreement;
- c. Discuss County items of concern related to the Fort Ord Reuse Authority's dissolution on June 30, 2020; and
- d. Provide direction to staff for recommendation to the Board of Supervisors.

### RECOMMENDATION:

It is recommended the Fort Ord Committee:

- a. Consider the proposal to join a Joint Powers Authority proposed to create a regional habitat cooperative for the former Fort Ord lands;
- b. Consider the Proposed Revisions to Fort Ord Reuse Authority's 2018 Transition Plan and the Revised Draft Transition Plan Implementing Agreement;
- c. Discuss County items of concern related to the Fort Ord Reuse Authority's dissolution on June 30, 2020; and
- d. Provide direction to staff for recommendation to the Board of Supervisors.

### SUMMARY/DISCUSSION:

On February 19, 2020, the Fort Ord Reuse Authority (FORA) Administrative Committee 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 A).

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 (Attachment B).

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

#### 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.
- ii. *Furniture/Other Equipment* - It is proposed that the County dispose of FORA's physical assets including

furniture, computers, and other items. Staff will reach out to FORA to quantify the assets it anticipates for disposal.

Staff supports County assuming these obligations provided we receive funding from FORA.

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?

3. Replacement of FORA Community Facilities District Fee (CFD) - The FORA CFD, which provides funding for infrastructure and habitat management through a Special Tax on new development, will cease when FORA dissolves. East Garrison is required to pay the FORA CFD Special Tax. Replacing the FORA CFD is a time critical matter for the County. A consultant must be retained expeditiously to assist the County with identifying funding alternatives and analyzing the costs associated with the remaining infrastructure and habitat management options. Staff has met with the East Garrison developer regarding CFD replacement funding, and the County has identified a vendor and has an agreement pending for an analysis to be conducted. This analysis is necessary to further advance discussions with the developer on the following:

i. *Habitat* - see below "Habitat Management" section.

ii. *Water* - The Marina Coast Water District (MCWD) has proposed that they will identify replacement fee needs for FORA's anticipated contribution for water augmentation projects in the region.

iii. *Regional Roads/Transportation* - Transportation Agency of Monterey County (TAMC) intends to implement a Regional Development Impact Fee for the zone covering the former Fort Ord. TAMC has reached out to County staff to determine if/how the East Garrison development can contribute to the TAMC fee post-FORA. It should be noted that fees have been paid when permits are issued and 58% of the residential building permits have been issued.

iv. *Local Roads* - As part of the CFD replacement analysis, County staff will identify if any transportation projects with mitigation/conditions of approval for East Garrison remain outstanding that now may feed into CFD replacement. Currently TAMC is not proposing to fund the Reservation Road at Davis Road widening project that had anticipated approximately \$12 million in funding from FORA CFD.

East Garrison has contributed to discrete projects, so staff needs to perform a complete accounting of their obligation versus what has been met. The Davis Road project is part of the multi-modal corridor that is a regional facility. Without the \$12 million expected from FORA (or TAMC), County will need to reduce the project scope to accommodate the budget. For example, we could eliminate widening Davis Road north of the new bridge.

4. Habitat Management - 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 Committee and 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. Environmental Analysis* - The FORA Board took a first vote (non-unanimous) to authorize its consultants to prepare a response to comments to the HCP Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS), develop alternatives that would include reduced footprint or phased HCP options, and finalize the EIR/EIS to bring to the FORA Board to consider certification of the EIR/EIS prior to FORA dissolution. The second vote is scheduled for the FORA Board on March 5, 2020. Discussions include if there is value to certify the document, but there are concerns that it might present a potential litigation risk at FORA's dissolution.
- iii. 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.
- iv. 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. The FORA HWG is considering a formulate for distribution of these funds to be approved by the FORA Board and included in the JPA and the Transition Plan in the event no JPA formed. 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.

Staff feels that the litigation risk is low for FORA certifying the EIR/EIS. Without a HCP, County has a substantial habitat management obligations under the Habitat Management Plan (HMP), which has fiscal implications. Staff feels that this should be taken into account for distributing the \$17 million in funds since collection of those funds was specific to habitat management.

5. Litigation - In the 2018 Transition Plan, it was proposed that any litigation or indemnity obligations pending and the remaining unexpended litigation reserves set aside balance be placed in an escrow account immediately prior to FORA's dissolution. The County is proposed to be the escrow account holder and would be entitled to reimbursement of reasonable administrative costs. There has been no discussion or agreement proposed to address management of post- FORA litigation, and in the absence of any agreement in place to determine who and how litigation will be managed post-FORA, the Plan identifies that litigation would be managed by any land-use jurisdiction that is an identified real party in interest for the pending litigation.

Staff will coordinate with FORA to monitor and identify any pending litigation as June 30, 2020 nears.

#### *Summary*

Staff requests the Fort Ord Committee consider and provide direction to staff for recommendation to the Board of Supervisors 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 and proposed revisions to FORA's 2018 Transition Plan; and 2) whether to consider joining a JPA for the creation of a habitat cooperative.

#### 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 \$50,000 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 2019-2020 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 and facilitate records transfer from FORA to the County (e.g. Office Assistant support). RMA further identified certain responsibilities and resource needs anticipated as of July 1, 2020, and prepared a budget augmentation request for FY 2020-21 for total of \$372,615, which includes the following: 1 Full Time Equivalent (FTE) Associated Planner for Biological/Environmental compliance for habitat and open space (\$149,941 - anticipated ongoing cost); 1 FTE Management Analyst II for administrative and management functions (\$152,991 - anticipated ongoing cost); ¼ FTE Office Assistant for administrative support functions (\$19,683 - anticipated ongoing cost); and Consultant to complete the Fort Ord Recreation and Habitat Area Trail Master Plan and Open Space Management Strategy (\$50,000 - one-time expense). 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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**Attachments:**

Attachment A - Revised Draft Transition Plan Implementing Agreement  
Attachment B - Proposed Revisions to FORA's 2018 Transition Plan