



FORT ORD REUSE AUTHORITY

SPECIAL MEETING
FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS
Friday, June 26, 2020 at 1:00 p.m.
AGENDA

ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON JUNE 25, 2020.

THIS MEETING MAY BE ACCESSED REMOTELY USING THE FOLLOWING ZOOM LINK:
<HTTPS://ZOOM.US/J/956115894>

PLEASE REVIEW FORA'S UPDATED REMOTE MEETINGS PROTOCOL AND BEST PRACTICES HERE:
HTTPS://FORA.ORG/REMOTE_MEETINGS_PROTOCOLS

1. CALL TO ORDER

2. CLOSED SESSION

- a. Conference with Legal Counsel—Gov. Code §54956.9(a), (d)(1): California Native Plant Society v. Fort Ord Reuse Authority, et al. Monterey County Superior Court Case No.: 20CV001529, Pending Litigation.
- b. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a notice of intent to sue from: Keep Fort Ord Wild.
- c. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a claim pursuant to the Government Claims Act by: Resource Environmental, Inc.

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

4. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

5. ROLL CALL

FORA is governed by 13 voting members: (a) 1 member appointed by the City of Carmel; (b) 1 member appointed by the City of Del Rey Oaks; (c) 2 members appointed by the City of Marina; (d) 1 member appointed by Sand City; (e) 1 member appointed by the City of Monterey; (f) 1 member appointed by the City of Pacific Grove; (g) 1 member appointed by the City of Salinas; (h) 2 members appointed by the City of Seaside; and (i) 3 members appointed by Monterey County. The Board also includes 12 ex-officio non-voting members.

6. CONSENT

- a. May 22, 2020 Special Board Meeting Minutes ([p. 3](#))
Recommendation: Approve May 22, 2020 Minutes.
- b. May 27, 2020 Special Board Meeting Minutes ([p. 7](#))
Recommendation: Approve May 27, 2020 Minutes.
- c. May 28, 2020 Veterans Issues Advisory Committee Meeting Minutes ([p. 9](#))
Recommendation: Approve May 28, 2020 Minutes.
- d. June 4, 2020 Special Board Meeting Minutes ([p. 14](#))
Recommendation: Approve June 4, 2020 Minutes.
- e. June 11, 2020 Board Meeting Minutes ([p. 18](#))
Recommendation: Approve June 11, 2020 Minutes.
- f. June 19, 2020 Special Board Meeting Minutes ([p. 23](#))
Recommendation: Approve June 19, 2020 Minutes.

7. BUSINESS ITEMS

INFORMATION/ACTION

*BUSINESS ITEMS are for Board discussion, debate, direction to staff, and/or action. Comments from the public are **not to exceed 3 minutes** or as otherwise determined by the Chair.*

a. 2018 Transition Plan Update (p.29)

Recommendation(s):

- i. Receive 2018 Transition Plan Update Report
- ii. Adopt Resolution 20-xx: Approving 2018 Transition Plan Update

b. Executive Officer's Report (p. 92)

Recommendation(s):

- i. Receive Executive Officer's Report

8. PUBLIC COMMENT PERIOD

INFORMATION

Members of the public wishing to address the Board on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes and will not receive Board action. Due to the [Governors Stay at Home Order](#) and recent [Executive Order related to Public Meetings Protocols](#), all FORA Meetings will now be conducted via Zoom. Public comments should be emailed to harry@fora.org. Thank for your patience and understanding during these unprecedented times.

9. ITEMS FROM MEMBERS

INFORMATION

Receive communication from Board members as it pertains to future agenda items.

10. ADJOURNMENT

NEXT MEETING: Monday, June 29, 2020 AT 1:00 P.M.

*The video and meeting materials are available online at www.fora.org
Contact Deputy Clerk Harry Tregenza with questions or concerns: harry@fora.org*



**FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS SPECIAL MEETING MINUTES**

1:00 p.m., Friday, May 22, 2020 | This meeting was held at the following Zoom link: <https://zoom.us/j/956115894>

1. CALL TO ORDER

Chair Jane Parker called the meeting to order at 1:00 p.m.

2. CLOSED SESSION

a. Conference with Legal Counsel – Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, four potential cases.

Time Entered: 1:05 p.m.

Time Exited: 2:25 p.m.

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

FORA Authority Counsel Jon Giffen announced that the FORA Board met in closed session on Item 2a and that there is nothing to report out.

4. ACKNOWLEDGMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Joshua Metz acknowledged the men and women in the US armed forces and thanked them for their selfless service in defense of this country. Mr. Metz announced that the FORA Board has received the following correspondence from:

- Sid Williams
- Central Coast Cemetery Foundation
- The FORA Veterans Issues Advisory Committee
- University of California Regents
- Doug Yount
- Stamp Erickson Law Firm
- LAFCO

5. ROLL CALL

Voting Members Present:

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Frank O'Connell (City of Marina), Supervisor Mary Adams (County of Monterey), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember Jon Wizard (City of Seaside), Mayor Joe Gunter (City of Salinas), Councilmember Janet Reimers (City of Carmel-by-the-Sea), Councilmember Cynthia Garfield (City of Pacific Grove), Mayor

Mary Ann Carbone (City of Sand City), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Alan Haffa (City of Monterey)

Ex-officio (Non-Voting) Board Members Present:

Col. Gregory Ford (United States Army), Debbie Hale (TAMC), Steve Matarazzo (UCSC), Jan Shriner (MCWD), Dr. Eduardo Ochoa (CSUMB)

6. CONSENT

- a. March 31, 2020 Finance Committee Meeting Minutes
- b. April 9, 2020 Regular Board Meeting Minutes
- c. April 17, 2020 Special Board Meeting Minutes

MOTION: On motion by Board Member Adams, seconded by Board Member Carbone and carried by the following vote, the Board moved to approve the Consent Agenda.

MOTION PASSED UNANIMOUSLY

7. BUSINESS ITEMS

- a. Memoranda of Agreements (“MOA”) for Capital Improvement Program (“CIP”) and General Fund Project Transfers – *2nd Vote*

Chair Parker introduced the item, noting that is a second vote. Mr. Metz discussed the item and laid out the different MOAs that the Board will be voting on. Public comment was then heard on this item.

MOTION: On motion by Board Member Haffa, seconded by Board Member Reimers and carried by the following vote, the Board moved to approve Resolution 20-04: Authorizing Executive Officer to execute MOAs to support the transfer of three CIP Projects, in the forms attached hereto as exhibits or in substantially similar forms containing such modifications as the Executive Officer may deem necessary or appropriate to carry out the purposes of the MOAs.

<i>Item 7a: Motion – 2nd Vote</i>			
<i>Director Parker</i>	<i>NO</i>	<i>Director Reimers</i>	<i>AYE</i>
<i>Director Garfield</i>	<i>AYE</i>	<i>Director Phillips</i>	<i>AYE</i>
<i>Director O’Connell</i>	<i>NO</i>	<i>Director Gaglioti</i>	<i>AYE</i>
<i>Director Morton</i>	<i>NO</i>	<i>Director Wizard</i>	<i>AYE</i>
<i>Director Adams</i>	<i>AYE</i>	<i>Director Oglesby</i>	<i>AYE</i>
<i>Director Carbone</i>	<i>AYE</i>	<i>Director Haffa</i>	<i>AYE</i>
<i>Director Gunter</i>	<i>AYE</i>		

MOTION PASSED BY MAJORITY (10 AYES, 3 NOES)

b. Preliminary Official Statement, Building Removal Funding Agreements, Bond Purchase Agreement and Indenture of Trust

Mr. Metz introduced the item and gave the Board a brief update on changes that had occurred to the Bond purchase agreement since it was last discussed before the Board. He discussed the impact of the CalPERS termination and how FORA hopes to sell bonds to offset this updated cost. Mr. Northcross discussed the escrow term bond and relayed information that he had received from FORA actuarial consultant Catherine MacLeod. Mr. Northcross and Mr. Metz answered questions from the Board members. A robust discussion took place among the members regarding different issues pertaining to the bond purchase. Public comment was then heard on the item. More discussion took place among the members.

MOTION: On motion by Board Member O’Connell, seconded by Board Member Wizard and carried by the following vote, the Board moved to approve Resolution 20-xx: Approving the Form and Authorizing Distribution of a Preliminary Official Statement in Connection with the Offering and Sale of Tax Allocation Bonds to Fund Building Removal Costs, Affirming Revised Documents Related to the Bonds, and Approving Related Documents and Actions with the following Indenture of Trust details:

1. No pledge of the FORA share of the tax increment from the County’s East Garrison project area is made to the Bonds
2. Bond proceeds may be used to pay the termination payment owned by FORA to CalPERS after FORA’s termination on June 30, 2020
3. Changes to the allocation percentages for bond proceeds for the FORA stakeholders, as shown below:
 - a. City of Marina – 52.25%
 - b. City of Seaside – 34.50%
 - c. Transportation Agency for Monterey County – 7.00%
 - d. Marina Coast Water District – 5.25%
 - e. Monterey-Salinas Transit District – 1.00%
 - f. Excess CalPERS Funds Split 50% between Marina and Seaside.

<i>Item 7b: Motion</i>			
<i>Director Parker</i>	<i>AYE</i>	<i>Director Reimers</i>	<i>AYE</i>
<i>Director Garfield</i>	<i>AYE</i>	<i>Director Phillips</i>	<i>AYE</i>
<i>Director O’Connell</i>	<i>AYE</i>	<i>Director Gaglioti</i>	<i>AYE</i>
<i>Director Morton</i>	<i>NO</i>	<i>Director Wizard</i>	<i>AYE</i>
<i>Director Adams</i>	<i>AYE</i>	<i>Director Oglesby</i>	<i>AYE</i>
<i>Director Carbone</i>	<i>AYE</i>	<i>Director Haffa</i>	<i>AYE</i>
<i>Director Gunter</i>	<i>AYE</i>		

MOTION PASSED MAJORITY (12 AYES, 1 NO)

c. 2020 Transition Plan Update

Mr. Metz introduced the item, noting that Regional Government Services consultant Kendall Flint will be giving a presentation on the item and that they are looking for staff direction from the Board on this issue. Ms. Flint began her presentation by discussing when the Transition Plan will be voted on, as well as going over the proposed language to be added to the Plan at the request of Board Member Haffa. She went over the Plan, section by section, highlighting the updates that have been made. Ms. Flint then answered questions from Board members. Public comment was then heard on the item. Ms. Flint, Mr. Giffen, and Mr. Willoughby answered more questions from Board members. A discussion took place among the Board members.

8. PUBLIC COMMENT

No public comment was received.

9. ITEMS FROM MEMBERS

None

10. ADJOURNMENT at 4:37 p.m.

Minutes Prepared by:
Harrison Tregenza
Deputy Clerk

Approved by:

Joshua Metz Executive Officer



**FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS SPECIAL MEETING MINUTES**

**2:00 p.m., Wednesday, May 27, 2020 | This meeting was held at the following
Zoom link: <https://zoom.us/j/956115894>**

1. CALL TO ORDER

Chair Jane Parker called the meeting to order at 2:00 p.m.

2. CLOSED SESSION

- a. Conference with Legal Counsel–Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, one potential case.

Time Entered: 2:01

Time Exited 2:03 pm

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

FORA Authority Counsel Jon Giffen announced that the FORA Board met in closed session on Item 2a, anticipated litigation, significant exposure to litigation, one potential case. The Board directed counsel to act going forward and there is nothing to specifically report on that matter.

4. ACKNOWLEDGMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Joshua Metz announced that today marks 34 days until dissolution of FORA.

5. ROLL CALL

Voting Members Present:

Supervisor John Phillips (County of Monterey), Supervisor Mary Adams (County of Monterey), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Frank O’Connell, Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember John Wizard, Mayor Mary Ann Carbone, Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Janet Reimers (City of Carmel-by-the-Sea).

Ex-officio (Non-Voting) Board Members Present:

Debbie Hale (TAMC), Lawrence Samuels (CSUMB), Col. Gregory Ford (United States Army), David Martin (Monterey Peninsula College).

6. BUSINESS ITEMS

- a. a. Bond Purchase Agreements, Preliminary Official Statement, and Indenture of Trust - 2nd Vote

Executive Officer Joshua Metz briefly summarized the background and action from the last meeting regarding this item. Mr. Metz, Mr. Northcross, and Paul Thimmig (bond counsel) answered questions posed by the Board. There was no public comment on the bond purchase agreement.

On motion made by Director Reimers seconded by Director Gaglioti, and carried by unanimous vote, the Board moved to proceed to a vote today.

On the second vote to Adopt Resolution 20-xx: Approving, and Authorizing the Execution and Delivery of, Bond Purchase Agreements and Preliminary Official Statement, and Ratifying Changes to Bond Indenture of Trust in Connection with Tax Allocation Bonds to Fund Building Removal Costs, and Approving Related Actions, the motion was carried by the following vote:

Item 6a Motion			
Director Phillips	Aye	Director Haffa	Aye
Director Adams	Aye	Director Oglesby	Aye
Director Gaglioti	Aye	Director Wizard	Aye
Director O'Connell	No	Director Carbone	Aye
Director Morton	No	Director Garfield	Aye
		Director Reimers	Aye

Tally: 9 Aye, 2 No. Motion passed.

7. PUBLIC COMMENT

No public comment.

8. ITEMS FROM MEMBERS

None

9. ADJOURNMENT at 2:28 pm

Minutes Prepared by Harrison Tregenza, Deputy Clerk, with assistance by Jo-Anne Boilard, Paralegal.

Approved by:

Joshua Metz Executive Officer

**FORT ORD REUSE AUTHORITY
VETERANS ISSUES ADVISORY COMMITTEE (VIAC) MEETING MINUTES
3:00 P.M. Thursday, May 28, 2020 | This meeting was held at the following
Zoom link: <https://zoom.us/j/956115894>**

1. **CALL TO ORDER:** Chair Ian Oglesby called the meeting to order at 3:00 p.m.

Committee Members Present:

Ian N. Oglesby, City of Seaside – Chair
Command Sgt. Major Robert Londers, U.S. Army
Sid Williams, Monterey County Military and VA Commission
Jack Murphy, Veterans Transition Center
Mary Estrada, United Veterans Council
Jason Cameron, Monterey County Office of Military & Veteran Affairs

2. **ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

Mr. Metz acknowledged that as of today, FORA has 33 days until sunset, at which time the Veterans Issues Advisory Committee will become fully part of Jason Cameron’s daily duties, we hope. Mr. Metz also noted a concern of this committee that the long planned discussion of the distribution of any remaining FORA funds will begin picking up steam at the next meeting. There is a special meeting on June 4 when the Staff will be presenting extensive lists of all the “asks” that are on the table, then at the June 11 meeting that topic will be an action item. Continued advocacy on behalf of the Veterans after that time will be provided by Jason Cameron’s office.

3. **PUBLIC COMMENT PERIOD**

No public comment was received.

4. **APPROVAL OF MEETING MINUTES**

- a. April 23, 2020 Regular Meeting Minutes

MOTION: On motion by Member Williams and second by Member Murphy, the Veterans Issues Advisory Committee moved to approve the April 23, 2020, Regular Meeting Minutes.

MOTION PASSED UNANIMOUSLY

5. **BUSINESS ITEMS**

INFORMATION/ACTION

- a. **Appointment of Jeanne F. Nakagawa to the VIAC**

At this time, Member Richard Garza of CCVC Foundation joined the meeting as well.

MOTION: On motion by Member Williams and second by Member Garza, Committee voted to approve item 5a, Appointment of Jeanne F. Nakagawa to the VIAC.

MOTION PASSED UNANIMOUSLY

b. Affordable Housing

i. Veterans Transition Center Housing Development

Member Jack Murphy announced he was to do a punchlist walkthrough this afternoon of a very nice, necessary rehab of City of Seaside redevelopment block but the contractor had to reschedule to next Monday. Other than that, they are full or close to being full occupancy. They have grown the programs to reflect the needs of the community. VTC has remained open this entire time and in some ways has been able to flourish with the community support and the support of this Committee.

Mr. Murphy answered Executive Officer Joshua Metz' inquiry concerning the status of the food distribution program. In the regular food pantry they have seen a 40% to 50% increase in the number of people coming through plus non VTC residents. They see about 300 people a week. In the wake of the Coronavirus, they got together with some community members of the City of Marina and the Food Bank of Monterey County to establish a distribution point for the community at large that is just not limited to veterans. Because of the need for food across the county, they would not have been able to receive food just for VTC so they used VTC funds to go out and purchase the food and join with the Food Bank and community members. They distribute on Wednesdays from about 1:00 to 3:00 pm and cap it at 100 bags of food. They have been doing this since around March 27 and plan to continue to do that for another couple of weeks but are hoping that as people start going back to work that the need for food will lessen. It puts a strain on VTC's resources as each bag of food is \$10-\$12. Mr. Murphy acknowledged the Community Foundation, Monterey Peninsula Engineering, VFW Post 811 and some other organizations have been very forthcoming in providing financial support and food for the community.

c. Post-FORA VIAC Committee

Executive Officer Josh Metz reiterated the information he provided earlier today during agenda item 2, Acknowledgements, Announcements and Correspondence. He also commented that VIAC has a good advocate in Mayor Oglesby and in himself at the FORA Board meeting. There are a few letters advocating for VIAC at just about every FORA Board meeting.

d. Central Coast Veterans Cemetery Status Report

i. CCVCF Status Report

Member Williams reported he was just out there and progress of Phase 2 is moving along and most of the crypts are now buried, they will be burying the remainder and then will continue with the other portions of that project, to include the access road, etc. Member Williams reported the last time he spoke with Erica, she said everything is progressing according to schedule and that barring some unknown delay, weather or otherwise, they should be looking at completion around the first of the year.

e. Ord Military Community

Sgt. Major Londers thanked all the community members for what they do, and for VTC for the help with the food. He did his best asking folks to use Army Emergency Relief first before using the VTC food pantry, so as to save the VTC food pantry for others in need. Sgt. Major Londers announced if you know people who are California Army National Guard or in the Army Reserves, the military relief is expanded to be able to provide help to them during Covid-19, which is usually not the case, so send them to the Army Community Service office in the Ord Military Community. St. Major

Londers went on to announce they are proceeding with plans for safe re-opening of the post and may be one of the first installations in the continental United States to move back down to health protection condition Bravo because of the fantastic job of Monterey County in not having the spread. They are moving troops in and out on clean transport and still getting language training done and look forward to getting back to normal operations. Sgt. Major Londers answered Board member question interaction about not having a lot of interaction with the National Guard who is helping the local food bank except for those who may be living at the Ord facilities and making sure they have the basic support, id cards and facilities' access. Member Oglesby requested Sgt. Major Londers let the National Guard know how much we appreciate them and what they are doing for our community.

f. Fundraising Status

i. CCVCF

Member Richard Garza announced there is not much we can do with fundraising at this point unless the US Open will occur this year. At this point he believes getting public awareness is almost as important as fundraising. He discussed how significant the Veterans Cemetery project is and he wants veterans who served here to know it exists. They will continue working in that direction until fundraising can resume when there are fewer restrictions on what people can do.

g. VA-DOD Clinic

Member Sid Williams announced there have been no changes yet, as far as he knows. They are doing the majority of the appointments by telephone, and if you have a reason to go into the clinic yourself, all the precautions with masks, etc., are followed.

h. Military & Veterans Affairs Office – Monthly Report

Member Jason Cameron expressed appreciation to the Board for continued support of the transitioning of VIAC and stated it will be beneficial for each municipality to have this continue within the Military & Veterans Affairs Office, with dedicated personnel working for it, which will be fruitful for the veterans and for the community. We have approximately 18,000 veterans in our county, not including all of our active duty folks or reservists. When you include your veterans' dependants and spouses, you are looking at 45,000 in the county. Member Cameron stated he came on board in this position two years ago, and the first full fiscal year he was here the utilization rate for veterans accessing veterans' benefits through this office was 28% of the veterans receiving benefits. This last fiscal year, that was increased to 34%, and we want to keep that trajectory going, working with the area communities and with VIAC. This will increase funding and accordingly increase spending in the small communities of our area. This past year, the County brought in nearly \$100 Million of compensation and pension into the veterans' pockets through the VA, the bulk of which money gets spent in our local small communities.

Mr. Cameron advised his office is currently operating with 60% of the staff due to the pandemic, working from home, and providing all services virtually via Zoom or phone to the veteran community, spouses and dependents. There are also support staff working in the office, answering telephone calls, setting appointments, gathering mail, and scanning and emailing documents to the appropriate veteran reps who are working from home. During the pandemic they are unable to operate the van ride service to bring veterans to the VA clinic and to the VA hospital in Palo Alto. The other service impacted is the Veterans Service Standdown they conduct every other year has

been postponed to next year. They also had to pause their monthly outreach efforts they used to provide at various facilities like DLI, VTC, King City and Fort Hunter Liggett until pandemic restrictions lift. He anticipates the staff who have been working from home will be able to slowly start coming into the office in mid-June and bring in the clients who need to be seen on a personal one-on-one basis.

Member Cameron showed a slide reflecting the month of April during which they were able to bring in \$200,548 in retroactive payments for the Veterans of Monterey County that result in monthly payment of \$44,319 of new money every month. They filed 212 claims, had 119 walk-ins or those calling in to be seen right away, fielded 714 phone calls, and are starting to get into the college fee waiver time frame. All six of the vet reps are utilizing Zoom conferencing, and 100% of the people who have called in have been served. Member Cameron concluded his presentation and responded to member's questions and advised he recently started a Facebook page to help get the word out to veterans about the local programs available to them, and also Mr. Cameron has started looking into paid advertising as well as other methods, collaborating with area cities for insertion of a link on city websites. Member Cameron also provided a slide showing the newly configured website of the California Department of Veterans Affairs Offices in Salinas, Marina and Hollister, which has hyperlinks to request their service records and to request an appointment. It was suggested Member Cameron provide the updated website to Deputy Clerk Harry and to each of the Mayors and community facility members on the FORA board to facilitate distribution of the website before FORA's sunset.

i. Calendar of Events

Executive Director Joshua Metz confirmed June 4 is the next special meeting at which will be some discussion on budgets but the real in-depth discussion will be June 11. June 30 will be the last day of the Fort Ord Reuse Authority. The next meeting of VIAC is June 25, unless an earlier meeting is needed for the committee to be sure everything is shut down properly by June 30.

j. Items from Members and Comments

Member Sid Williams requested all the members disseminate information to those who might participate that they are looking for nominations for Veteran of the Year. They would like a minimum of 12 nominations. If anyone knows of veterans who should be nominated, go to the United Veterans Council website where you will find the nomination forms.

Katie from Congressman Panetta's office announced that the new District Director in the Congressman's Salinas office is Phil Deppert, who is a former commandant of DLI and retired Army. The Congressman is sure he will be active with the veterans community and military community moving forward. Katie also announced that on May 22 Congressman Panetta introduced a piece of legislation to allow National Guard who served under Covid-19 to receive full qualifying benefits, whether educational or medical, so the service members are taken care of in the future.

Chair Oglesby announced that anything in the records or archives that VIAC members might need for their files should be requested from Josh Metz soon, so he can get the records to the VIAC members prior to June 30. Mr. Metz advised that the FORA website will exist for a couple of years after June 30, which has an on-line archive available of FORA documents, committee records and minutes.

k. Adjournment at 3:44 p.m.

Minutes Prepared by:

Harrison Tregenza, Deputy Clerk, with assistance by Jo-Anne Boilard, paralegal

DRAFT



**FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS SPECIAL MEETING MINUTES**

2:00 p.m., Thursday, June 4, 2020 | This meeting was held at the following Zoom link: <https://zoom.us/j/956115894>

1. CALL TO ORDER

Chair Jane Parker called the meeting to order at 2:01 p.m.

2. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, one potential case.:
- b. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code §54956.9(d)(2) based on receipt of a claim pursuant to the Government Claims Act by Resource Environmental, Inc.
- c. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9(d)(2) based on receipt of a notice of intent to sue from Keep Fort Ord Wild.
- d. Conference with Legal Counsel—Gov. Code §54956.9(a)(d)(1): California Native Plant Society v. Fort Ord Reuse Authority, et al. Monterey County Superior Court Case No.: 20CV001529, Pending Litigation.

Time Entered: 2:05

Time Exited 2:57 pm

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

FORA Authority Counsel Jon Giffen announced that the FORA Board met in closed session on Items 2a through 2d. Mr. Giffen announced that the Board gave direction to Counsel on Item 2a, and as to Items 2b through 2d, that there is nothing to report out.

4. ACKNOWLEDGMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Joshua Metz acknowledged that they started in January with a short time-frame to get a large amount of work done, then a global pandemic occurred and an economic collapse. Now there is very important social unrest. Black lives do matter. Working at FORA for a number of years, Mr. Metz found one of FORA's points of strength was its diversity and people coming together to get work done on behalf of the community, which was all made more possible because of that diversity. Mr. Metz stated the messages coming out are very important to be heard. He wished to acknowledge all the work that our area communities, such as Seaside, are doing and he hopes this leads us all to a better place.

Correspondence received:

June 2: Letter from Stamp Erickson law firm to the FORA Board; Letter from United Veterans Council of Monterey and County of Monterey Military and Veterans Affairs office.
June 3: Letter from LAFCO.

5. ROLL CALL

Voting Members Present:

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Supervisor Mary Adams (County of Monterey), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Frank O'Connell, Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Mayor Joe Gunter (City of Salinas), Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Janet Reimers (City of Carmel-by-the-Sea),

Ex-officio (Non-Voting) Board Members Present:

Debbie Hale (TAMC), Dr. P.K. Diffenbaugh, Dr. Eduardo Ochoa (CSUMB), Col. Gregory Ford (United States Army), Bill Collins (BRAC), David Martin (Monterey Peninsula College), Jan Shriner (MCWD).

6. CONSENT AGENDA

- a. Recordation of Notice of Cessation of Special Tax and Extinguishment of Lien Relating to Basewide Community Facilities District
- b. Retention and Separation Package Amendment

Comments/Questions: Director Morton asked if there is a cost figure and if this is already in the budget, or are additional funds coming from the \$1.3 million allocated fund. Ms. Morton's question was answered in the affirmative, that this is already in the existing mid-year budget, and their thought is to re-allocate the funds. Josh Metz presented some slides reflecting FORA's accomplishments amidst adversity, having accomplished a year of business in six months. The presentation went on to show the recommended reallocation of the funds, requesting they adopt the Amendment to Resolution 19-12, FY2019-20 Retention and Separation Package. Ms. Morton is told the amount is \$125,000 for five staff who stayed on and took on the responsibilities of a larger staff.

On motion by Cynthia Garfield, seconded by John Gaglioti, and carried by the following vote, the Board moved to approve the consent agenda.

MOTION PASSED UNANIMOUSLY

7. BUSINESS ITEMS

- a. Environmental Services Cooperative Agreement (ESCA) and Local Redevelopment Authority (LRA)/Economic Development Conveyance (EDC) Agreement - Progress Update and Executive Officer Authorization

Mr. Metz introduced the ESCA /LRA team lead by Stan Cook. Mr. Cook, assisted by Barry Steinberg and George Schlossberg, conducted a presentation pertaining to the submitted report and recommendation to allow FORA to complete processing of the movement of the ESCA, LRA and EDC to the City of Seaside along with transfers of certain property, and discussed the details and drafted forms, deeds and releases regarding same. Barry Steinberg and George Schlossberg then answered questions of Board members. Descriptions were given of various places where the documents can be found online. Public comment was then heard on this item.

On motion by member Alan Hafa, seconded by member Mary Ann Carbone and carried by the following vote, the Board moved to Adopt Resolution No. 20-xx: Authorizing the Executive Officer to execute and/or acknowledge these remaining FORA/Seaside ESCA/EDC/LRA Successor documents, in substantially the form presented to the Board, following review and approval by FORA Counsel.

MOTION PASSED UNANIMOUSLY.

b. Campus Town Consistency Determination

Josh Metz noted a page of the Base Reuse Plan that showed the areas proposed for urban use and the Campus Town Project, represented by the shaded area, speaks to the quality of the project and how it reflects the community interest. Steve Flint with Regional Government Services (RGS) then made a presentation on the consistency determination and discussed details of how the project plan is consistent with the Base Reuse Plan and additional considerations for development entitlements. Mr. Flint and developer representative Danny Bakewell, Jr, as well as Sherri Damon of City of Seaside, then answered questions from the members. Public comment was then heard on this item.

On motion by member Alan Haffa, seconded by member John Gaglioti and carried by the following vote, the Board moved to Adopt Resolution 20-xx: Certifying the City of Seaside's General Plan Circulation Element Amendments, Zoning Map and text amendments creating the "Campus Town Specific Plan" District, Campus Town Specific Plan, and development entitlements for the Campus Town Project.

MOTION PASSED UNANIMOUSLY.

8. PUBLIC COMMENT

Mr. Cheshire informed the Board that in conjunction with the Senate Infrastructure Bill SB 1 providing for \$25 million in training funds to promote training for individuals to get into the construction trades, on June 1, 2020, \$576,000 was granted to educate over 150 individuals in our area over the next two years in the construction trades.

Mr. Schlossberg commended the actions today of the FORA Board and congratulated those involved.

9. ITEMS FROM MEMBERS

None

10. ADJOURNMENT at 4:20 pm

Minutes Prepared by:

Harrison Tregenza, Deputy Clerk with assistance by Jo-Anne Boilard, Paralegal

Approved by:

Joshua Metz Executive Officer

DRAFT



**FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS MEETING MINUTES**

2:00 p.m., Thursday, June 11, 2020 | This meeting was held at the following Zoom link: <https://zoom.us/j/956115894>

1. CALL TO ORDER

Chair Jane Parker called the meeting to order at 2:00 p.m.

2. CLOSED SESSION

- a. Conference with Legal Counsel – Gov. Code §54956.9(d)(2): Anticipated Litigation, Significant Exposure to Litigation, one potential case.
- b. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a notice of intent to sue from: California Native Plant Society.
- c. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a notice of intent to sue from: Keep Fort Ord Wild.
- d. Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a claim pursuant to the Government Claims Act by: Resource Environmental, Inc.

Time Entered: 2:04 pm

Time Exited 3:23 pm

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

FORA Authority Counsel Jon Giffen announced that the FORA Board met in closed session on Items 2a through 2d. Mr. Giffen announced that as to Item 2a, the Board agreed to resolve a dispute with the East Garrison developer, claimant UCP East Garrison LLC, who was claiming \$1.47 Million against FORA involving reimbursement of interest payments on a FORA loan. The matter has resolved and settled for \$950,000. Mr. Giffen announced that as to Item 2b, a lawsuit filed by the California Native Plant Society, an ex parte hearing is scheduled for tomorrow. There is nothing else to report on that matter. As to Item 2c, an anticipated litigation based upon a notice that was received from Keep Fort Ord Wild, there is nothing to report. As to Item 2d, the claim by Resource Environmental, Inc. will proceed to mediation tomorrow and there is nothing else to report out on that matter.

4. ACKNOWLEDGMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Joshua Metz acknowledged the ongoing community, national, and global demonstrations for human and civil rights that hopefully will bring us to a brighter place down the road. Mr. Metz announced the bond issue was successfully completed yesterday, a journey that began in August 2019, and has resulted in bringing in over \$30 Million in funds that will largely be deployed towards building removal in Marina, Seaside, MCWD-owned and MST-owned properties and facilities on former Fort Ord. Mr. Metz acknowledged this major accomplishment and that it will be instrumental in spurring continued economic recovery and enable much blight to be removed from the neighborhood, therefore, congratulations are in order to everyone who contributed to that long process.

Correspondence received:

May 21: Letter from Veterans Issues Advisory Committee written by Jack Stewart

June 2: Letter from United Veterans Council of Monterey County

Letter from County of Monterey Military and Veterans Affairs

June 10: Letter from LAFCO

Letter from MR Wolf & Associates on behalf of Land Watch regarding Item 7a on today's agenda

June 11: Letter from MPC regarding transition plan

Letter from City of Seaside regarding pending litigation

Memo from NHA Advisors regarding summary of bond proceeds

1 or 2 letters from Stamp Erickson law firm regarding items on the transition plan and anticipated litigation

5. ROLL CALL

Voting Members Present:

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Supervisor Mary Adams (County of Monterey), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Frank O'Connell, Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember John Wizard, Mayor Mary Ann Carbone, Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Janet Reimers (City of Carmel-by-the-Sea)

Ex-officio (Non-Voting) Board Members Present:

Katie Moon (20th Congressional District), Colleen Courtney (17th State Senate District), Erica Parker (29th State Assembly District), Debbie Hale (TAMC) Dr. P.K. Diffenbaugh (Monterey Peninsula Unified School District), Steve Matarazzo (University of California, Santa Cruz), Dr. Collingsworth (CSUMB), Col. Gregory Ford (United States Army), Bill Collins (BRAC), David Martin (Monterey Peninsula College), Lisa Rheinheimer (Monterey-Salinas Transit), Keith Van Der Maaten (MCWD).

6. CONSENT AGENDA

- a. April 30, 2020 Board Meeting Minutes

b. May 6, 2020 Executive Committee Meeting Minutes

c. Transition Status Report

On motion by Director Adams, seconded by Director Phillips, and carried by the following vote, the Board moved to approve Items 6a, 6b and 6c.

MOTION PASSED UNANIMOUSLY

d. Federal Wildlife Agency Notification

Director Morton and Mr. Farrell (member of the public) requested this item be pulled from the Consent calendar for questions and comment.

Staff and consultants responded to questions and comments from Board members and the public. A discussion took place between members of the Board. Public comment was heard on the item. It was confirmed that Fish and Wildlife service had requested the letter to provide them a formal notification of the desires of this Board and the change in circumstances. This would then go up the higher chains to the U.S. Fish and Wildlife Services.

e. Memorandum of Agreement and Assignment of Contract for General Fund Project Transfer (Oak Woodlands Conservation Planning)

Director Morton requested this item be pulled from the Consent calendar for some questions.

Staff and consultants responded to the questions and comments from Director Morton.

On motion by Director Oglesby, seconded by Director Gaglioti, and carried by the following vote, the Board moved to approve Items 6d and 6e.

MOTION PASSED UNANIMOUSLY

7. BUSINESS ITEMS

a. Consider Certification of Final Environmental Impact Report for Fort Ord Multi-Species Habitat Conservation Plan Project

Mr. Metz introduced consultant Erin Harwayne who presented slides and described the process that was undertaken to reach this Final EIR. She also stated the recommendation to revise Table 5-2 of the Final EIR to reflect the correct limit of California Tiger Salamander (CTS) from 220 acres to 97 acres. Ms. Harwayne commented that taking no action approving or disapproving the Project itself is an option as it sounds like the jurisdictions and permittees do not want to move forward

with this Habitat Conservation Plan Project, but certifying this project would allow the jurisdictions and permittees in the future to streamline the process and save costs if the jurisdictions decide to move forward in the future. However, taking no action to approve or disprove will reduce the legal risk to FORA.

FORA counsel and consultants answered questions posed by the Board. Public comments were made by Michael DeLapa, Kate McKenna and Mr. Farrell. The Board then discussed the matter.

MOTION: On motion by Board member Wizard and seconded by Board member Reimers and carried by the following vote, the Board moved to approve the Staff's recommendation to adopt the Resolution of Findings (Attachment A) which certifies the Final Environmental Impact Report, including revising Table 5.2 to reflect the correct limit from CTS from 220 acres to 97 acres.

Item 7a Motion			
Director Parker	No	Director Haffa	No
Director Phillips	Aye	Director Oglesby	Aye
Director Adams	No	Director Wizard	Aye
Director Gaglioti	Aye	Director Carbone	Aye
Director O'Connell	No	Director Garfield	Aye
Director Morton	No	Director Reimers	Aye

Tally - 7 AYES; 5 NOES

Chairperson Parker announced there will be a second vote at the special meeting scheduled next week

b. 2018 Transition Plan Update

Item 7b will be put on next week's meeting agenda due to today's time constraints.

c. Unallocated Funds Distribution

Staff conducted a brief presentation and answered Board members' questions, after which the public made comments.

MOTION: On motion by Director Haffa and seconded by Director Gaglioti and carried by the following vote, the Board moved to approve the Recommendations contained within the Staff's Unallocated Funds Distribution Report as presented by slides at this meeting.

Item 7c Motion			
Director Parker	Aye	Director Haffa	Aye
Director Phillips	Aye	Director Oglesby	Aye
Director Adams	No	Director Wizard	Aye

Director Gaglioti	Aye	Director Carbone	Aye
Director O'Connell	Aye	Director Garfield	Aye
Director Morton	No	Director Reimers	Aye

Motion Passed by Majority (10 AYES; 2 NOES)

8. PUBLIC COMMENT

No public comments.

9. ITEMS FROM MEMBERS

None

10. ADJOURNMENT at 5:29 p.m.

Minutes Prepared by:
Harrison Tregenza
Deputy Clerk (with assistance by Jo-Anne Boilard, Paralegal)

Approved by:

Joshua Metz Executive Officer



**FORT ORD REUSE AUTHORITY
BOARD OF DIRECTORS SPECIAL MEETING MINUTES**

1:00 p.m., Friday, June 19, 2020 | This meeting was held at the following Zoom link: <https://zoom.us/j/956115894>

1. CALL TO ORDER

Chair Jane Parker called the meeting to order at 1:00 p.m.

2. CLOSED SESSION

- a. **Conference with Legal Counsel—Gov. Code §54956.9(a), (d)(1): California Native Plant Society v. Fort Ord Reuse Authority, et al. Monterey County Superior Court Case No.: 20CV001529, Pending Litigation.**
- b. **Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a notice of intent to sue from: Keep Fort Ord Wild.**
- c. **Conference with Legal Counsel – Anticipated Litigation Pursuant to Government Code § 54956.9 (d)(2) based on receipt of a claim pursuant to the Government Claims Act by: Resource Environmental, Inc.**

Time Entered: 1:04

Time Exited 2:17 pm

3. ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

FORA Authority Counsel Jon Giffen announced that the FORA Board met in closed session on Items 2a through 2c. Mr. Giffen announced that as to Item 2a, counsel updated the Board on the status of the matter and there is nothing to report out. As to Item 2b, Mr. Giffen announced that there is nothing to report out. As to Item 2c, the Board heard from counsel, gave direction to counsel, and there is nothing to report.

4. ACKNOWLEDGMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

Executive Officer Joshua Metz acknowledged that today, June 19, is Juneteenth and how important transparency and open government is in these days of “fake news.” Everything we can do to make information available to the public about actions of the government is

vital and he wished to acknowledge the significant body of work accomplished by this Board over the last six months.

He pointed out the Board has met 16 times in six months, fitting more than a year's worth of meetings in half the time frame. The Habitat Working Group has held 12 meetings in 12 weeks which led to a solution for the habitat that included distribution of \$17 Million worth of funds set up for the various jurisdictions to conserve habitat across the Fort Ord area. Transfer of ESCA to the City of Seaside which involved multiple months of processing, and next weekend we will be signing the transfer documents for the remaining ESCA property. The CIP projects that involves \$12 Million worth of funds are being transferred to the relevant jurisdictions. The responsibility for road construction now sits with TAMC. The ongoing water responsibilities now sit with MCWD. There are economic development activities that continue like Campustown for City of Seaside, and the drone automation and robotics technology initiative is being expanded through the drone camp at UC Ag and Natural Resources. Executive Officer Metz continued to describe additional ongoing projects as well as transition of the FORA records to the County and the contract for post-FORA activities as well as working with LAFCO.

Mr. Metz also acknowledged the legal team at Kennedy, Archer & Giffen law firm who have been working day and night on the litigation issues and the language in the agreements, and gave special recognition to David Willoughby at that law firm who has been burning the midnight oil working on the agreements for FORA.

Mr. Metz acknowledged the five FORA current staff who have stuck it out until the end and who will be getting the final boxes together and transitioning computers and equipment. They have been a great working team, especially accomplishing all this during a global pandemic.

Mr. Metz acknowledged the \$30 Million tax revenue bond would not have happened without Mr. Northcross' leadership. The twists and turns the project took over the last year and a half were incredible and Mr. Metz felt it was a tremendous experience to be part of, so he asked Mark Northcross to be here today. Mr. Northcross said a few words, expressing pleasure at working with the Board, Staff and consultants. Mr. Northcross felt the Board all did the best they could, dealing with their own constituents and finding a compromise through FORA, which was quite a challenge, being the largest Base Reuse program in the United States.

Mr. Metz acknowledged Wendy Strimling who has been working late on the agreements and he commended the County's legal staff and administrative committee on their fine work.

Board members made comments as well, including Director Garfield expressing appreciation to Mr. Northcross and his team for helping the Board walk their way through a complex matter. Director Haffa expressed appreciation to Mr. Northcross and also to Executive Director Josh Metz and acknowledged Director Morton who for years has said the Board needed to make building removal a priority, and appreciation for the City of Seaside, the Board and the Finance Department. Director Adams expressed particular

appreciation for all Josh Metz has done in guiding FORA and the Board, and his handling of all the stress with grace and good nature.

Correspondence received

Mr. Metz announced the following correspondence was received:

June 10 Letter from City of Seaside regarding REI v. FORA claim
June 11 Letter from Stamp Erickson law firm regarding CFCS v. FORA claim
June 19 Letter from LAFCO regarding the transition plan
June 19 Email from Marina Community Partners commenting on transition plan

5. ROLL CALL

Voting Members Present:

Supervisor Jane Parker (County of Monterey), Supervisor John Phillips (County of Monterey), Supervisor Mary Adams (County of Monterey), Councilmember John Gaglioti (City of Del Rey Oaks), Councilmember Lisa Berkley (City of Marina), Mayor Pro-Tem Gail Morton (City of Marina), Councilmember Alan Haffa (City of Monterey), Mayor Ian Oglesby (City of Seaside), Councilmember John Wizard (City of Seaside), Mayor Mary Ann Carbone (City of Sand City), Councilmember Cynthia Garfield (City of Pacific Grove), Councilmember Janet Reimers (City of Carmel-by-the-Sea).

Ex-officio (Non-Voting) Board Members Present:

Todd Muck (TAMC), Dr. Lawrence Samuels (CSUMB), Col. Gregory Ford (United States Army), David Martin (Monterey Peninsula College), Derek Cray (MCWD).

6. CONSENT AGENDA

a. May 14, 2020 Board Meeting Minutes

On motion by Director Adams seconded by Director Garfield, and carried by the following vote, the Board moved to approve Item 6a.

MOTION PASSED UNANIMOUSLY

7. BUSINESS ITEMS

a. Consider Certification of Final Environmental Impact Report for Fort Ord Multi-Species Habitat Conservation Plan Project – 2nd Vote

Mr. Metz reminded the Board this is a vote to adopt a resolution of findings which certifies the Final Environmental Impact Report including the Responses to Comments to the Draft Environmental Report for the Fort Ord Multi-Species Habitat Conservation Plan Project. The alternative Staff recommendation is to take no action approving or disapproving the Project itself. The environmental consultant Erin Harwayne is present on the call to respond to any additional questions or comments of the Board.

After public comment by Ron Cheshire and Board comments by Director Adams and Director Morton, the Board discussed the matter, then conducted their second vote on the

motion to approve the Staff's recommendation to adopt the Resolution of Findings (Attachment A) which certifies the Final Environmental Impact Report, including revising Table 5.2 to reflect the correct limit from CTS from 220 acres to 97 acres.

Item 7a - 2 nd vote on Motion			
Director Parker	No	Director Haffa	No
Director Phillips	Aye	Director Oglesby	Aye
Director Adams	No	Director Wizard	Aye
Director Gaglioti	Aye	Director Carbone	Aye
Director Berkley	No	Director Garfield	Aye
Director Morton	No	Director Reimers	Aye

Tally - 7 AYES; 5 NOES

MOTION PASSED.

b. Unallocated Funds Distribution – 2nd Vote

Mr. Metz conducted a brief presentation, showing the slide available on FORA's website that was shown to the Board last week, which reflects the recommendations contained within the Staff's Unallocated Funds Distribution Report. He explained there was a small adjustment in the County's need to administer a post-FORA administrative services contract. Mr. Metz, counsel David Willoughby and Wendy Strimling answered Board members' extensive questions and comments. The 2nd vote to receive Staff's Unallocated Funds Distribution Report was as follows:

MOTION PASSED UNANIMOUSLY.

Chair Jane Parker announced some board members will need to leave, so Item 7c was deferred to discuss last.

d. Consultant Services Contract Amendment - Post-FORA Fiscal & Administrative Services

Mr. Metz introduced Item 7d advising the Staff recommends the Board direct the Executive Officer to approve a contract with the Regional Government Services (RGS) that may be assigned to the County of Monterey on July 1, 2020. There were no comments or questions by the public or the Board.

MOTION: On motion by Board member Gaglioti and seconded by Member Reimers and carried by the following vote, the Board moved to approve the Staff's recommendation to direct Executive Officer to approve a contract with RGS that may be assigned to the County of Monterey for post-FORA Fiscal and Administrative Services.

MOTION PASSED UNANIMOUSLY.

e. FORA-Monterey County Agreement Regarding Dissolution Related Administrative and Financial Matters

Mr. Metz introduced Item 7e and described the hard work that went into the language for the County to assume certain administrative functions and oversight of the contract with RGS to include the funds for the continuation of Veterans' services and other as described in attachment a to the Staff report. Ms. Strimling added that it also handles the transfer of records from FORA to the County who will serve as the custodian of records with the exception of the records that will go to Seaside and the attorney/client privileged communications and work product are proposed to go to the Kennedy, Archer & Giffen law firm. Ms. Strimling, Mr. Willoughby and Mr. Giffen responded to Board members' questions. There was no public comment or questions.

MOTION: On motion by Board member Gaglioti and seconded by Member Haffa and carried by the following vote, the Board moved to approve the Agreement Between the Fort Ord Reuse Authority and County of Monterey Regarding Administrative and Financial Matters Associated with FORA Dissolution.

MOTION PASSED UNANIMOUSLY.

c. 2018 Transition Plan Update

Mr. Metz introduced Kendall Flint of RGS who presented slides and described the proposed amendments to the 2018 transition plan. Ms. Flint, Mr. Willoughby, and David Martin (MPC) responded to Board members' questions and comments.

Members of the public made comments, including Doug Yount (MCP), and Mr. Cheshire (Monterey/Santa Cruz Building & Construction Trades Council), Ms. Strimling and Ms. Sheri Damon. Ms. McKenna (LAFCO) also advised LAFCO objects to language in the sections involving LAFCO and LAFCO is having a public hearing on Monday, June 22, regarding these issues.

The matter was discussed vigorously by the Board members. Mr. David Willoughby, Ms. Flint and Mr. Metz responded to members' questions and the matter was discussed extensively by the Board members.

MOTION: Motion was made by Board member Haffa and seconded by Member Gaglioti to direct Staff to schedule a special meeting next week and that Staff and consultants work with Marina and Seaside to amend the 2020 Transition Plan Update to include the references made today, and that the rest of the document be presented to the Board at the Special Meeting as is.

Prior to vote, further discussion ensued among the Board members.

SUBSTITUTE MOTION: Substitute Motion made by Board member Reimers and seconded by Member Phillips was withdrawn after further discussion was made by the Board.

SUBSTITUTE MOTION: On motion by Board member Morton, seconded by Member Adams and carried by the following vote, the Board moved to direct Staff to and counsel will work with the jurisdictions to make changes to the 2020 Transition Plan Update to incorporate today's requests of the jurisdictions, and present two versions for the Board to consider at the Special Board meeting, one which keeps references LAFCO as currently written with possible minor revisions and a second version which adjusts the language involving LAFCO after receiving input from LAFCO.

MOTION PASSED UNANIMOUSLY

Chair Jane Parker announced a tentative Special Meeting is scheduled for Monday, June 29, 2020 at 1:00 pm, if needed, unless the Board has a unanimous vote on this matter at the next regular Board meeting.

8. PUBLIC COMMENT

Public comment was heard from Mr. Cheshire.

9. ITEMS FROM MEMBERS

Members announced happy Juneteenth and Happy Father's Day. Director Carbone expressed appreciation from Colonel Ford for his participation on the FORA Board and the Board wished him well during the upcoming change of command.

10. ADJOURNMENT at 4:14 pm.

Minutes Prepared by:
Harrison Tregenza, Deputy Clerk, with assistance by Jo-Anne Boilard, Paralegal

Approved by:

Joshua Metz Executive Officer

FORT ORD REUSE AUTHORITY BOARD REPORT	
BUSINESS ITEMS	
Subject:	2018 Transition Plan Update
Meeting Date:	June 26, 2020
Agenda Number:	7a
	ACTION

RECOMMENDATION(S):

- i. Receive 2018 Transition Plan Update Report.
- ii. Approve updates to Resolution 18-xx: Approving 2018 Transition Plan Update.

BACKGROUND/DISCUSSION:

The Board approved its 2018 Transition Plan at its December 19, 2018 Special Meeting. The document reflected the results of a collaborative effort involving all the member agencies. Upon recent review however, staff identified a number of sections in the Plan that should be reconsidered and/or modified to more closely reflect the direction the Board is taking as it moves toward to closure of the agency.

The proposed updates to the Transition Plan were reviewed at the Board’s April 17, April 30, May 22, and June 19, 2020 meetings, and are summarized below:

1. Removes references to formation of a Joint Powers Authority to replace FORA.
2. Memorializes recording of the 1997 Master Resolution on April 14, 2020.
3. Updates available funding for retirement of CalPERS liability.
4. Memorializes litigation reserve funds transferred to LAFCO in December of 2019.
5. Memorializes distribution of Habitat Funds based on Board direction.
6. Memorializes transfer of Capital Improvement Project funds and responsibility as lead agency to the Cities of Del Rey Oaks, Marina and Seaside.
7. Memorializes nomination of the City of Seaside as the Local Reuse Authority and Economic Development Conveyance successor to FORA.
8. Allocates \$100,000 in funds for the City of Seaside as the LRA/EDC successor.
9. Establishes prevailing wage for all first-generation construction as described in the Master Resolution.
10. Removes items not completed or implemented by FORA and/or its member agencies by June 30, 2020.

The Board further directed staff to include references to existing agreements and documents relevant to the Transition Plan and prepare two versions related to future successor role(s) to be assumed by LAFCO. FORA staff, RGS and Authority Counsel met with individual agencies and reviewed proposed changes requested, presented for the Board’s review.

FISCAL IMPACT:

None.

COORDINATION:

Authority Counsel, Executive Officer, LAFCO

Prepared by Kendall Flint, RGS and Approved by:



Joshua Metz

ATTACHMENTS:

- A. 2018 Transition Plan Update (06-25-20) with assignment of catchall responsibility to LAFCO.
- B. 2018 Transition Plan Update (06-25-20) *without* assignment of catchall responsibility to LAFCO
- C. 2018 Transition Plan Update (06-25-20) compare with to without assignment of catchall responsibility to LAFCO (differences are in Sections 1.5, 2.2.8, 3.1 and item 4 of the last page of the main body of the resolution)
- D. 2018 Transition Plan Update (06-25-20) changes since 06-19-20 (reflects changes made in response to comments received at and after 06-19-20 Board meeting)

FORT ORD REUSE AUTHORITY RESOLUTION NO. 20-xx

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY *Approving Updates to and Restatement of the Transition Plan Submitted to the Monterey County Local Agency Formation Commission*

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A.** In 1991, the Secretary of Defense announced the proposed downsizing of the United States Army Fort Ord Military Reservation (“Fort Ord”) under the Base Realignment and Closure Act. The relocation by the United States Army (the “Army”) of the 7th Infantry Division - Light resulted in the loss to the communities and populace of the Monterey Peninsula and adjoining greater Monterey Bay region of the significant economic, social, and cultural contributions that had been associated with the military presence.
- B.** Over the years in which Fort Ord was an active military base, the Army entered into contracts with regional entities to address water and wastewater needs of the reservation. On or about 1981, the Army and Monterey Regional Water Pollution Control Agency (“MRWPCA”) entered into Contract No. DACA 05-81-C-0021 wherein the Army participated in the construction of the Monterey Regional Wastewater Treatment Plant and such agreement was amended several times, ultimately resulting in Contract No. DAKF 03-83-C0527 wherein MRWPCA agreed to provide sanitary sewage service to the Army. A subsequent agreement was entered into between the Army, Marina Coast Water District (“MCWD”), the Fort Ord Reuse Authority (“FORA”) and MRWPCA regarding wastewater treatment.
- C.** On or about September 21, 1993, the Army entered into Contract No. A-6404 with the Monterey County Water Resources Agency (“MCWRA”) for annexation of the former Fort Ord lands into MCWRA Zone 2 and 2A. That Agreement is the basis for the Army’s pumping limitation of 6,600 acre-feet per year (“AFY”) of water from the Salinas Valley Groundwater Basin and of that, no more than 5,200 AFY from the 180 and 400-foot aquifers therein. On or about October 23, 2001, the Army quit claimed its water and wastewater infrastructure to the Fort Ord Reuse Authority and issued two easements to FORA in DACA 05-0-00-57 and DACA 05-9-00-58. The easements to FORA required, among other obligations, assumption of the obligation to provide water required by the Installation-Wide Habitat Management Plan, the Army’s obligation to cooperate and coordinate with parcel recipients, MCWRA, FORA and others to ensure all owners of property at the former Fort Ord will continue to be provided an equitable supply of water at equitable rates and to cooperate and coordinate with MCWRA, MRWPCA, FORA, property recipients and others to ensure Non-Army Responsibility Mitigations required by the records of decision dated December 23, 1993 and June 8, 1997 are met and that it will meet all requirements of the Army Agreement with MCWRA approved on September 21, 1993. On October 26, 2001, FORA in turn quitclaimed water and wastewater infrastructure and assigned said easements to MCWD requiring compliance with all underlying requirements.
- D.** After the announcement but prior to the implementation of the base downsizing/closure, political leaders within the affected region formed the Fort Ord Community Task Force (the “Task Force”) in order to develop recommendations for moving forward with a recovery effort. These recommendations were embodied in a 760-page June 1992 Strategy Report prepared by the Task Force (the “Strategy Report”).

- E.** Predicated upon the Strategy Report, in October 1992 the Fort Ord Reuse Group (“FORG”) was organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of Fort Ord. After preparing an initial plan and subsequently refining it, the revised plan was considered and adopted by FORG in 1993. Those early planning efforts recognized the significant costs associated with the implementation of any plan to convert Fort Ord into civilian use and reinforced the validity of the regional and base-wide approaches that were inherent in the conclusions reached by the Task Force in its Strategy Report.
- F.** FORA was established in 1994 by state legislation (Government Code sections 67650 and following, the “FORA Act”) and when the member jurisdictions adopted resolutions favoring the establishment of the authority in accordance with Government Code section 67656. The FORA Act was amended in 2012. The Legislature found that the reuse of Fort Ord is a matter of statewide importance and declared in Government Code section 67657(c) that FORA’s powers and duties prevail over those of any other local entity, including any city, county, or joint powers authority. Government Code section 67658 identifies FORA’s purpose as planning for, financing, and managing the transition of the property known as Fort Ord from military to civilian use. In Government Code section 67651, the Legislature declared the following goals to be the policy of the State of California: (1) To facilitate the transfer and reuse of the real and other property of the former Fort Ord with all practical speed; (2) minimize the economic disruption caused by the base’s closure, (3) provide for reuse and development of the base in ways that enhance the economy and quality of life of the Monterey Bay community, and (4) maintain and protect the unique environmental resources of the area.
- G.** In order to carry out the directives of the FORA Act, FORA hired staff and entered into a contract with the California Public Employees’ Retirement System (“CalPERS”) to provide for retirement benefits for FORA employees.
- H.** Pursuant to the requirements of Government Code section 67675, FORA certified a Final Environmental Impact Report and adopted a Fort Ord Reuse Plan (the “Reuse Plan”) on June 13, 1997 in Resolution 97-06. The Reuse Plan, its attendant environmental report, and Resolution 97-06 are available on the FORA website at www.fora.org.
- I.** As part of that approval, FORA’s Board of Directors (the “Board”) certified the Environmental Impact Report and adopted a Statement of Overriding Considerations after making the following findings:
- The Reuse Plan will provide for an improved and diversified retail and industrial economy and market that will generate employment and create financial stability;
 - The Reuse Plan will provide moderate and upscale housing which will provide more affluent residents to the Cities of Seaside and Marina, thereby creating a housing stock with higher income families in these communities with larger disposable incomes;
 - The Reuse Plan will provide additional tourist support facilities in Seaside and Marina, thereby contributing additional employment opportunities;

- The Reuse Plan will encourage and prioritize the development of projects that are regional in scale, thereby creating additional destination points on the Monterey Peninsula, and thereby enhancing the local economy;
 - The Reuse Plan provides for the creation of various additional recreational facilities and open space that will enhance the quality of life for not only the residents of Seaside and Marina but all of the residents of the Peninsula;
 - The Reuse Plan will attract and assist in retaining a pool of professional workers for the Peninsula;
 - The Reuse Plan will assist in ensuring that the overall economic recovery of the Peninsula benefits the Cities of Del Rey Oaks, Monterey, Seaside, Marina, and the unincorporated areas of the County of Monterey in the vicinity of Fort Ord;
 - The Reuse Plan will provide for additional and needed senior housing opportunities;
 - The Reuse Plan will assist the communities of Seaside and Marina in the transition of their respective community images from dependent, military base extensions with transient military personnel to vital, independent, and self-actuated communities populated with permanent residents with long-term interests in the well-being of their respective communities; and
 - The Reuse Plan will encourage development that will enhance the continued viability of California State University at Monterey Bay and the open space areas retained by the federal government through the Bureau of Land Management and conveyed to the California Department of Parks and Recreation.
- J.** FORA has committed and is obligated by the FORA Act, the Reuse Plan, and/or the California Environmental Quality Act (“CEQA”) to implement a program addressing policies, programs and mitigation measures of the Reuse Plan, including a capital improvement program and finance program addressing basewide facilities.
- K.** In the Reuse Plan, FORA identified revenues generated from sales and leases of real property within the former Fort Ord, FORA’s share of taxes on real property located within the former Fort Ord, and base-wide assessments or development fees, as the primary property-related sources of funding with which to implement the basewide facilities outlined in the Capital Improvement Program (“CIP”).
- L.** As is more fully described below, in connection with funding implementation of the Reuse Plan, FORA entered into multiple agreements with local, state, and federal entities, established a public financing mechanism, and prepared a CIP. The final CIP is available on the FORA website at www.fora.org.
- M.** As part of funding implementation of the Reuse Plan, FORA established in 2001 a Community Facilities District (“CFD”), through which special taxes on properties to be developed are collected. These special taxes (the “CFD Special Taxes”) are due and payable with respect to each parcel on issuance of a building permit relating to the property. The CFD Special Taxes are subject to annual adjustment, but when FORA ceases to exist the CFD Special Taxes may no longer be collected. A variety of replacement funding mechanisms are available, including but not limited to the potential for each of the underlying land use jurisdictions to create its own Community Facilities District through

which special taxes on future development may be collected. Collecting taxes or fees on developments that have already been entitled will require each jurisdiction to obtain agreements from each developer of an entitled project to pay development fees that the developer would not otherwise be obligated to pay. Those fees are estimated to be \$72 million for entitled projects, if all entitled developments are fully completed. At its June 4, 2020 meeting, FORA's Board of Directors adopted Resolution No. 20-07 directing the recordation of a Notice of Cessation of Special Tax and Extinguishment of Lien for the Fort Ord Reuse Authority Basewide Community Facilities District for the purpose of terminating collection of the CFD Special taxes after FORA's dissolution. That notice has since been submitted to the Monterey County Recorder's Office for recordation.

- N.** FORA entered into a Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands (the "EDC MOA"), which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder. The EDC MOA provided the vehicle for the Army to transfer property to FORA without monetary consideration. The land transfer was conditioned on a requirement that any proceeds from the subsequent sale or leasing of the transferred real property must be applied to the economic development of the former Fort Ord. The real property transferred pursuant to the EDC MOA may be referred to herein as the "EDC Property." Sections 5.03 and 5.04 of the EDC MOA require a fair process to ensure an equitable supply of water is provided to grantees of former Fort Ord property and that all grantees enjoy an equitable utilization of the existing sewage treatment capacity.
- O.** In 2001, agreements were entered into between FORA on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand. These agreements, as they may have been amended to date and irrespective of whether they may be so captioned, may collectively be referred to herein as the "Implementation Agreements."
- P.** The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") applies to the closure of Fort Ord. The Army is obligated under CERCLA and other applicable federal and state law to remediate certain conditions at the former Fort Ord, including but not limited to by the removal of munitions and explosives. It was anticipated that an extensive amount of time would be needed for the Army to complete its cleanup of the former Fort Ord, based in part upon the contingent nature of Department of Defense funding and due to competing priorities for the use of available funds. Accordingly, in order for FORA to be able to receive the EDC Property early and facilitate an orderly and timely remediation of former Fort Ord lands, the Army and FORA entered into an early transfer agreement. Through a series of subsequent agreements between the Army, FORA, the U.S. Environmental Protection Agency, and the California Department of Toxic Substance Control remediation of munitions and explosives on the former Fort Ord proceeded. Although substantial progress has been made in the base cleanup, the remediation obligations will not be completed and all property transfers will not have occurred before the currently anticipated dissolution of FORA.
- Q.** Government Code section 67700(a) requires that FORA dissolve when eighty percent (80%) of the base has been developed or reused in a manner consistent with the Reuse Plan or on June 30, 2020, whichever first occurs. Government Code section 67700(b)(2) mandates as follows:

The board shall approve and submit a transition plan to the Monterey County Local Agency Formation Commission on or before December 30, 2018, or 18 months

before the anticipated inoperability of this title pursuant to subdivision (a), whichever occurs first. The transition plan shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The transition plan shall be approved only by a majority vote of the board.

The Transition Plan approved by the Board on December 19, 2018 and submitted to the Monterey County Local Agency Formation Commission (“LAFCO”) on December 30, 2018 assigned assets and liabilities, designated responsible successor agencies, and provided a schedule of remaining obligations, as required by the FORA Act. Since FORA’s approval of the Transition Plan in 2018, FORA has entered into contracts and agreements and taken a series of other actions to implement its dissolution. This document updates and restates the approved 2018 Transition Plan to reflect and incorporate the decisions of the FORA Board and the various agreements entered among FORA and member jurisdictions since December 19, 2018 to achieve the orderly and fair dissolution of FORA.

R. Government Code section 67700(b)(1) provides as follows:

The Monterey County Local Agency Formation Commission shall provide for the orderly dissolution of the authority including ensuring that all contracts, agreements, and pledges to pay or repay money entered into by the authority are honored and properly administered, and that all assets of the authority are appropriately transferred.

BASED ON THE FOREGOING RECITALS AND THE FINDINGS AND DETERMINATIONS MADE HEREIN, the Board hereby approves the following updated and restated Transition Plan for transmittal to LAFCO:

Section 1 Findings and Determinations:

1.1 Assignment of Assets and Liabilities and Transfer of Surviving Obligations:

The Board hereby finds and determines that this Transition Plan assigns all assets and liabilities of FORA and transfers all obligations of FORA to the extent such obligations survive the dissolution of FORA.

1.2 California Environmental Quality Act:

The Board hereby finds and determines that in adopting this Transition Plan as required by Government Code section 67700 FORA is addressing the allocation of FORA’s assets, liabilities and obligations in advance of FORA’s ultimate dissolution without (a) amending any contemplated or approved land uses within the former Fort Ord, (b) abandoning or altering any mitigations that were required as a part of the adoption of the Reuse Plan, (c) changing the Reuse Plan itself, or (d) avoiding the satisfaction and fulfillment of any of FORA’s other commitments, pledges, or promises (all of which may be collectively referred to herein as the “FORA Program”). CEQA only applies to government activities that may cause a direct or a reasonably foreseeable indirect physical change in the environment. Public Resources Code section 21065. CEQA Guidelines, Section 15378(b) also provide that certain activities are not CEQA “projects” including (4) The creation of government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

This Transition Plan does not authorize any particular development, and does not itself change any of the land use requirements applicable to projects within the geographic area of the former Fort Ord. It is not a “project” and no environmental impact report or other CEQA document is required.

To the contrary and to the extent not already so contained in their general plans, this Transition Plan calls for the Cities of Marina, Seaside, Monterey and Del Rey Oaks and the County of Monterey to follow the Reuse Plan policies and programs. After FORA’s ultimate dissolution, any changes to the policies and programs of the Reuse Plan or any part thereof will be made by the respective land use jurisdiction(s) only after full compliance with all applicable laws, including but not limited to CEQA.

Further and only to the extent not addressed by a Memorandum of Agreement entered into between FORA and the applicable jurisdiction regarding a specific project or other specific non-project activity (for example, removal of the stockade and ancillary buildings located within the City of Marina, repair of stormwater infiltration units on Eucalyptus Road within the City of Seaside, and improvements to South Boundary Road and the intersection at General Jim Moore Boulevard which may be undertaken by the City of Del Rey Oaks), as to any (a) incomplete projects initiated by FORA that any of the above-identified land use jurisdictions intend to carry out after the dissolution of FORA, (b) completed projects for which any mitigation measures adopted by FORA remain to be fulfilled or monitored, and (c) projects for which any environmentally-related contractual or judicially-imposed commitment of FORA has not been satisfied, FORA designates each of the above-identified land use jurisdictions as a responsible successor agency for the purposes of compliance with all applicable laws, including but not limited to CEQA, and satisfaction and fulfillment of all project-related liabilities to the extent required by law, including but not limited to mitigation measures and monitoring requirements and satisfaction of environmentally-related contractual or judicially-imposed commitments of FORA, each as to all portions of such projects located within the territorial limits of the respective city or cities or the unincorporated portion of Monterey County. Without limiting the generality of the foregoing, Monterey County’s habitat management responsibilities on the former Fort Ord shall include habitat management responsibilities on sites held by the Monterey Peninsula Community College District (“MPC”) at the former Military Operations on Urban Terrain facility and certain lands within the Parker Flats area of the former Fort Ord pursuant to that Agreement Regarding Public Safety Officer Training Facilities entered into between FORA, MPC and the County of Monterey in 2003, subject to MPC’s obligation to pay reasonable fair share assessments for the cost of such habitat management as provided in that agreement. To the extent required by applicable law, each such designated responsible successor agency shall assume lead agency status under CEQA with respect to such projects located wholly within its jurisdictional limits. As to any projects located within the jurisdictional limits of more than one of the designees, to the extent applicable law requires that there be a lead agency, the affected designees shall decide among themselves which shall assume lead agency status under CEQA.

1.3 Reuse Plan and Master Resolution:

To the extent the policies and programs of the Reuse Plan and Master Resolution survive the dissolution of FORA, all assets and liabilities relating to those policies and programs are assigned to each underlying land use jurisdiction. FORA recorded the Master Resolution on April 14, 2020.

1.4 Environmental Services Cooperative Agreement:

The Board entered into an agreement with the City of Seaside to become the successor to the Environmental Services Cooperative Agreement (“ESCA”). See also Section 2.1.7 re: ESCA Reimbursement.

1.5 Transfer of FORA’s Records:

Except for (a) records pertaining to the ESCA, which records will be transferred to the City of Seaside as custodian pursuant to the ESCA contract documents; (b) records transferred to the local redevelopment authority designated as FORA’s successor in connection with the EDC MOA; and (c) records of attorney-client privileged communications and materials protected by the attorney work product doctrine, which will be transferred to Authority Counsel, Kennedy, Archer & Giffen, PC, all of FORA’s public records will be transferred to the County of Monterey which shall be the custodian and is designated as the responsible successor agency for records management and compliance with applicable law concerning FORA’s public records, including but not limited to the California Public Records Act, for the period after FORA’s dissolution, as provided in that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County and dated for reference purposes June 23, 2020 (the “FORA-County Administrative Agreement”). FORA hereby designates LAFCO as the responsible successor agency for any litigation concerning FORA’s compliance or alleged lack of compliance with applicable law, including but not limited to the California Public Records Act, concerning FORA’s records for the period prior to FORA’s dissolution.

1.6 Water and Wastewater:

The Board hereby finds and determines that it has made water allocations in accordance with its obligation under the EDC MOA to ensure a fair and equitable water supply to all property recipients and imposed those requirements in the Implementation Agreements. In light of the possibility of a water supply shortage that reduces the overall amount of water available for the Ord Community, MCWD staff has committed by letter dated October 29, 2018 to work with the jurisdictions to develop a plan to reduce each entity’s water allocation in an equitable manner, consistent with the 1993 Army-MCWRA Agreement and the Economic Development Conveyance Agreement obligation to provide a fair and equitable water supply to all property recipients of former Fort Ord lands. See Section 2.2.6 re: water allocations.

Section 2 Assignment of Assets, Liabilities, and Obligations:

2.1 Assets and Disposition Thereof:

FORA’s principal assets are comprised of the following:

2.1.1 Section 115 Trust:

In April 2018, the Board authorized the establishment of a Section 115 trust and funded the trust with \$5,700,000 (which is currently earning returns at an average annualized rate in excess of 2%). The current balance in the trust is approximately \$7,000,000. Funds held in or transferred from the trust may be used only for retirement purposes. At or before FORA’s dissolution, either (a) the County of Monterey will be added as a signatory to the Section 115 Trust account with authority to expend the funds in that account for the purpose of being applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract when that amount has been finally determined or (b) FORA will cause the funds in the Section 115 Trust account to be transferred to the County to be held until

the amount of the unfunded pension liability under the CalPERS contract has been finally determined, after which all such funds are to be applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract. To the extent that funds held in or transferred from the trust are, at the time the unfunded pension liability under the CalPERS contract has been finally determined, insufficient to fully satisfy the unfunded pension liability under the CalPERS contract, proceeds from bonds in the designated Cal PERS Obligation Fund described in Section 2.2.1 shall be applied first to said unfunded pension liability. Thereafter, if any unfunded pension liability under the CalPERS contract remains, the remaining unfunded pension liability is a debt of FORA to be paid, to the extent legally permissible, through future unpledged property tax revenues pursuant to Health and Safety Code section 33492.71, so as to satisfy the unfunded pension liability under the CalPERS contract (and thereby assure that FORA's member jurisdictions are not exposed to liability for any unfunded pension liability relating to the CalPERS contract following FORA's dissolution).

2.1.2 Intentionally Omitted.

2.1.3 Litigation Reserve Funds: Although not irrevocably committed to use for litigation or indemnification purposes, FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000. Terms and conditions for the use of these funds are provided for in the FORA-LAFCO Indemnification Agreement executed December 18, 2019.

2.1.4 Habitat Funds: Pursuant to Joint Community Facilities Agreements entered into between FORA and each of the below-identified jurisdictions, FORA has distributed approximately \$17,000,000 in funds dedicated to habitat management (as provided in such agreements) in the following proportions:

- 79.9% to Monterey County
- 7.4% to the City of Seaside
- 7.9% to the City of Marina
- 0.3% to the City of Monterey
- 4.5% to the City of Del Rey Oaks

2.1.5 Capital Improvement Funds: FORA has transferred CFD Special Taxes collected to (a) the City of Marina for removal of the stockade and ancillary buildings, (b) to the City of Seaside for repair of stormwater infiltration units on Eucalyptus Road, and (c) to the City of Del Rey Oaks for potential improvements to South Boundary Road and the intersection at General Jim Moore Boulevard, each pursuant to a Memorandum of Agreement entered into between FORA and the respective jurisdiction. Any CFD Special Taxes collected and remaining unexpended prior to FORA's dissolution shall first be applied to (i) reimbursement of MCWD's expenses incurred in the construction of the Regional Urban Water Augmentation Project in the amount of \$273,854.17 and (ii) reimbursement of the City of Marina's expenses incurred in widening Salinas Avenue, improving 8th Street, and constructing the 2nd Avenue/Del Monte extension, in the aggregate amount of \$106,298.17. If the reimbursements described in clauses (i) and (ii) of the immediately preceding sentence do not fully exhaust any CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution, any surplus shall be disbursed to the jurisdictions identified in Section 2.1.4 in the proportions set forth in that section for the purpose of funding habitat management as contemplated by the Joint Community Facilities Agreements entered into between FORA and each of respective jurisdictions.

2.1.6 Other Funds: Except as otherwise specifically identified in this Transition Plan, all funds in FORA's other accounts, petty cash, un-deposited checks, and other cash equivalents held by FORA immediately prior to FORA's dissolution together with any additional funds received prior to the closure of FORA's books shall be transferred to the County of Monterey to be applied as provided in the FORA-County Administrative Agreement.

2.1.7 ESCA Reimbursement: An estimated approximately \$6,800,000 in potential reimbursement is available for work conducted under the ESCA. All rights under the ESCA are assigned to the City of Seaside effective as of FORA's dissolution.

2.1.8 Miscellaneous Personal Property: With the exception of certain office furniture acquired in part with funds supplied by MCWD, which furniture will be transferred to MCWD prior to FORA's dissolution, all of FORA's office furniture and equipment, supplies, and other personal property remaining as of FORA's dissolution shall be transferred to the County of Monterey in trust for prompt sale or disposition in accordance with any applicable rules or requirements for the transfer of surplus property by a California public entity. Any proceeds from such transfer remaining after reimbursement to the County for its administrative costs, shall be applied as provided in the FORA-County Administrative Agreement.

2.1.9 Real Property: FORA is obligated to cause certain former Fort Ord property to be transferred to the underlying land use jurisdictions in accordance with the federal Pryor Amendment and as authorized by Section 67678(a) of the FORA Act. The City of Seaside has been recognized as the Successor to the Local Redevelopment Authority and as such will assume this role effective July 1, 2020. The City of Seaside shall receive funds in the amount of \$100,000 to cover costs of property transfers as the designated LRA successor agency.

2.1.10 Insurance Policies: Except to the extent specifically provided to the contrary in this Transition Plan or by the terms of the insurance policy itself, FORA shall not keep any policy(ies) of insurance in force beyond the date(s) of such policy's(ies') expiration.

With respect to the Pollution Legal Liability ("PLL") policy, FORA currently holds approximately \$267,000 in a separately identified account for the PLL insurance self-insured retention ("SIR"). These funds shall be transferred and utilized to defray the administrative costs for the City of Seaside as the First Named Insured and to defray the costs in the event of a claim requiring application of a self-insured retention amount. In the event, the SIR is not utilized for any claims made, the amount in the fund shall be returned, after any administrative deduction for contract management by the successor, to the named insureds in proportion to the amounts of their insurance coverages.

2.2 Liabilities and Obligations and Assignment Thereof:

FORA's principal liabilities and obligations include the following:

2.2.1 Unfunded Pension Liability under CalPERS Contract: Based on the latest available communication from CalPERS, FORA's unfunded terminated agency liability is anticipated to range from \$7,793,230 to \$9,333,172. Because FORA anticipates that the amounts in the Section 115 Trust will by themselves be insufficient to retire all the actual terminated agency liability once finally determined, the Tax Allocation Bonds issued by FORA include

a CalPERS Obligation Fund in the amount of \$4,000,000 to be applied toward the payment or reduction of the CalPERS liability once determined. If the amounts in the Section 115 Trust and the designated account referenced above are collectively insufficient to fully retire the CalPERS liability, any remaining unsatisfied liability shall, to the extent legally permissible, be paid through future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired. The County shall be entitled to recover its reasonable costs of administering and distributing said property tax revenues. If after the application of the amounts in the CalPERS Obligation Fund to the retirement of the terminated agency liability under the CalPERS contract there remains any surplus in the CalPERS Obligation Fund, such surplus shall be applied in conformity with applicable law as addressed in the Bond Indenture and Irrevocable Instructions.

2.2.2 Habitat Funds: See Section 2.1.4 hereinabove.

2.2.3 Capital Improvement Funds: See discussion in Section 2.1.5 hereinabove.

2.2.4 ESCA Reimbursement: See Section 2.1.7 hereinabove.

2.2.5 Building Removal: To the extent not funded through the application of the proceeds of the sale of Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 which closed on June 25, 2020, any building removal for the purpose of alleviating blight shall be addressed after FORA's dissolution, if at all, by the jurisdiction(s) in which remaining abandoned buildings are located. Each such jurisdiction shall comply with all applicable laws pertaining to such building removal.

2.2.6 Water/Wastewater: This Transition Plan hereby assigns to MCWD, effective as of the dissolution of FORA, FORA's rights of enforcement under the Implementation Agreements, to the extent they survive post-dissolution, regarding water allocations. To the extent allowed by law, in the event that any jurisdiction's approved developments exceed the jurisdiction's approved water allocation, MCWD may decline to issue any further water connection permits until the offending jurisdiction brings its water allocation into compliance or MCWD develops or obtains access to an augmented water supply sufficient to cover any excess. In the event of a ground water shortage, any resulting reductions in the amount of water supplies shall be applied fairly and equitably across all jurisdictions. MCWD and the jurisdictions shall work together as to how to apply a fair and equitable reduction of water supply amongst the underlying land holding jurisdictions.

2.2.7 Prevailing Wages: Notwithstanding any other provision herein, the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, shall be paid to all workers employed on First Generation Construction (as defined in the Master Resolution) after FORA's dissolution. This term may not be invalidated or superseded by any Transition Plan Implementing Agreement(s) or other document(s), or by action of any city, successor jurisdiction, or other entity.

2.2.8 Late Discovered Items: To the extent that any contractual or other obligation of FORA is discovered during implementation of this Transition Plan, those obligations shall be assigned as follows: If the obligation is related to the use of real property, it shall be assigned to the underlying land use jurisdiction, unless otherwise specifically addressed in an agreement entered into between such land use jurisdiction and FORA. If the liability or

obligation is unrelated to the use of real property, LAFCO shall notify any appropriate insuring entity and the County. Upon the establishment of the validity and amount of the liability or obligation by LAFCO and the County acting in coordination with each other, such established liability or obligation shall be paid or discharged first (a) by the County applying monies, if any remain that are not expended and not already legally obligated to be expended for other purposes, from the funds transferred to the County pursuant to Section 2.1.6; next (b) by LAFCO applying any then unexpended funds received from FORA, including but not limited to the litigation reserve funds received from FORA as described in Section 2.1.3; and only thereafter (c) by encumbering and expending future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired.

Section 3 Transition Plan Implementation:

3.1 Schedule of Remaining Obligations:

Obligation	Reference in Updated Transition Plan
Implementation of Mitigation Measures Pertaining to North-South Road/Highway 218 Project and CEQA Lead Agency Status	See Section 1.2
Implementation of Mitigation Measures Pertaining to Relocation and Reconfiguration of General Jim Moore Boulevard Project and CEQA Lead Agency Status	See Section 1.2
Habitat Management Responsibilities on Sites Held by the Monterey Peninsula Community College District	See Section 1.2
Repair of Stormwater Infiltration Units on Eucalyptus Road CEQA Lead Agency Status	See Section 2.1.5
Removal of the Stockade and Ancillary Buildings CEQA Lead Agency Status	See Section 2.1.5
South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements CEQA Lead Agency Status	See Section 2.1.5
Transfers of Real Property in accordance with the federal Pryor Amendment	See Section 2.1.9
Payment of Unfunded Terminated Agency Liability to CalPERS	See Section 2.2.1
FORA Contract with California Native Plant Society and City of Del Rey Oaks	See Section 3.3

Except as identified in the schedule of remaining obligations set forth above or specifically provided for elsewhere in this Transition Plan, FORA is not aware of any remaining obligations.

In recognition that FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000 as described in Section 2.1.3, except as specifically provided to the contrary elsewhere in this Transition Plan, FORA hereby designates LAFCO as the responsible successor agency for all legal, financial, and other unresolved matters, known and unknown, and assigns to LAFCO all liabilities not otherwise specifically assigned in this Transition Plan.

3.2 Litigation Management:

In the absence of an agreement entered into by all of the affected land holding jurisdictions that post FORA litigation may be managed by any one or more, but less than all, of such land holding jurisdictions, any post FORA litigation shall be collectively managed by the land use jurisdictions that are defendants or are identified as real parties in interest for such litigation.

3.3 Survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements:

FORA has received from Authority Counsel a memorandum dated June 16, 2020 setting forth a statement regarding the survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements.

3.4 Reserved Right of Modification:

The Board hereby reserves its right to augment, clarify or modify this Transition Plan as law, facts, circumstances, or agreements may require.

NOW THEREFORE, THE BOARD HEREBY RESOLVES AS FOLLOWS:

1. As outlined above, this Resolution and its provisions constitute the Transition Plan required by Government Code section 67700(b); and
2. The Board hereby makes all assignments in accordance with Government Code section 67700(b);
3. The Board hereby finds that as adopted herein, this updated and restated Transition Plan is not a project subject to CEQA;
4. Notwithstanding anything to the contrary set forth in this resolution, nothing herein is intended nor shall be interpreted to create an independent financial obligation of the general funds of a member jurisdiction of FORA or of LAFCO unless specifically agreed to in writing by the member jurisdiction or LAFCO. Except as otherwise specifically provided herein, all of FORA's established debts, obligations, and other liabilities are intended to be satisfied or paid (a) first out of the funds of FORA as may exist as of the date of its dissolution or as may accrue to its accounts following dissolution and (b) after the exhaustion of such funds then from future property tax revenues pursuant to Health and Safety Code section 33492.71; and
5. The Board directs the Executive Officer to transmit this updated and restated Transition Plan to LAFCO.

Upon motion by Board member ---- seconded by Board member ---- the foregoing Resolution was passed on this _____ day of June 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jane Parker, Chair FORA Board

ATTEST:

Joshua Metz, Clerk

GLOSSARY

“AFY” means acre feet per year.

“Army” means the United States Army.

“Board” means the governing board of the Fort Ord Reuse Authority, as specified in Government Code section 67660.

“CalPERS” means the California Public Employees’ Retirement System.

“CEQA” means the California Environmental Quality Act, as amended to date (Public Resources Code section 21000 and following).

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly known as Superfund, as amended to date (42 U.S. Code Chapter 103 and following).

“CFD” means a Community Facilities District within the former Fort Ord formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended to date (Government Code section 53321 and following).

“CFD Special Taxes” means the special taxes collected through the Community Facilities District on properties to be developed within the former Fort Ord.

“CIP” means a Capital Improvement Program adopted by the Fort Ord Reuse Authority.

“EDC MOA” means the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“EDC Property” means the real property transferred pursuant to the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“ESCA” means the Environmental Services Cooperative Agreement entered into between the United States Army and the Fort Ord Reuse Authority, as amended to date.

“FORA Act” means, collectively, SB 899 and AB 1600 adopted in 1994 and amended in 2012, as codified at (i) Government Code Title 7.85, Chapters 1 through 7, commencing with Section 67650, and (ii) selected provisions of the California Redevelopment Law, including Health and Safety Code Sections 33492 *et seq.* and 33492.70 *et seq.*

“FORA” means the Fort Ord Reuse Authority.

“FORA-County Administrative Agreement” means that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County of Monterey and dated for reference purposes June 23, 2020.

“FORA Program” has the meaning given in Section 1.2.

“FORG” means the Fort Ord Reuse Group organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of the former Fort Ord.

“Fort Ord,” including references to the territory or area of Fort Ord or the former Fort Ord, means the geographical area described in the document entitled “Description of the Fort Ord Military Reservation Including Portion of the Monterey City Lands Tract No. 1, the Saucito, Laguna Seca, El Chamisal, El Toro and Noche Buena Ranchos, the James Bardin Partition of 1880 and Townships 14 South, Ranges 1 and 2 East and Townships 15 South, Ranges 2 and 3 East, M.D.B. and M. Monterey County, California,” prepared by Bestor Engineers, Inc., and delivered to the Sacramento District Corps of Engineers on April 11, 1994 or the military base formerly located on such land, as the context requires.

“Implementation Agreements” means agreements entered into beginning in 2001 between the Fort Ord Reuse Authority on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand, as such agreements may have been amended to date.

“LAFCO” means the Monterey County Local Agency Formation Commission.

“Local Redevelopment Authority” means any authority or instrumentality established by State or local government and recognized by the Secretary of Defense through its Office of Economic Adjustment (OEA) to facilitate the transfer of properties from the former Fort Ord to the underlying jurisdictions.

“Master Resolution” means the collection of administrative rules and regulations adopted by FORA under the Authority Act, as amended.

“MCWD” means the Marina Coast Water District.

“MCWRA” means the Monterey County Water Resources Agency.

“MPC” means the Monterey Peninsula Community College District.

“PLL” means a Pollution Legal Liability policy of insurance.

“MRWPCA” means the Monterey Regional Water Pollution Control Agency.

“Reuse Plan” means the Fort Ord Base Reuse Plan and its accompanying environmental impact report adopted and certified by the FORA Board in June 1997 to guide the reuse of the former Fort Ord, all as amended from time to time.

“SIR” means self-insured retention under a PLL policy of insurance.

“Strategy Report” means the June 1992 report prepared by the Fort Ord Community Task Force in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

“Task Force” means the Fort Ord Community Task Force formed in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

FORT ORD REUSE AUTHORITY RESOLUTION NO. 20-xx

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY *Approving Updates to and Restatement of the Transition Plan Submitted to the Monterey County Local Agency Formation Commission*

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A.** In 1991, the Secretary of Defense announced the proposed downsizing of the United States Army Fort Ord Military Reservation (“Fort Ord”) under the Base Realignment and Closure Act. The relocation by the United States Army (the “Army”) of the 7th Infantry Division - Light resulted in the loss to the communities and populace of the Monterey Peninsula and adjoining greater Monterey Bay region of the significant economic, social, and cultural contributions that had been associated with the military presence.
- B.** Over the years in which Fort Ord was an active military base, the Army entered into contracts with regional entities to address water and wastewater needs of the reservation. On or about 1981, the Army and Monterey Regional Water Pollution Control Agency (“MRWPCA”) entered into Contract No. DACA 05-81-C-0021 wherein the Army participated in the construction of the Monterey Regional Wastewater Treatment Plant and such agreement was amended several times, ultimately resulting in Contract No. DAKF 03-83-C0527 wherein MRWPCA agreed to provide sanitary sewage service to the Army. A subsequent agreement was entered into between the Army, Marina Coast Water District (“MCWD”), the Fort Ord Reuse Authority (“FORA”) and MRWPCA regarding wastewater treatment.
- C.** On or about September 21, 1993, the Army entered into Contract No. A-6404 with the Monterey County Water Resources Agency (“MCWRA”) for annexation of the former Fort Ord lands into MCWRA Zone 2 and 2A. That Agreement is the basis for the Army’s pumping limitation of 6,600 acre-feet per year (“AFY”) of water from the Salinas Valley Groundwater Basin and of that, no more than 5,200 AFY from the 180 and 400-foot aquifers therein. On or about October 23, 2001, the Army quit claimed its water and wastewater infrastructure to the Fort Ord Reuse Authority and issued two easements to FORA in DACA 05-0-00-57 and DACA 05-9-00-58. The easements to FORA required, among other obligations, assumption of the obligation to provide water required by the Installation-Wide Habitat Management Plan, the Army’s obligation to cooperate and coordinate with parcel recipients, MCWRA, FORA and others to ensure all owners of property at the former Fort Ord will continue to be provided an equitable supply of water at equitable rates and to cooperate and coordinate with MCWRA, MRWPCA, FORA, property recipients and others to ensure Non-Army Responsibility Mitigations required by the records of decision dated December 23, 1993 and June 8, 1997 are met and that it will meet all requirements of the Army Agreement with MCWRA approved on September 21, 1993. On October 26, 2001, FORA in turn quitclaimed water and wastewater infrastructure and assigned said easements to MCWD requiring compliance with all underlying requirements.
- D.** After the announcement but prior to the implementation of the base downsizing/closure, political leaders within the affected region formed the Fort Ord Community Task Force (the “Task Force”) in order to develop recommendations for moving forward with a recovery effort. These recommendations were embodied in a 760-page June 1992 Strategy Report prepared by the Task Force (the “Strategy Report”).

- E.** Predicated upon the Strategy Report, in October 1992 the Fort Ord Reuse Group (“FORG”) was organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of Fort Ord. After preparing an initial plan and subsequently refining it, the revised plan was considered and adopted by FORG in 1993. Those early planning efforts recognized the significant costs associated with the implementation of any plan to convert Fort Ord into civilian use and reinforced the validity of the regional and base-wide approaches that were inherent in the conclusions reached by the Task Force in its Strategy Report.
- F.** FORA was established in 1994 by state legislation (Government Code sections 67650 and following, the “FORA Act”) and when the member jurisdictions adopted resolutions favoring the establishment of the authority in accordance with Government Code section 67656. The FORA Act was amended in 2012. The Legislature found that the reuse of Fort Ord is a matter of statewide importance and declared in Government Code section 67657(c) that FORA’s powers and duties prevail over those of any other local entity, including any city, county, or joint powers authority. Government Code section 67658 identifies FORA’s purpose as planning for, financing, and managing the transition of the property known as Fort Ord from military to civilian use. In Government Code section 67651, the Legislature declared the following goals to be the policy of the State of California: (1) To facilitate the transfer and reuse of the real and other property of the former Fort Ord with all practical speed; (2) minimize the economic disruption caused by the base’s closure, (3) provide for reuse and development of the base in ways that enhance the economy and quality of life of the Monterey Bay community, and (4) maintain and protect the unique environmental resources of the area.
- G.** In order to carry out the directives of the FORA Act, FORA hired staff and entered into a contract with the California Public Employees’ Retirement System (“CalPERS”) to provide for retirement benefits for FORA employees.
- H.** Pursuant to the requirements of Government Code section 67675, FORA certified a Final Environmental Impact Report and adopted a Fort Ord Reuse Plan (the “Reuse Plan”) on June 13, 1997 in Resolution 97-06. The Reuse Plan, its attendant environmental report, and Resolution 97-06 are available on the FORA website at www.fora.org.
- I.** As part of that approval, FORA’s Board of Directors (the “Board”) certified the Environmental Impact Report and adopted a Statement of Overriding Considerations after making the following findings:
- The Reuse Plan will provide for an improved and diversified retail and industrial economy and market that will generate employment and create financial stability;
 - The Reuse Plan will provide moderate and upscale housing which will provide more affluent residents to the Cities of Seaside and Marina, thereby creating a housing stock with higher income families in these communities with larger disposable incomes;
 - The Reuse Plan will provide additional tourist support facilities in Seaside and Marina, thereby contributing additional employment opportunities;

- The Reuse Plan will encourage and prioritize the development of projects that are regional in scale, thereby creating additional destination points on the Monterey Peninsula, and thereby enhancing the local economy;
 - The Reuse Plan provides for the creation of various additional recreational facilities and open space that will enhance the quality of life for not only the residents of Seaside and Marina but all of the residents of the Peninsula;
 - The Reuse Plan will attract and assist in retaining a pool of professional workers for the Peninsula;
 - The Reuse Plan will assist in ensuring that the overall economic recovery of the Peninsula benefits the Cities of Del Rey Oaks, Monterey, Seaside, Marina, and the unincorporated areas of the County of Monterey in the vicinity of Fort Ord;
 - The Reuse Plan will provide for additional and needed senior housing opportunities;
 - The Reuse Plan will assist the communities of Seaside and Marina in the transition of their respective community images from dependent, military base extensions with transient military personnel to vital, independent, and self-actuated communities populated with permanent residents with long-term interests in the well-being of their respective communities; and
 - The Reuse Plan will encourage development that will enhance the continued viability of California State University at Monterey Bay and the open space areas retained by the federal government through the Bureau of Land Management and conveyed to the California Department of Parks and Recreation.
- J.** FORA has committed and is obligated by the FORA Act, the Reuse Plan, and/or the California Environmental Quality Act (“CEQA”) to implement a program addressing policies, programs and mitigation measures of the Reuse Plan, including a capital improvement program and finance program addressing basewide facilities.
- K.** In the Reuse Plan, FORA identified revenues generated from sales and leases of real property within the former Fort Ord, FORA’s share of taxes on real property located within the former Fort Ord, and base-wide assessments or development fees, as the primary property-related sources of funding with which to implement the basewide facilities outlined in the Capital Improvement Program (“CIP”).
- L.** As is more fully described below, in connection with funding implementation of the Reuse Plan, FORA entered into multiple agreements with local, state, and federal entities, established a public financing mechanism, and prepared a CIP. The final CIP is available on the FORA website at www.fora.org.
- M.** As part of funding implementation of the Reuse Plan, FORA established in 2001 a Community Facilities District (“CFD”), through which special taxes on properties to be developed are collected. These special taxes (the “CFD Special Taxes”) are due and payable with respect to each parcel on issuance of a building permit relating to the property. The CFD Special Taxes are subject to annual adjustment, but when FORA ceases to exist the CFD Special Taxes may no longer be collected. A variety of replacement funding mechanisms are available, including but not limited to the potential for each of the underlying land use jurisdictions to create its own Community Facilities District through

which special taxes on future development may be collected. Collecting taxes or fees on developments that have already been entitled will require each jurisdiction to obtain agreements from each developer of an entitled project to pay development fees that the developer would not otherwise be obligated to pay. Those fees are estimated to be \$72 million for entitled projects, if all entitled developments are fully completed. At its June 4, 2020 meeting, FORA's Board of Directors adopted Resolution No. 20-07 directing the recordation of a Notice of Cessation of Special Tax and Extinguishment of Lien for the Fort Ord Reuse Authority Basewide Community Facilities District for the purpose of terminating collection of the CFD Special taxes after FORA's dissolution. That notice has since been submitted to the Monterey County Recorder's Office for recordation.

- N.** FORA entered into a Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands (the "EDC MOA"), which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder. The EDC MOA provided the vehicle for the Army to transfer property to FORA without monetary consideration. The land transfer was conditioned on a requirement that any proceeds from the subsequent sale or leasing of the transferred real property must be applied to the economic development of the former Fort Ord. The real property transferred pursuant to the EDC MOA may be referred to herein as the "EDC Property." Sections 5.03 and 5.04 of the EDC MOA require a fair process to ensure an equitable supply of water is provided to grantees of former Fort Ord property and that all grantees enjoy an equitable utilization of the existing sewage treatment capacity.
- O.** In 2001, agreements were entered into between FORA on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand. These agreements, as they may have been amended to date and irrespective of whether they may be so captioned, may collectively be referred to herein as the "Implementation Agreements."
- P.** The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") applies to the closure of Fort Ord. The Army is obligated under CERCLA and other applicable federal and state law to remediate certain conditions at the former Fort Ord, including but not limited to by the removal of munitions and explosives. It was anticipated that an extensive amount of time would be needed for the Army to complete its cleanup of the former Fort Ord, based in part upon the contingent nature of Department of Defense funding and due to competing priorities for the use of available funds. Accordingly, in order for FORA to be able to receive the EDC Property early and facilitate an orderly and timely remediation of former Fort Ord lands, the Army and FORA entered into an early transfer agreement. Through a series of subsequent agreements between the Army, FORA, the U.S. Environmental Protection Agency, and the California Department of Toxic Substance Control remediation of munitions and explosives on the former Fort Ord proceeded. Although substantial progress has been made in the base cleanup, the remediation obligations will not be completed and all property transfers will not have occurred before the currently anticipated dissolution of FORA.
- Q.** Government Code section 67700(a) requires that FORA dissolve when eighty percent (80%) of the base has been developed or reused in a manner consistent with the Reuse Plan or on June 30, 2020, whichever first occurs. Government Code section 67700(b)(2) mandates as follows:

The board shall approve and submit a transition plan to the Monterey County Local Agency Formation Commission on or before December 30, 2018, or 18 months

before the anticipated inoperability of this title pursuant to subdivision (a), whichever occurs first. The transition plan shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The transition plan shall be approved only by a majority vote of the board.

The Transition Plan approved by the Board on December 19, 2018 and submitted to the Monterey County Local Agency Formation Commission (“LAFCO”) on December 30, 2018 assigned assets and liabilities, designated responsible successor agencies, and provided a schedule of remaining obligations, as required by the FORA Act. Since FORA’s approval of the Transition Plan in 2018, FORA has entered into contracts and agreements and taken a series of other actions to implement its dissolution. This document updates and restates the approved 2018 Transition Plan to reflect and incorporate the decisions of the FORA Board and the various agreements entered among FORA and member jurisdictions since December 19, 2018 to achieve the orderly and fair dissolution of FORA.

R. Government Code section 67700(b)(1) provides as follows:

The Monterey County Local Agency Formation Commission shall provide for the orderly dissolution of the authority including ensuring that all contracts, agreements, and pledges to pay or repay money entered into by the authority are honored and properly administered, and that all assets of the authority are appropriately transferred.

BASED ON THE FOREGOING RECITALS AND THE FINDINGS AND DETERMINATIONS MADE HEREIN, the Board hereby approves the following updated and restated Transition Plan for transmittal to LAFCO:

Section 1 Findings and Determinations:

1.1 Assignment of Assets and Liabilities and Transfer of Surviving Obligations:

The Board hereby finds and determines that this Transition Plan assigns all assets and liabilities of FORA and transfers all obligations of FORA to the extent such obligations survive the dissolution of FORA.

1.2 California Environmental Quality Act:

The Board hereby finds and determines that in adopting this Transition Plan as required by Government Code section 67700 FORA is addressing the allocation of FORA’s assets, liabilities and obligations in advance of FORA’s ultimate dissolution without (a) amending any contemplated or approved land uses within the former Fort Ord, (b) abandoning or altering any mitigations that were required as a part of the adoption of the Reuse Plan, (c) changing the Reuse Plan itself, or (d) avoiding the satisfaction and fulfillment of any of FORA’s other commitments, pledges, or promises (all of which may be collectively referred to herein as the “FORA Program”). CEQA only applies to government activities that may cause a direct or a reasonably foreseeable indirect physical change in the environment. Public Resources Code section 21065. CEQA Guidelines, Section 15378(b) also provide that certain activities are not CEQA “projects” including (4) The creation of government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

This Transition Plan does not authorize any particular development, and does not itself change any of the land use requirements applicable to projects within the geographic area of the former Fort Ord. It is not a “project” and no environmental impact report or other CEQA document is required.

To the contrary and to the extent not already so contained in their general plans, this Transition Plan calls for the Cities of Marina, Seaside, Monterey and Del Rey Oaks and the County of Monterey to follow the Reuse Plan policies and programs. After FORA’s ultimate dissolution, any changes to the policies and programs of the Reuse Plan or any part thereof will be made by the respective land use jurisdiction(s) only after full compliance with all applicable laws, including but not limited to CEQA.

Further and only to the extent not addressed by a Memorandum of Agreement entered into between FORA and the applicable jurisdiction regarding a specific project or other specific non-project activity (for example, removal of the stockade and ancillary buildings located within the City of Marina, repair of stormwater infiltration units on Eucalyptus Road within the City of Seaside, and improvements to South Boundary Road and the intersection at General Jim Moore Boulevard which may be undertaken by the City of Del Rey Oaks), as to any (a) incomplete projects initiated by FORA that any of the above-identified land use jurisdictions intend to carry out after the dissolution of FORA, (b) completed projects for which any mitigation measures adopted by FORA remain to be fulfilled or monitored, and (c) projects for which any environmentally-related contractual or judicially-imposed commitment of FORA has not been satisfied, FORA designates each of the above-identified land use jurisdictions as a responsible successor agency for the purposes of compliance with all applicable laws, including but not limited to CEQA, and satisfaction and fulfillment of all project-related liabilities to the extent required by law, including but not limited to mitigation measures and monitoring requirements and satisfaction of environmentally-related contractual or judicially-imposed commitments of FORA, each as to all portions of such projects located within the territorial limits of the respective city or cities or the unincorporated portion of Monterey County. Without limiting the generality of the foregoing, Monterey County’s habitat management responsibilities on the former Fort Ord shall include habitat management responsibilities on sites held by the Monterey Peninsula Community College District (“MPC”) at the former Military Operations on Urban Terrain facility and certain lands within the Parker Flats area of the former Fort Ord pursuant to that Agreement Regarding Public Safety Officer Training Facilities entered into between FORA, MPC and the County of Monterey in 2003, subject to MPC’s obligation to pay reasonable fair share assessments for the cost of such habitat management as provided in that agreement. To the extent required by applicable law, each such designated responsible successor agency shall assume lead agency status under CEQA with respect to such projects located wholly within its jurisdictional limits. As to any projects located within the jurisdictional limits of more than one of the designees, to the extent applicable law requires that there be a lead agency, the affected designees shall decide among themselves which shall assume lead agency status under CEQA.

1.3 Reuse Plan and Master Resolution:

To the extent the policies and programs of the Reuse Plan and Master Resolution survive the dissolution of FORA, all assets and liabilities relating to those policies and programs are assigned to each underlying land use jurisdiction. FORA recorded the Master Resolution on April 14, 2020.

1.4 Environmental Services Cooperative Agreement:

The Board entered into an agreement with the City of Seaside to become the successor to the Environmental Services Cooperative Agreement (“ESCA”). See also Section 2.1.7 re: ESCA Reimbursement.

1.5 Transfer of FORA’s Records:

Except for (a) records pertaining to the ESCA, which records will be transferred to the City of Seaside as custodian pursuant to the ESCA contract documents; (b) records transferred to the local redevelopment authority designated as FORA’s successor in connection with the EDC MOA; and (c) records of attorney-client privileged communications and materials protected by the attorney work product doctrine, which will be transferred to Authority Counsel, Kennedy, Archer & Giffen, PC, all of FORA’s public records will be transferred to the County of Monterey which shall be the custodian and is designated as the responsible successor agency for records management and compliance with applicable law concerning FORA’s public records, including but not limited to the California Public Records Act, for the period after FORA’s dissolution, as provided in that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County and dated for reference purposes June 23, 2020 (the “FORA-County Administrative Agreement”). FORA hereby designates each of the applicable member jurisdictions, as determined by the subject matter of the litigation, as a responsible successor agency to defend any litigation concerning FORA’s compliance or alleged lack of compliance with applicable law, including but not limited to the California Public Records Act, concerning FORA’s records for the period prior to FORA’s dissolution.

1.6 Water and Wastewater:

The Board hereby finds and determines that it has made water allocations in accordance with its obligation under the EDC MOA to ensure a fair and equitable water supply to all property recipients and imposed those requirements in the Implementation Agreements. In light of the possibility of a water supply shortage that reduces the overall amount of water available for the Ord Community, MCWD staff has committed by letter dated October 29, 2018 to work with the jurisdictions to develop a plan to reduce each entity’s water allocation in an equitable manner, consistent with the 1993 Army-MCWRA Agreement and the Economic Development Conveyance Agreement obligation to provide a fair and equitable water supply to all property recipients of former Fort Ord lands. See Section 2.2.6 re: water allocations.

Section 2 Assignment of Assets, Liabilities, and Obligations:

2.1 Assets and Disposition Thereof:

FORA’s principal assets are comprised of the following:

2.1.1 Section 115 Trust:

In April 2018, the Board authorized the establishment of a Section 115 trust and funded the trust with \$5,700,000 (which is currently earning returns at an average annualized rate in excess of 2%). The current balance in the trust is approximately \$7,000,000. Funds held in or transferred from the trust may be used only for retirement purposes. At or before FORA’s dissolution, either (a) the County of Monterey will be added as a signatory to the Section 115 Trust account with authority to expend the funds in that account for the purpose of being applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract when that amount has been finally determined or (b) FORA will cause

the funds in the Section 115 Trust account to be transferred to the County to be held until the amount of the unfunded pension liability under the CalPERS contract has been finally determined, after which all such funds are to be applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract. To the extent that funds held in or transferred from the trust are, at the time the unfunded pension liability under the CalPERS contract has been finally determined, insufficient to fully satisfy the unfunded pension liability under the CalPERS contract, proceeds from bonds in the designated Cal PERS Obligation Fund described in Section 2.2.1 shall be applied first to said unfunded pension liability. Thereafter, if any unfunded pension liability under the CalPERS contract remains, the remaining unfunded pension liability is a debt of FORA to be paid, to the extent legally permissible, through future unpledged property tax revenues pursuant to Health and Safety Code section 33492.71, so as to satisfy the unfunded pension liability under the CalPERS contract (and thereby assure that FORA's member jurisdictions are not exposed to liability for any unfunded pension liability relating to the CalPERS contract following FORA's dissolution).

2.1.2 Intentionally Omitted.

2.1.3 Litigation Reserve Funds: Although not irrevocably committed to use for litigation or indemnification purposes, FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000. Terms and conditions for the use of these funds are provided for in the FORA-LAFCO Indemnification Agreement executed December 18, 2019.

2.1.4 Habitat Funds: Pursuant to Joint Community Facilities Agreements entered into between FORA and each of the below-identified jurisdictions, FORA has distributed approximately \$17,000,000 in funds dedicated to habitat management (as provided in such agreements) in the following proportions:

- 79.9% to Monterey County
- 7.4% to the City of Seaside
- 7.9% to the City of Marina
- 0.3% to the City of Monterey
- 4.5% to the City of Del Rey Oaks

2.1.5 Capital Improvement Funds: FORA has transferred CFD Special Taxes collected to (a) the City of Marina for removal of the stockade and ancillary buildings, (b) to the City of Seaside for repair of stormwater infiltration units on Eucalyptus Road, and (c) to the City of Del Rey Oaks for potential improvements to South Boundary Road and the intersection at General Jim Moore Boulevard, each pursuant to a Memorandum of Agreement entered into between FORA and the respective jurisdiction. Any CFD Special Taxes collected and remaining unexpended prior to FORA's dissolution shall first be applied to (i) reimbursement of MCWD's expenses incurred in the construction of the Regional Urban Water Augmentation Project in the amount of \$273,854.17 and (ii) reimbursement of the City of Marina's expenses incurred in widening Salinas Avenue, improving 8th Street, and constructing the 2nd Avenue/Del Monte extension, in the aggregate amount of \$106,298.17. If the reimbursements described in clauses (i) and (ii) of the immediately preceding sentence do not fully exhaust any CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution, any surplus shall be disbursed to the jurisdictions identified in Section 2.1.4 in the proportions set forth in that section for the purpose of

funding habitat management as contemplated by the Joint Community Facilities Agreements entered into between FORA and each of respective jurisdictions.

2.1.6 Other Funds: Except as otherwise specifically identified in this Transition Plan, all funds in FORA's other accounts, petty cash, un-deposited checks, and other cash equivalents held by FORA immediately prior to FORA's dissolution together with any additional funds received prior to the closure of FORA's books shall be transferred to the County of Monterey to be applied as provided in the FORA-County Administrative Agreement.

2.1.7 ESCA Reimbursement: An estimated approximately \$6,800,000 in potential reimbursement is available for work conducted under the ESCA. All rights under the ESCA are assigned to the City of Seaside effective as of FORA's dissolution.

2.1.8 Miscellaneous Personal Property: With the exception of certain office furniture acquired in part with funds supplied by MCWD, which furniture will be transferred to MCWD prior to FORA's dissolution, all of FORA's office furniture and equipment, supplies, and other personal property remaining as of FORA's dissolution shall be transferred to the County of Monterey in trust for prompt sale or disposition in accordance with any applicable rules or requirements for the transfer of surplus property by a California public entity. Any proceeds from such transfer remaining after reimbursement to the County for its administrative costs, shall be applied as provided in the FORA-County Administrative Agreement.

2.1.9 Real Property: FORA is obligated to cause certain former Fort Ord property to be transferred to the underlying land use jurisdictions in accordance with the federal Pryor Amendment and as authorized by Section 67678(a) of the FORA Act. The City of Seaside has been recognized as the Successor to the Local Redevelopment Authority and as such will assume this role effective July 1, 2020. The City of Seaside shall receive funds in the amount of \$100,000 to cover costs of property transfers as the designated LRA successor agency.

2.1.10 Insurance Policies: Except to the extent specifically provided to the contrary in this Transition Plan or by the terms of the insurance policy itself, FORA shall not keep any policy(ies) of insurance in force beyond the date(s) of such policy's(ies') expiration.

With respect to the Pollution Legal Liability ("PLL") policy, FORA currently holds approximately \$267,000 in a separately identified account for the PLL insurance self-insured retention ("SIR"). These funds shall be transferred and utilized to defray the administrative costs for the City of Seaside as the First Named Insured and to defray the costs in the event of a claim requiring application of a self-insured retention amount. In the event, the SIR is not utilized for any claims made, the amount in the fund shall be returned, after any administrative deduction for contract management by the successor, to the named insureds in proportion to the amounts of their insurance coverages.

2.2 Liabilities and Obligations and Assignment Thereof:

FORA's principal liabilities and obligations include the following:

2.2.1 Unfunded Pension Liability under CalPERS Contract: Based on the latest available communication from CalPERS, FORA's unfunded terminated agency liability is anticipated to range from \$7,793,230 to \$9,333,172. Because FORA anticipates that the amounts in

the Section 115 Trust will by themselves be insufficient to retire all the actual terminated agency liability once finally determined, the Tax Allocation Bonds issued by FORA include a CalPERS Obligation Fund in the amount of \$4,000,000 to be applied toward the payment or reduction of the CalPERS liability once determined. If the amounts in the Section 115 Trust and the designated account referenced above are collectively insufficient to fully retire the CalPERS liability, any remaining unsatisfied liability shall, to the extent legally permissible, be paid through future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired. The County shall be entitled to recover its reasonable costs of administering and distributing said property tax revenues. If after the application of the amounts in the CalPERS Obligation Fund to the retirement of the terminated agency liability under the CalPERS contract there remains any surplus in the CalPERS Obligation Fund, such surplus shall be applied in conformity with applicable law as addressed in the Bond Indenture and Irrevocable Instructions.

2.2.2 Habitat Funds: See Section 2.1.4 hereinabove.

2.2.3 Capital Improvement Funds: See discussion in Section 2.1.5 hereinabove.

2.2.4 ESCA Reimbursement: See Section 2.1.7 hereinabove.

2.2.5 Building Removal: To the extent not funded through the application of the proceeds of the sale of Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 which closed on June 25, 2020, any building removal for the purpose of alleviating blight shall be addressed after FORA's dissolution, if at all, by the jurisdiction(s) in which remaining abandoned buildings are located. Each such jurisdiction shall comply with all applicable laws pertaining to such building removal.

2.2.6 Water/Wastewater: This Transition Plan hereby assigns to MCWD, effective as of the dissolution of FORA, FORA's rights of enforcement under the Implementation Agreements, to the extent they survive post-dissolution, regarding water allocations. To the extent allowed by law, in the event that any jurisdiction's approved developments exceed the jurisdiction's approved water allocation, MCWD may decline to issue any further water connection permits until the offending jurisdiction brings its water allocation into compliance or MCWD develops or obtains access to an augmented water supply sufficient to cover any excess. In the event of a ground water shortage, any resulting reductions in the amount of water supplies shall be applied fairly and equitably across all jurisdictions. MCWD and the jurisdictions shall work together as to how to apply a fair and equitable reduction of water supply amongst the underlying land holding jurisdictions.

2.2.7 Prevailing Wages: Notwithstanding any other provision herein, the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, shall be paid to all workers employed on First Generation Construction (as defined in the Master Resolution) after FORA's dissolution. This term may not be invalidated or superseded by any Transition Plan Implementing Agreement(s) or other document(s), or by action of any city, successor jurisdiction, or other entity.

2.2.8 Late Discovered Items: To the extent that any contractual or other obligation of FORA is discovered during implementation of this Transition Plan, those obligations shall be assigned as follows: If the obligation is related to the use of real property, it shall be

assigned to the underlying land use jurisdiction, unless otherwise specifically addressed in an agreement entered into between such land use jurisdiction and FORA. If the liability or obligation is unrelated to the use of real property, LAFCO shall notify any appropriate insuring entity and the County. Upon the establishment of the validity and amount of the liability or obligation by LAFCO and the County acting in coordination with each other, such established liability or obligation shall be paid or discharged first by the County applying monies, if any remain that are not expended and not already legally obligated to be expended for other purposes, from the funds transferred to the County pursuant to Section 2.1.6 and only thereafter by encumbering and expending future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired.

Section 3 Transition Plan Implementation:

3.1 Schedule of Remaining Obligations:

Obligation	Reference in Updated Transition Plan
Implementation of Mitigation Measures Pertaining to North-South Road/Highway 218 Project and CEQA Lead Agency Status	See Section 1.2
Implementation of Mitigation Measures Pertaining to Relocation and Reconfiguration of General Jim Moore Boulevard Project and CEQA Lead Agency Status	See Section 1.2
Habitat Management Responsibilities on Sites Held by the Monterey Peninsula Community College District	See Section 1.2
Repair of Stormwater Infiltration Units on Eucalyptus Road CEQA Lead Agency Status	See Section 2.1.5
Removal of the Stockade and Ancillary Buildings CEQA Lead Agency Status	See Section 2.1.5
South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements CEQA Lead Agency Status	See Section 2.1.5
Transfers of Real Property in accordance with the federal Pryor Amendment	See Section 2.1.9
Payment of Unfunded Terminated Agency Liability to CalPERS	See Section 2.2.1
FORA Contract with California Native Plant Society and City of Del Rey Oaks	See Section 3.3

Except as identified in the schedule of remaining obligations set forth above or specifically provided for elsewhere in this Transition Plan, FORA is not aware of any remaining obligations.

Except as specifically provided to the contrary elsewhere in this Transition Plan, FORA hereby designates each of its member jurisdictions as a responsible successor agency for all legal, financial, and other unresolved matters, known and unknown, and jointly assigns to such jurisdictions all liabilities not otherwise specifically assigned in this Transition Plan.

3.2 Litigation Management:

In the absence of an agreement entered into by all of the affected land holding jurisdictions that post FORA litigation may be managed by any one or more, but less than all, of such land holding

jurisdictions, any post FORA litigation shall be collectively managed by the land use jurisdictions that are defendants or are identified as real parties in interest for such litigation.

3.3 Survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements:

FORA has received from Authority Counsel a memorandum dated June 16, 2020 setting forth a statement regarding the survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements.

3.4 Reserved Right of Modification:

The Board hereby reserves its right to augment, clarify or modify this Transition Plan as law, facts, circumstances, or agreements may require.

NOW THEREFORE, THE BOARD HEREBY RESOLVES AS FOLLOWS:

1. As outlined above, this Resolution and its provisions constitute the Transition Plan required by Government Code section 67700(b); and
2. The Board hereby makes all assignments in accordance with Government Code section 67700(b);
3. The Board hereby finds that as adopted herein, this updated and restated Transition Plan is not a project subject to CEQA;
4. Notwithstanding anything to the contrary set forth in this resolution, nothing herein is intended nor shall be interpreted to create an independent financial obligation of the general funds of a member jurisdiction of FORA unless specifically agreed to in writing by the member jurisdiction. Except as otherwise specifically provided herein, all of FORA's established debts, obligations, and other liabilities are intended to be satisfied or paid (a) first out of the funds of FORA as may exist as of the date of its dissolution or as may accrue to its accounts following dissolution and (b) after the exhaustion of such funds then from future property tax revenues pursuant to Health and Safety Code section 33492.71; and
5. The Board directs the Executive Officer to transmit this updated and restated Transition Plan to LAFCO.

Upon motion by Board member ---- seconded by Board member ---- the foregoing Resolution was passed on this _____ day of June 2020, by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Jane Parker, Chair FORA Board

ATTEST:

Joshua Metz, Clerk

GLOSSARY

“AFY” means acre feet per year.

“Army” means the United States Army.

“Board” means the governing board of the Fort Ord Reuse Authority, as specified in Government Code section 67660.

“CalPERS” means the California Public Employees’ Retirement System.

“CEQA” means the California Environmental Quality Act, as amended to date (Public Resources Code section 21000 and following).

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly known as Superfund, as amended to date (42 U.S. Code Chapter 103 and following).

“CFD” means a Community Facilities District within the former Fort Ord formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended to date (Government Code section 53321 and following).

“CFD Special Taxes” means the special taxes collected through the Community Facilities District on properties to be developed within the former Fort Ord.

“CIP” means a Capital Improvement Program adopted by the Fort Ord Reuse Authority.

“EDC MOA” means the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“EDC Property” means the real property transferred pursuant to the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“ESCA” means the Environmental Services Cooperative Agreement entered into between the United States Army and the Fort Ord Reuse Authority, as amended to date.

“FORA Act” means, collectively, SB 899 and AB 1600 adopted in 1994 and amended in 2012, as codified at (i) Government Code Title 7.85, Chapters 1 through 7, commencing with Section 67650, and (ii) selected provisions of the California Redevelopment Law, including Health and Safety Code Sections 33492 *et seq.* and 33492.70 *et seq.*

“FORA” means the Fort Ord Reuse Authority.

“FORA-County Administrative Agreement” means that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County of Monterey and dated for reference purposes June 23, 2020.

“FORA Program” has the meaning given in Section 1.2.

“FORG” means the Fort Ord Reuse Group organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of the former Fort Ord.

“Fort Ord,” including references to the territory or area of Fort Ord or the former Fort Ord, means the geographical area described in the document entitled “Description of the Fort Ord Military Reservation Including Portion of the Monterey City Lands Tract No. 1, the Saucito, Laguna Seca, El Chamisal, El Toro and Noche Buena Ranchos, the James Bardin Partition of 1880 and Townships 14 South, Ranges 1 and 2 East and Townships 15 South, Ranges 2 and 3 East, M.D.B. and M. Monterey County, California,” prepared by Bestor Engineers, Inc., and delivered to the Sacramento District Corps of Engineers on April 11, 1994 or the military base formerly located on such land, as the context requires.

“Implementation Agreements” means agreements entered into beginning in 2001 between the Fort Ord Reuse Authority on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand, as such agreements may have been amended to date.

“LAFCO” means the Monterey County Local Agency Formation Commission.

“Local Redevelopment Authority” means any authority or instrumentality established by State or local government and recognized by the Secretary of Defense through its Office of Economic Adjustment (OEA) to facilitate the transfer of properties from the former Fort Ord to the underlying jurisdictions.

“Master Resolution” means the collection of administrative rules and regulations adopted by FORA under the Authority Act, as amended.

“MCWD” means the Marina Coast Water District.

“MCWRA” means the Monterey County Water Resources Agency.

“MPC” means the Monterey Peninsula Community College District.

“PLL” means a Pollution Legal Liability policy of insurance.

“MRWPCA” means the Monterey Regional Water Pollution Control Agency.

“Reuse Plan” means the Fort Ord Base Reuse Plan and its accompanying environmental impact report adopted and certified by the FORA Board in June 1997 to guide the reuse of the former Fort Ord, all as amended from time to time.

“SIR” means self-insured retention under a PLL policy of insurance.

“Strategy Report” means the June 1992 report prepared by the Fort Ord Community Task Force in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

“Task Force” means the Fort Ord Community Task Force formed in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

FORT ORD REUSE AUTHORITY RESOLUTION NO. 20-xx

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY *Approving Updates to and Restatement of the Transition Plan Submitted to the Monterey County Local Agency Formation Commission*

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A.** In 1991, the Secretary of Defense announced the proposed downsizing of the United States Army Fort Ord Military Reservation (“Fort Ord”) under the Base Realignment and Closure Act. The relocation by the United States Army (the “Army”) of the 7th Infantry Division - Light resulted in the loss to the communities and populace of the Monterey Peninsula and adjoining greater Monterey Bay region of the significant economic, social, and cultural contributions that had been associated with the military presence.
- B.** Over the years in which Fort Ord was an active military base, the Army entered into contracts with regional entities to address water and wastewater needs of the reservation. On or about 1981, the Army and Monterey Regional Water Pollution Control Agency (“MRWPCA”) entered into Contract No. DACA 05-81-C-0021 wherein the Army participated in the construction of the Monterey Regional Wastewater Treatment Plant and such agreement was amended several times, ultimately resulting in Contract No. DAKF 03-83-C0527 wherein MRWPCA agreed to provide sanitary sewage service to the Army. A subsequent agreement was entered into between the Army, Marina Coast Water District (“MCWD”), the Fort Ord Reuse Authority (“FORA”) and MRWPCA regarding wastewater treatment.
- C.** On or about September 21, 1993, the Army entered into Contract No. A-6404 with the Monterey County Water Resources Agency (“MCWRA”) for annexation of the former Fort Ord lands into MCWRA Zone 2 and 2A. That Agreement is the basis for the Army’s pumping limitation of 6,600 acre-feet per year (“AFY”) of water from the Salinas Valley Groundwater Basin and of that, no more than 5,200 AFY from the 180 and 400-foot aquifers therein. On or about October 23, 2001, the Army quit claimed its water and wastewater infrastructure to the Fort Ord Reuse Authority and issued two easements to FORA in DACA 05-0-00-57 and DACA 05-9-00-58. The easements to FORA required, among other obligations, assumption of the obligation to provide water required by the Installation-Wide Habitat Management Plan, the Army’s obligation to cooperate and coordinate with parcel recipients, MCWRA, FORA and others to ensure all owners of property at the former Fort Ord will continue to be provided an equitable supply of water at equitable rates and to cooperate and coordinate with MCWRA, MRWPCA, FORA, property recipients and others to ensure Non-Army Responsibility Mitigations required by the records of decision dated December 23, 1993 and June 8, 1997 are met and that it will meet all requirements of the Army Agreement with MCWRA approved on September 21, 1993. On October 26, 2001, FORA in turn quitclaimed water and wastewater infrastructure and assigned said easements to MCWD requiring compliance with all underlying requirements.
- D.** After the announcement but prior to the implementation of the base downsizing/closure, political leaders within the affected region formed the Fort Ord Community Task Force (the “Task Force”) in order to develop recommendations for moving forward with a recovery effort. These recommendations were embodied in a 760-page June 1992 Strategy Report prepared by the Task Force (the “Strategy Report”).

- E.** Predicated upon the Strategy Report, in October 1992 the Fort Ord Reuse Group (“FORG”) was organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of Fort Ord. After preparing an initial plan and subsequently refining it, the revised plan was considered and adopted by FORG in 1993. Those early planning efforts recognized the significant costs associated with the implementation of any plan to convert Fort Ord into civilian use and reinforced the validity of the regional and base-wide approaches that were inherent in the conclusions reached by the Task Force in its Strategy Report.
- F.** FORA was established in 1994 by state legislation (Government Code sections 67650 and following, the “FORA Act”) and when the member jurisdictions adopted resolutions favoring the establishment of the authority in accordance with Government Code section 67656. The FORA Act was amended in 2012. The Legislature found that the reuse of Fort Ord is a matter of statewide importance and declared in Government Code section 67657(c) that FORA’s powers and duties prevail over those of any other local entity, including any city, county, or joint powers authority. Government Code section 67658 identifies FORA’s purpose as planning for, financing, and managing the transition of the property known as Fort Ord from military to civilian use. In Government Code section 67651, the Legislature declared the following goals to be the policy of the State of California: (1) To facilitate the transfer and reuse of the real and other property of the former Fort Ord with all practical speed; (2) minimize the economic disruption caused by the base’s closure, (3) provide for reuse and development of the base in ways that enhance the economy and quality of life of the Monterey Bay community, and (4) maintain and protect the unique environmental resources of the area.
- G.** In order to carry out the directives of the FORA Act, FORA hired staff and entered into a contract with the California Public Employees’ Retirement System (“CalPERS”) to provide for retirement benefits for FORA employees.
- H.** Pursuant to the requirements of Government Code section 67675, FORA certified a Final Environmental Impact Report and adopted a Fort Ord Reuse Plan (the “Reuse Plan”) on June 13, 1997 in Resolution 97-06. The Reuse Plan, its attendant environmental report, and Resolution 97-06 are available on the FORA website at www.fora.org.
- I.** As part of that approval, FORA’s Board of Directors (the “Board”) certified the Environmental Impact Report and adopted a Statement of Overriding Considerations after making the following findings:
- The Reuse Plan will provide for an improved and diversified retail and industrial economy and market that will generate employment and create financial stability;
 - The Reuse Plan will provide moderate and upscale housing which will provide more affluent residents to the Cities of Seaside and Marina, thereby creating a housing stock with higher income families in these communities with larger disposable incomes;
 - The Reuse Plan will provide additional tourist support facilities in Seaside and Marina, thereby contributing additional employment opportunities;

- The Reuse Plan will encourage and prioritize the development of projects that are regional in scale, thereby creating additional destination points on the Monterey Peninsula, and thereby enhancing the local economy;
 - The Reuse Plan provides for the creation of various additional recreational facilities and open space that will enhance the quality of life for not only the residents of Seaside and Marina but all of the residents of the Peninsula;
 - The Reuse Plan will attract and assist in retaining a pool of professional workers for the Peninsula;
 - The Reuse Plan will assist in ensuring that the overall economic recovery of the Peninsula benefits the Cities of Del Rey Oaks, Monterey, Seaside, Marina, and the unincorporated areas of the County of Monterey in the vicinity of Fort Ord;
 - The Reuse Plan will provide for additional and needed senior housing opportunities;
 - The Reuse Plan will assist the communities of Seaside and Marina in the transition of their respective community images from dependent, military base extensions with transient military personnel to vital, independent, and self-actuated communities populated with permanent residents with long-term interests in the well-being of their respective communities; and
 - The Reuse Plan will encourage development that will enhance the continued viability of California State University at Monterey Bay and the open space areas retained by the federal government through the Bureau of Land Management and conveyed to the California Department of Parks and Recreation.
- J.** FORA has committed and is obligated by the FORA Act, the Reuse Plan, and/or the California Environmental Quality Act (“CEQA”) to implement a program addressing policies, programs and mitigation measures of the Reuse Plan, including a capital improvement program and finance program addressing basewide facilities.
- K.** In the Reuse Plan, FORA identified revenues generated from sales and leases of real property within the former Fort Ord, FORA’s share of taxes on real property located within the former Fort Ord, and base-wide assessments or development fees, as the primary property-related sources of funding with which to implement the basewide facilities outlined in the Capital Improvement Program (“CIP”).
- L.** As is more fully described below, in connection with funding implementation of the Reuse Plan, FORA entered into multiple agreements with local, state, and federal entities, established a public financing mechanism, and prepared a CIP. The final CIP is available on the FORA website at www.fora.org.
- M.** As part of funding implementation of the Reuse Plan, FORA established in 2001 a Community Facilities District (“CFD”), through which special taxes on properties to be developed are collected. These special taxes (the “CFD Special Taxes”) are due and payable with respect to each parcel on issuance of a building permit relating to the property. The CFD Special Taxes are subject to annual adjustment, but when FORA ceases to exist the CFD Special Taxes may no longer be collected. A variety of replacement funding mechanisms are available, including but not limited to the potential for each of the underlying land use jurisdictions to create its own Community Facilities District through

which special taxes on future development may be collected. Collecting taxes or fees on developments that have already been entitled will require each jurisdiction to obtain agreements from each developer of an entitled project to pay development fees that the developer would not otherwise be obligated to pay. Those fees are estimated to be \$72 million for entitled projects, if all entitled developments are fully completed. At its June 4, 2020 meeting, FORA's Board of Directors adopted Resolution No. 20-07 directing the recordation of a Notice of Cessation of Special Tax and Extinguishment of Lien for the Fort Ord Reuse Authority Basewide Community Facilities District for the purpose of terminating collection of the CFD Special taxes after FORA's dissolution. That notice has since been submitted to the Monterey County Recorder's Office for recordation.

- N.** FORA entered into a Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands (the "EDC MOA"), which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder. The EDC MOA provided the vehicle for the Army to transfer property to FORA without monetary consideration. The land transfer was conditioned on a requirement that any proceeds from the subsequent sale or leasing of the transferred real property must be applied to the economic development of the former Fort Ord. The real property transferred pursuant to the EDC MOA may be referred to herein as the "EDC Property." Sections 5.03 and 5.04 of the EDC MOA require a fair process to ensure an equitable supply of water is provided to grantees of former Fort Ord property and that all grantees enjoy an equitable utilization of the existing sewage treatment capacity.
- O.** In 2001, agreements were entered into between FORA on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand. These agreements, as they may have been amended to date and irrespective of whether they may be so captioned, may collectively be referred to herein as the "Implementation Agreements."
- P.** The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") applies to the closure of Fort Ord. The Army is obligated under CERCLA and other applicable federal and state law to remediate certain conditions at the former Fort Ord, including but not limited to by the removal of munitions and explosives. It was anticipated that an extensive amount of time would be needed for the Army to complete its cleanup of the former Fort Ord, based in part upon the contingent nature of Department of Defense funding and due to competing priorities for the use of available funds. Accordingly, in order for FORA to be able to receive the EDC Property early and facilitate an orderly and timely remediation of former Fort Ord lands, the Army and FORA entered into an early transfer agreement. Through a series of subsequent agreements between the Army, FORA, the U.S. Environmental Protection Agency, and the California Department of Toxic Substance Control remediation of munitions and explosives on the former Fort Ord proceeded. Although substantial progress has been made in the base cleanup, the remediation obligations will not be completed and all property transfers will not have occurred before the currently anticipated dissolution of FORA.
- Q.** Government Code section 67700(a) requires that FORA dissolve when eighty percent (80%) of the base has been developed or reused in a manner consistent with the Reuse Plan or on June 30, 2020, whichever first occurs. Government Code section 67700(b)(2) mandates as follows:

The board shall approve and submit a transition plan to the Monterey County Local Agency Formation Commission on or before December 30, 2018, or 18 months

before the anticipated inoperability of this title pursuant to subdivision (a), whichever occurs first. The transition plan shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The transition plan shall be approved only by a majority vote of the board.

The Transition Plan approved by the Board on December 19, 2018 and submitted to the Monterey County Local Agency Formation Commission (“LAFCO”) on December 30, 2018 assigned assets and liabilities, designated responsible successor agencies, and provided a schedule of remaining obligations, as required by the FORA Act. Since FORA’s approval of the Transition Plan in 2018, FORA has entered into contracts and agreements and taken a series of other actions to implement its dissolution. This document updates and restates the approved 2018 Transition Plan to reflect and incorporate the decisions of the FORA Board and the various agreements entered among FORA and member jurisdictions since December 19, 2018 to achieve the orderly and fair dissolution of FORA.

R. Government Code section 67700(b)(1) provides as follows:

The Monterey County Local Agency Formation Commission shall provide for the orderly dissolution of the authority including ensuring that all contracts, agreements, and pledges to pay or repay money entered into by the authority are honored and properly administered, and that all assets of the authority are appropriately transferred.

BASED ON THE FOREGOING RECITALS AND THE FINDINGS AND DETERMINATIONS MADE HEREIN, the Board hereby approves the following updated and restated Transition Plan for transmittal to LAFCO:

Section 1 Findings and Determinations:

1.1 Assignment of Assets and Liabilities and Transfer of Surviving Obligations:

The Board hereby finds and determines that this Transition Plan assigns all assets and liabilities of FORA and transfers all obligations of FORA to the extent such obligations survive the dissolution of FORA.

1.2 California Environmental Quality Act:

The Board hereby finds and determines that in adopting this Transition Plan as required by Government Code section 67700 FORA is addressing the allocation of FORA’s assets, liabilities and obligations in advance of FORA’s ultimate dissolution without (a) amending any contemplated or approved land uses within the former Fort Ord, (b) abandoning or altering any mitigations that were required as a part of the adoption of the Reuse Plan, (c) changing the Reuse Plan itself, or (d) avoiding the satisfaction and fulfillment of any of FORA’s other commitments, pledges, or promises (all of which may be collectively referred to herein as the “FORA Program”). CEQA only applies to government activities that may cause a direct or a reasonably foreseeable indirect physical change in the environment. Public Resources Code section 21065. CEQA Guidelines, Section 15378(b) also provide that certain activities are not CEQA “projects” including (4) The creation of government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

This Transition Plan does not authorize any particular development, and does not itself change any of the land use requirements applicable to projects within the geographic area of the former Fort Ord. It is not a “project” and no environmental impact report or other CEQA document is required.

To the contrary and to the extent not already so contained in their general plans, this Transition Plan calls for the Cities of Marina, Seaside, Monterey and Del Rey Oaks and the County of Monterey to follow the Reuse Plan policies and programs. After FORA’s ultimate dissolution, any changes to the policies and programs of the Reuse Plan or any part thereof will be made by the respective land use jurisdiction(s) only after full compliance with all applicable laws, including but not limited to CEQA.

Further and only to the extent not addressed by a Memorandum of Agreement entered into between FORA and the applicable jurisdiction regarding a specific project or other specific non-project activity (for example, removal of the stockade and ancillary buildings located within the City of Marina, repair of stormwater infiltration units on Eucalyptus Road within the City of Seaside, and improvements to South Boundary Road and the intersection at General Jim Moore Boulevard which may be undertaken by the City of Del Rey Oaks), as to any (a) incomplete projects initiated by FORA that any of the above-identified land use jurisdictions intend to carry out after the dissolution of FORA, (b) completed projects for which any mitigation measures adopted by FORA remain to be fulfilled or monitored, and (c) projects for which any environmentally-related contractual or judicially-imposed commitment of FORA has not been satisfied, FORA designates each of the above-identified land use jurisdictions as a responsible successor agency for the purposes of compliance with all applicable laws, including but not limited to CEQA, and satisfaction and fulfillment of all project-related liabilities to the extent required by law, including but not limited to mitigation measures and monitoring requirements and satisfaction of environmentally-related contractual or judicially-imposed commitments of FORA, each as to all portions of such projects located within the territorial limits of the respective city or cities or the unincorporated portion of Monterey County. Without limiting the generality of the foregoing, Monterey County’s habitat management responsibilities on the former Fort Ord shall include habitat management responsibilities on sites held by the Monterey Peninsula Community College District (“MPC”) at the former Military Operations on Urban Terrain facility and certain lands within the Parker Flats area of the former Fort Ord pursuant to that Agreement Regarding Public Safety Officer Training Facilities entered into between FORA, MPC and the County of Monterey in 2003, subject to MPC’s obligation to pay reasonable fair share assessments for the cost of such habitat management as provided in that agreement. To the extent required by applicable law, each such designated responsible successor agency shall assume lead agency status under CEQA with respect to such projects located wholly within its jurisdictional limits. As to any projects located within the jurisdictional limits of more than one of the designees, to the extent applicable law requires that there be a lead agency, the affected designees shall decide among themselves which shall assume lead agency status under CEQA.

1.3 Reuse Plan and Master Resolution:

To the extent the policies and programs of the Reuse Plan and Master Resolution survive the dissolution of FORA, all assets and liabilities relating to those policies and programs are assigned to each underlying land use jurisdiction. FORA recorded the Master Resolution on April 14, 2020.

1.4 Environmental Services Cooperative Agreement:

The Board entered into an agreement with the City of Seaside to become the successor to the Environmental Services Cooperative Agreement (“ESCA”). See also Section 2.1.7 re: ESCA Reimbursement.

1.5 Transfer of FORA’s Records:

Except for (a) records pertaining to the ESCA, which records will be transferred to the City of Seaside as custodian pursuant to the ESCA contract documents; (b) records transferred to the local redevelopment authority designated as FORA’s successor in connection with the EDC MOA; and (c) records of attorney-client privileged communications and materials protected by the attorney work product doctrine, which will be transferred to Authority Counsel, Kennedy, Archer & Giffen, PC, all of FORA’s public records will be transferred to the County of Monterey which shall be the custodian and is designated as the responsible successor agency for records management and compliance with applicable law concerning FORA’s public records, including but not limited to the California Public Records Act, for the period after FORA’s dissolution, as provided in that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County and dated for reference purposes June 23, 2020 (the “FORA-County Administrative Agreement”). FORA hereby designates LAFCO each of the applicable member jurisdictions, as the determined by the subject matter of the litigation, as a responsible successor agency ~~to defend~~ any litigation concerning FORA’s compliance or alleged lack of compliance with applicable law, including but not limited to the California Public Records Act, concerning FORA’s records for the period prior to FORA’s dissolution.

1.6 Water and Wastewater:

The Board hereby finds and determines that it has made water allocations in accordance with its obligation under the EDC MOA to ensure a fair and equitable water supply to all property recipients and imposed those requirements in the Implementation Agreements. In light of the possibility of a water supply shortage that reduces the overall amount of water available for the Ord Community, MCWD staff has committed by letter dated October 29, 2018 to work with the jurisdictions to develop a plan to reduce each entity’s water allocation in an equitable manner, consistent with the 1993 Army-MCWRA Agreement and the Economic Development Conveyance Agreement obligation to provide a fair and equitable water supply to all property recipients of former Fort Ord lands. See Section 2.2.6 re: water allocations.

Section 2 Assignment of Assets, Liabilities, and Obligations:

2.1 Assets and Disposition Thereof:

FORA’s principal assets are comprised of the following:

2.1.1 Section 115 Trust:

In April 2018, the Board authorized the establishment of a Section 115 trust and funded the trust with \$5,700,000 (which is currently earning returns at an average annualized rate in excess of 2%). The current balance in the trust is approximately \$7,000,000. Funds held in or transferred from the trust may be used only for retirement purposes. At or before FORA’s dissolution, either (a) the County of Monterey will be added as a signatory to the Section 115 Trust account with authority to expend the funds in that account for the purpose of being applied to the satisfaction or reduction of the unfunded pension liability under the

CalPERS contract when that amount has been finally determined or (b) FORA will cause the funds in the Section 115 Trust account to be transferred to the County to be held until the amount of the unfunded pension liability under the CalPERS contract has been finally determined, after which all such funds are to be applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract. To the extent that funds held in or transferred from the trust are, at the time the unfunded pension liability under the CalPERS contract has been finally determined, insufficient to fully satisfy the unfunded pension liability under the CalPERS contract, proceeds from bonds in the designated Cal PERS Obligation Fund described in Section 2.2.1 shall be applied first to said unfunded pension liability. Thereafter, if any unfunded pension liability under the CalPERS contract remains, the remaining unfunded pension liability is a debt of FORA to be paid, to the extent legally permissible, through future unpledged property tax revenues pursuant to Health and Safety Code section 33492.71, so as to satisfy the unfunded pension liability under the CalPERS contract (and thereby assure that FORA's member jurisdictions are not exposed to liability for any unfunded pension liability relating to the CalPERS contract following FORA's dissolution).

2.1.2 Intentionally Omitted.

2.1.3 Litigation Reserve Funds: Although not irrevocably committed to use for litigation or indemnification purposes, FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000. Terms and conditions for the use of these funds are provided for in the FORA-LAFCO Indemnification Agreement executed December 18, 2019.

2.1.4 Habitat Funds: Pursuant to Joint Community Facilities Agreements entered into between FORA and each of the below-identified jurisdictions, FORA has distributed approximately \$17,000,000 in funds dedicated to habitat management (as provided in such agreements) in the following proportions:

- 79.9% to Monterey County
- 7.4% to the City of Seaside
- 7.9% to the City of Marina
- 0.3% to the City of Monterey
- 4.5% to the City of Del Rey Oaks

2.1.5 Capital Improvement Funds: FORA has transferred CFD Special Taxes collected to (a) the City of Marina for removal of the stockade and ancillary buildings, (b) to the City of Seaside for repair of stormwater infiltration units on Eucalyptus Road, and (c) to the City of Del Rey Oaks for potential improvements to South Boundary Road and the intersection at General Jim Moore Boulevard, each pursuant to a Memorandum of Agreement entered into between FORA and the respective jurisdiction. Any CFD Special Taxes collected and remaining unexpended prior to FORA's dissolution shall first be applied to (i) reimbursement of MCWD's expenses incurred in the construction of the Regional Urban Water Augmentation Project in the amount of \$273,854.17 and (ii) reimbursement of the City of Marina's expenses incurred in widening Salinas Avenue, improving 8th Street, and constructing the 2nd Avenue/Del Monte extension, in the aggregate amount of \$106,298.17. If the reimbursements described in clauses (i) and (ii) of the immediately preceding sentence do not fully exhaust any CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution, any surplus shall be disbursed to the jurisdictions identified in Section 2.1.4 in the proportions set forth in that section for the purpose of

funding habitat management as contemplated by the Joint Community Facilities Agreements entered into between FORA and each of respective jurisdictions.

2.1.6 Other Funds: Except as otherwise specifically identified in this Transition Plan, all funds in FORA's other accounts, petty cash, un-deposited checks, and other cash equivalents held by FORA immediately prior to FORA's dissolution together with any additional funds received prior to the closure of FORA's books shall be transferred to the County of Monterey to be applied as provided in the FORA-County Administrative Agreement.

2.1.7 ESCA Reimbursement: An estimated approximately \$6,800,000 in potential reimbursement is available for work conducted under the ESCA. All rights under the ESCA are assigned to the City of Seaside effective as of FORA's dissolution.

2.1.8 Miscellaneous Personal Property: With the exception of certain office furniture acquired in part with funds supplied by MCWD, which furniture will be transferred to MCWD prior to FORA's dissolution, all of FORA's office furniture and equipment, supplies, and other personal property remaining as of FORA's dissolution shall be transferred to the County of Monterey in trust for prompt sale or disposition in accordance with any applicable rules or requirements for the transfer of surplus property by a California public entity. Any proceeds from such transfer remaining after reimbursement to the County for its administrative costs, shall be applied as provided in the FORA-County Administrative Agreement.

2.1.9 Real Property: FORA is obligated to cause certain former Fort Ord property to be transferred to the underlying land use jurisdictions in accordance with the federal Pryor Amendment and as authorized by Section 67678(a) of the FORA Act. The City of Seaside has been recognized as the Successor to the Local Redevelopment Authority and as such will assume this role effective July 1, 2020. The City of Seaside shall receive funds in the amount of \$100,000 to cover costs of property transfers as the designated LRA successor agency.

2.1.10 Insurance Policies: Except to the extent specifically provided to the contrary in this Transition Plan or by the terms of the insurance policy itself, FORA shall not keep any policy(ies) of insurance in force beyond the date(s) of such policy's(ies') expiration.

With respect to the Pollution Legal Liability ("PLL") policy, FORA currently holds approximately \$267,000 in a separately identified account for the PLL insurance self-insured retention ("SIR"). These funds shall be transferred and utilized to defray the administrative costs for the City of Seaside as the First Named Insured and to defray the costs in the event of a claim requiring application of a self-insured retention amount. In the event, the SIR is not utilized for any claims made, the amount in the fund shall be returned, after any administrative deduction for contract management by the successor, to the named insureds in proportion to the amounts of their insurance coverages.

2.2 Liabilities and Obligations and Assignment Thereof:

FORA's principal liabilities and obligations include the following:

2.2.1 Unfunded Pension Liability under CalPERS Contract: Based on the latest available communication from CalPERS, FORA's unfunded terminated agency liability is anticipated to range from \$7,793,230 to \$9,333,172. Because FORA anticipates that the amounts in

the Section 115 Trust will by themselves be insufficient to retire all the actual terminated agency liability once finally determined, the Tax Allocation Bonds issued by FORA include a CalPERS Obligation Fund in the amount of \$4,000,000 to be applied toward the payment or reduction of the CalPERS liability once determined. If the amounts in the Section 115 Trust and the designated account referenced above are collectively insufficient to fully retire the CalPERS liability, any remaining unsatisfied liability shall, to the extent legally permissible, be paid through future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired. The County shall be entitled to recover its reasonable costs of administering and distributing said property tax revenues. If after the application of the amounts in the CalPERS Obligation Fund to the retirement of the terminated agency liability under the CalPERS contract there remains any surplus in the CalPERS Obligation Fund, such surplus shall be applied in conformity with applicable law as addressed in the Bond Indenture and Irrevocable Instructions.

2.2.2 Habitat Funds: See Section 2.1.4 hereinabove.

2.2.3 Capital Improvement Funds: See discussion in Section 2.1.5 hereinabove.

2.2.4 ESCA Reimbursement: See Section 2.1.7 hereinabove.

2.2.5 Building Removal: To the extent not funded through the application of the proceeds of the sale of Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 which closed on June 25, 2020, any building removal for the purpose of alleviating blight shall be addressed after FORA's dissolution, if at all, by the jurisdiction(s) in which remaining abandoned buildings are located. Each such jurisdiction shall comply with all applicable laws pertaining to such building removal.

2.2.6 Water/Wastewater: This Transition Plan hereby assigns to MCWD, effective as of the dissolution of FORA, FORA's rights of enforcement under the Implementation Agreements, to the extent they survive post-dissolution, regarding water allocations. To the extent allowed by law, in the event that any jurisdiction's approved developments exceed the jurisdiction's approved water allocation, MCWD may decline to issue any further water connection permits until the offending jurisdiction brings its water allocation into compliance or MCWD develops or obtains access to an augmented water supply sufficient to cover any excess. In the event of a ground water shortage, any resulting reductions in the amount of water supplies shall be applied fairly and equitably across all jurisdictions. MCWD and the jurisdictions shall work together as to how to apply a fair and equitable reduction of water supply amongst the underlying land holding jurisdictions.

2.2.7 Prevailing Wages: Notwithstanding any other provision herein, the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, shall be paid to all workers employed on First Generation Construction (as defined in the Master Resolution) after FORA's dissolution. This term may not be invalidated or superseded by any Transition Plan Implementing Agreement(s) or other document(s), or by action of any city, successor jurisdiction, or other entity.

2.2.8 Late Discovered Items: To the extent that any contractual or other obligation of FORA is discovered during implementation of this Transition Plan, those obligations shall be assigned as follows: If the obligation is related to the use of real property, it shall be

assigned to the underlying land use jurisdiction, unless otherwise specifically addressed in an agreement entered into between such land use jurisdiction and FORA. If the liability or obligation is unrelated to the use of real property, LAFCO shall notify any appropriate insuring entity and the County. Upon the establishment of the validity and amount of the liability or obligation by LAFCO and the County acting in coordination with each other, such established liability or obligation shall be paid or discharged first ~~(a)~~ by the County applying monies, if any remain that are not expended and not already legally obligated to be expended for other purposes, from the funds transferred to the County pursuant to Section 2.1.6; ~~next (b) by LAFCO applying any then unexpended funds received from FORA, including but not limited to the litigation reserve funds received from FORA as described in Section 2.1.3;~~ and only thereafter ~~(c)~~ by encumbering and expending future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired.

Section 3 Transition Plan Implementation:

3.1 Schedule of Remaining Obligations:

Obligation	Reference in Updated Transition Plan
Implementation of Mitigation Measures Pertaining to North-South Road/Highway 218 Project and CEQA Lead Agency Status	See Section 1.2
Implementation of Mitigation Measures Pertaining to Relocation and Reconfiguration of General Jim Moore Boulevard Project and CEQA Lead Agency Status	See Section 1.2
Habitat Management Responsibilities on Sites Held by the Monterey Peninsula Community College District	See Section 1.2
Repair of Stormwater Infiltration Units on Eucalyptus Road CEQA Lead Agency Status	See Section 2.1.5
Removal of the Stockade and Ancillary Buildings CEQA Lead Agency Status	See Section 2.1.5
South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements CEQA Lead Agency Status	See Section 2.1.5
Transfers of Real Property in accordance with the federal Pryor Amendment	See Section 2.1.9
Payment of Unfunded Terminated Agency Liability to CalPERS	See Section 2.2.1
FORA Contract with California Native Plant Society and City of Del Rey Oaks	See Section 3.3

Except as identified in the schedule of remaining obligations set forth above or specifically provided for elsewhere in this Transition Plan, FORA is not aware of any remaining obligations.

~~In recognition that FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000 as described in Section 2.1.3, except~~Except as specifically provided to the contrary elsewhere in this Transition Plan, FORA hereby designates ~~LAFCO as the~~each of its member jurisdictions as a responsible successor agency for all legal, financial, and other unresolved matters, known and unknown, and jointly assigns to ~~LAFCO~~such jurisdictions all liabilities not otherwise specifically assigned in this Transition Plan.

3.2 Litigation Management:

In the absence of an agreement entered into by all of the affected land holding jurisdictions that post FORA litigation may be managed by any one or more, but less than all, of such land holding jurisdictions, any post FORA litigation shall be collectively managed by the land use jurisdictions that are defendants or are identified as real parties in interest for such litigation.

3.3 Survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements:

FORA has received from Authority Counsel a memorandum dated June 16, 2020 setting forth a statement regarding the survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements.

3.4 Reserved Right of Modification:

The Board hereby reserves its right to augment, clarify or modify this Transition Plan as law, facts, circumstances, or agreements may require.

NOW THEREFORE, THE BOARD HEREBY RESOLVES AS FOLLOWS:

1. As outlined above, this Resolution and its provisions constitute the Transition Plan required by Government Code section 67700(b); and
2. The Board hereby makes all assignments in accordance with Government Code section 67700(b);
3. The Board hereby finds that as adopted herein, this updated and restated Transition Plan is not a project subject to CEQA;
4. Notwithstanding anything to the contrary set forth in this resolution, nothing herein is intended nor shall be interpreted to create an independent financial obligation of the general funds of a member jurisdiction of FORA ~~or of LAFCO~~ unless specifically agreed to in writing by the member jurisdiction ~~or LAFCO~~. Except as otherwise specifically provided herein, all of FORA's established debts, obligations, and other liabilities are intended to be satisfied or paid (a) first out of the funds of FORA as may exist as of the date of its dissolution or as may accrue to its accounts following dissolution and (b) after the exhaustion of such funds then from future property tax revenues pursuant to Health and Safety Code section 33492.71; and
5. The Board directs the Executive Officer to transmit this updated and restated Transition Plan to LAFCO.

Upon motion by Board member ---- seconded by Board member ---- the foregoing Resolution was passed on this _____ day of June 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Jane Parker, Chair FORA Board

ATTEST:

Joshua Metz, Clerk

GLOSSARY

“AFY” means acre feet per year.

“Army” means the United States Army.

“Board” means the governing board of the Fort Ord Reuse Authority, as specified in Government Code section 67660.

“CalPERS” means the California Public Employees’ Retirement System.

“CEQA” means the California Environmental Quality Act, as amended to date (Public Resources Code section 21000 and following).

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly known as Superfund, as amended to date (42 U.S. Code Chapter 103 and following).

“CFD” means a Community Facilities District within the former Fort Ord formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended to date (Government Code section 53321 and following).

“CFD Special Taxes” means the special taxes collected through the Community Facilities District on properties to be developed within the former Fort Ord.

“CIP” means a Capital Improvement Program adopted by the Fort Ord Reuse Authority.

“EDC MOA” means the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“EDC Property” means the real property transferred pursuant to the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“ESCA” means the Environmental Services Cooperative Agreement entered into between the United States Army and the Fort Ord Reuse Authority, as amended to date.

“FORA Act” means, collectively, SB 899 and AB 1600 adopted in 1994 and amended in 2012, as codified at (i) Government Code Title 7.85, Chapters 1 through 7, commencing with Section 67650, and (ii) selected provisions of the California Redevelopment Law, including Health and Safety Code Sections 33492 *et seq.* and 33492.70 *et seq.*

“FORA” means the Fort Ord Reuse Authority.

“FORA-County Administrative Agreement” means that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County of Monterey and dated for reference purposes June 23, 2020.

“FORA Program” has the meaning given in Section 1.2.

“FORG” means the Fort Ord Reuse Group organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of the former Fort Ord.

“Fort Ord,” including references to the territory or area of Fort Ord or the former Fort Ord, means the geographical area described in the document entitled “Description of the Fort Ord Military Reservation Including Portion of the Monterey City Lands Tract No. 1, the Saucito, Laguna Seca, El Chamisal, El Toro and Noche Buena Ranchos, the James Bardin Partition of 1880 and Townships 14 South, Ranges 1 and 2 East and Townships 15 South, Ranges 2 and 3 East, M.D.B. and M. Monterey County, California,” prepared by Bestor Engineers, Inc., and delivered to the Sacramento District Corps of Engineers on April 11, 1994 or the military base formerly located on such land, as the context requires.

“Implementation Agreements” means agreements entered into beginning in 2001 between the Fort Ord Reuse Authority on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand, as such agreements may have been amended to date.

“LAFCO” means the Monterey County Local Agency Formation Commission.

“Local Redevelopment Authority” means any authority or instrumentality established by State or local government and recognized by the Secretary of Defense through its Office of Economic Adjustment (OEA) to facilitate the transfer of properties from the former Fort Ord to the underlying jurisdictions.

“Master Resolution” means the collection of administrative rules and regulations adopted by FORA under the Authority Act, as amended.

“MCWD” means the Marina Coast Water District.

“MCWRA” means the Monterey County Water Resources Agency.

“MPC” means the Monterey Peninsula Community College District.

“PLL” means a Pollution Legal Liability policy of insurance.

“MRWPCA” means the Monterey Regional Water Pollution Control Agency.

“Reuse Plan” means the Fort Ord Base Reuse Plan and its accompanying environmental impact report adopted and certified by the FORA Board in June 1997 to guide the reuse of the former Fort Ord, all as amended from time to time.

“SIR” means self-insured retention under a PLL policy of insurance.

“Strategy Report” means the June 1992 report prepared by the Fort Ord Community Task Force in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

“Task Force” means the Fort Ord Community Task Force formed in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

**FORT ORD REUSE AUTHORITY
RESOLUTION NO. 20-xx**

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY
*Approving Updates to and Restatement of the Transition Plan
Submitted to the Monterey County Local Agency Formation Commission*

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A.** In 1991, the Secretary of Defense announced the proposed downsizing of the United States Army Fort Ord Military Reservation (“Fort Ord”) under the Base Realignment and Closure Act. The relocation by the United States Army (the “Army”) of the 7th Infantry Division - Light resulted in the loss to the communities and populace of the Monterey Peninsula and adjoining greater Monterey Bay region of the significant economic, social, and cultural contributions that had been associated with the military presence.
- B.** Over the years in which Fort Ord was an active military base, the Army entered into contracts with regional entities to address water and wastewater needs of the reservation. On or about 1981, the Army and Monterey Regional Water Pollution Control Agency (“MRWPCA”) entered into Contract No. DACA 05-81-C-0021 wherein the Army participated in the construction of the Monterey Regional Wastewater Treatment Plant and such agreement was amended several times, ultimately resulting in Contract No. DAKF 03-83-C0527 wherein MRWPCA agreed to provide sanitary sewage service to the Army. A subsequent agreement was entered into between the Army, Marina Coast Water District (“MCWD”), the Fort Ord Reuse Authority (“FORA”) and MRWPCA regarding wastewater treatment.
- C.** On or about September 21, 1993, the Army entered into Contract No. A-6404 with the Monterey County Water Resources Agency (“MCWRA”) for annexation of the former Fort Ord lands into MCWRA Zone 2 and 2A. That Agreement is the basis for the Army’s pumping limitation of 6,600 acre-feet per year (“AFY”) of water from the Salinas Valley Groundwater Basin and of that, no more than 5,200 AFY from the 180 and 400-foot aquifers therein. On or about October 23, 2001, the Army quit claimed its water and wastewater infrastructure to the Fort Ord Reuse Authority and issued two easements to FORA in DACA 05-0-00-57 and DACA 05-9-00-58. The easements to FORA required, among other obligations, assumption of the obligation to provide water required by the Installation-Wide Habitat Management Plan, the Army’s obligation to cooperate and coordinate with parcel recipients, MCWRA, FORA and others to ensure all owners of property at the former Fort Ord will continue to be provided an equitable supply of water at equitable rates and to cooperate and coordinate with MCWRA, MRWPCA, FORA, property recipients and others to ensure Non-Army Responsibility Mitigations required by the records of decision dated December 23, 1993 and June 8, 1997 are met and that it will meet all requirements of the Army Agreement with MCWRA approved on September 21, 1993. On October 26, 2001, FORA in turn quitclaimed water and wastewater infrastructure and assigned said easements to MCWD requiring compliance with all underlying requirements.
- D.** After the announcement but prior to the implementation of the base downsizing/closure, political leaders within the affected region formed the Fort Ord Community Task Force (the “Task Force”) in order to develop recommendations for moving forward with a recovery

effort. These recommendations were embodied in a 760-page June 1992 Strategy Report prepared by the Task Force (the “Strategy Report”).

- E.** Predicated upon the Strategy Report, in October 1992 the Fort Ord Reuse Group (“FORG”) was organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of Fort Ord. After preparing an initial plan and subsequently refining it, the revised plan was considered and adopted by FORG in 1993. Those early planning efforts recognized the significant costs associated with the implementation of any plan to convert Fort Ord into civilian use and reinforced the validity of the regional and base-wide approaches that were inherent in the conclusions reached by the Task Force in its Strategy Report.
- F.** FORA was established in 1994 by state legislation (Government Code sections 67650 and following, the “FORA Act”) and when the member jurisdictions adopted resolutions favoring the establishment of the authority in accordance with Government Code section 67656. The FORA Act was amended in 2012. The Legislature found that the reuse of Fort Ord is a matter of statewide importance and declared in Government Code section 67657(c) that FORA’s powers and duties prevail over those of any other local entity, including any city, county, or joint powers authority. Government Code section 67658 identifies FORA’s purpose as planning for, financing, and managing the transition of the property known as Fort Ord from military to civilian use. In Government Code section 67651, the Legislature declared the following goals to be the policy of the State of California: (1) To facilitate the transfer and reuse of the real and other property of the former Fort Ord with all practical speed; (2) minimize the economic disruption caused by the base’s closure, (3) provide for reuse and development of the base in ways that enhance the economy and quality of life of the Monterey Bay community, and (4) maintain and protect the unique environmental resources of the area.
- G.** In order to carry out the directives of the FORA Act, FORA hired staff and entered into a contract with the California Public Employees’ Retirement System (“CalPERS”) to provide for retirement benefits for FORA employees.
- H.** Pursuant to the requirements of Government Code section 67675, FORA certified a Final Environmental Impact Report and adopted a Fort Ord Reuse Plan (the “Reuse Plan”) on June 13, 1997 in Resolution 97-06. The Reuse Plan, its attendant environmental report, and Resolution 97-06 are available on the FORA website at www.fora.org.
- I.** As part of that approval, FORA’s Board of Directors (the “Board”) certified the Environmental Impact Report and adopted a Statement of Overriding Considerations after making the following findings:

 - The Reuse Plan will provide for an improved and diversified retail and industrial economy and market that will generate employment and create financial stability;
 - The Reuse Plan will provide moderate and upscale housing which will provide more affluent residents to the Cities of Seaside and Marina, thereby creating a housing stock with higher income families in these communities with larger disposable incomes;

- The Reuse Plan will provide additional tourist support facilities in Seaside and Marina, thereby contributing additional employment opportunities;
 - The Reuse Plan will encourage and prioritize the development of projects that are regional in scale, thereby creating additional destination points on the Monterey Peninsula, and thereby enhancing the local economy;
 - The Reuse Plan provides for the creation of various additional recreational facilities and open space that will enhance the quality of life for not only the residents of Seaside and Marina but all of the residents of the Peninsula;
 - The Reuse Plan will attract and assist in retaining a pool of professional workers for the Peninsula;
 - The Reuse Plan will assist in ensuring that the overall economic recovery of the Peninsula benefits the Cities of Del Rey Oaks, Monterey, Seaside, Marina, and the unincorporated areas of the County of Monterey in the vicinity of Fort Ord;
 - The Reuse Plan will provide for additional and needed senior housing opportunities;
 - The Reuse Plan will assist the communities of Seaside and Marina in the transition of their respective community images from dependent, military base extensions with transient military personnel to vital, independent, and self-actuated communities populated with permanent residents with long-term interests in the well-being of their respective communities; and
 - The Reuse Plan will encourage development that will enhance the continued viability of California State University at Monterey Bay and the open space areas retained by the federal government through the Bureau of Land Management and conveyed to the California Department of Parks and Recreation.
- J.** FORA has committed and is obligated by the FORA Act, the Reuse Plan, and/or the California Environmental Quality Act (“CEQA”) to implement a program addressing policies, programs and mitigation measures of the Reuse Plan, including a capital improvement program and finance program addressing basewide facilities.
- K.** In the Reuse Plan, FORA identified revenues generated from sales and leases of real property within the former Fort Ord, FORA’s share of taxes on real property located within the former Fort Ord, and base-wide assessments or development fees, as the primary property-related sources of funding with which to implement the basewide facilities outlined in the Capital Improvement Program (“CIP”).
- L.** As is more fully described below, in connection with funding implementation of the Reuse Plan, FORA entered into multiple agreements with local, state, and federal entities, established a public financing mechanism, and prepared a CIP. The final CIP is available on the FORA website at www.fora.org.
- M.** As part of funding implementation of the Reuse Plan, FORA established in 2001 a Community Facilities District (“CFD”), through which special taxes on properties to be developed are collected. These special taxes (the “CFD Special Taxes”) are due and

payable with respect to each parcel on issuance of a building permit relating to the property. The CFD Special Taxes are subject to annual adjustment, but when FORA ceases to exist the CFD Special Taxes may no longer be collected. A variety of replacement funding mechanisms are available, including but not limited to the potential for each of the underlying land use jurisdictions to create its own Community Facilities District through which special taxes on future development may be collected. Collecting taxes or fees on developments that have already been entitled will require each jurisdiction to obtain agreements from each developer of an entitled project to pay development fees that the developer would not otherwise be obligated to pay. Those fees are estimated to be \$72 million for entitled projects, if all entitled developments are fully completed. At its June 4, 2020 meeting, FORA's Board of Directors adopted Resolution No. 20-07 directing the recordation of a Notice of Cessation of Special Tax and Extinguishment of Lien for the Fort Ord Reuse Authority Basewide Community Facilities District for the purpose of terminating collection of the CFD Special taxes after FORA's dissolution. That notice has since been submitted to the Monterey County Recorder's Office for recordation.

- N. FORA entered into a Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands (the "EDC MOA"), which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder. The EDC MOA provided the vehicle for the Army to transfer property to FORA without monetary consideration. The land transfer was conditioned on a requirement that any proceeds from the subsequent sale or leasing of the transferred real property must be applied to the economic development of the former Fort Ord. The real property transferred pursuant to the EDC MOA may be referred to herein as the "EDC Property." Sections 5.03 and 5.04 of the EDC MOA require a fair process to ensure an equitable supply of water is provided to grantees of former Fort Ord property and that all grantees enjoy an equitable utilization of the existing sewage treatment capacity.
- O. In 2001, agreements were entered into between FORA on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand. These agreements, as they may have been amended to date and irrespective of whether they may be so captioned, may collectively be referred to herein as the "Implementation Agreements."
- P. The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") applies to the closure of Fort Ord. The Army is obligated under CERCLA and other applicable federal and state law to remediate certain conditions at the former Fort Ord, including but not limited to by the removal of munitions and explosives. It was anticipated that an extensive amount of time would be needed for the Army to complete its cleanup of the former Fort Ord, based in part upon the contingent nature of Department of Defense funding and due to competing priorities for the use of available funds. Accordingly, in order for FORA to be able to receive the EDC Property early and facilitate an orderly and timely remediation of former Fort Ord lands, the Army and FORA entered into an early transfer agreement. Through a series of subsequent agreements between the Army, FORA, the U.S. Environmental Protection Agency, and the California Department of Toxic Substance Control remediation of munitions and explosives on the former Fort Ord proceeded. Although substantial progress has been made in the base cleanup, the remediation obligations will not be completed and all property transfers will not have occurred before the currently anticipated dissolution of FORA.

- Q. Government Code section 67700(a) requires that FORA dissolve when eighty percent (80%) of the base has been developed or reused in a manner consistent with the Reuse Plan or on June 30, 2020, whichever first occurs. Government Code section 67700(b)(2) mandates as follows:

The board shall approve and submit a transition plan to the Monterey County Local Agency Formation Commission on or before December 30, 2018, or 18 months before the anticipated inoperability of this title pursuant to subdivision (a), whichever occurs first. The transition plan shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The transition plan shall be approved only by a majority vote of the board.
~~(Emphasis added)~~

The Transition Plan approved by the Board on December 19, 2018 and submitted to the Monterey County Local Agency Formation Commission (“LAFCO”) on December 30, 2018 assigned assets and liabilities, designated responsible successor agencies, and provided a schedule of remaining obligations, as required by the FORA Act. ~~This document updates and restates the approved Transition Plan based on current conditions and financial records~~Since FORA’s approval of the Transition Plan in 2018, FORA has entered into contracts and agreements and taken a series of other actions to implement its dissolution. This document updates and restates the approved 2018 Transition Plan to reflect and incorporate the decisions of the FORA Board and the various agreements entered among FORA and member jurisdictions since December 19, 2018 to achieve the orderly and fair dissolution of FORA.

- R. Government Code section 67700(b)(1) provides as follows:

The Monterey County Local Agency Formation Commission shall provide for the orderly dissolution of the authority including ensuring that all contracts, agreements, and pledges to pay or repay money entered into by the authority are honored and properly administered, and that all assets of the authority are appropriately transferred.
~~(Emphasis added)~~

BASED ON THE FOREGOING RECITALS AND THE FINDINGS AND DETERMINATIONS MADE HEREIN, the Board hereby approves the following updated and restated Transition Plan for transmittal to LAFCO:

Section 1 Findings and Determinations:

~~1.1 Base-wide Facilities:~~

1.1 Assignment of Assets and Liabilities and Transfer of Surviving Obligations:

The Board hereby finds and determines that this Transition Plan assigns all assets and liabilities ~~relating to FORA’s policies, programs of FORA and mitigation measures of the Reuse Plan~~transfers all obligations of FORA to the extent ~~they~~such obligations survive the dissolution of FORA.

1.2 California Environmental Quality Act:

The Board hereby finds and determines that in adopting this Transition Plan as required by Government Code section 67700 FORA is addressing the allocation of FORA's assets, liabilities and obligations in advance of FORA's ultimate dissolution without (a) amending any contemplated or approved land uses within the former Fort Ord, (b) abandoning or altering any mitigations that were required as a part of the adoption of the Reuse Plan, (c) changing the Reuse Plan itself, or (d) avoiding the satisfaction and fulfillment of any of FORA's other commitments, pledges, or promises (all of which may be collectively referred to herein as the "FORA Program"). CEQA only applies to government activities that may cause a direct or a reasonably foreseeable indirect physical change in the environment. Public Resources Code section 21065. CEQA Guidelines, Section 15378(b) also provide that certain activities are not CEQA "~~Projects~~projects" including (4) The creation of government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

This Transition Plan does not authorize any particular development, and does not itself change any of the land use requirements applicable to projects within the geographic area of the former Fort Ord. It is not a "project" and no environmental impact report or other CEQA document is required.

To the contrary and to the extent not already so contained in their general plans, this Transition Plan calls for the Cities of Marina, Seaside, Monterey and Del Rey Oaks and the County of Monterey to follow the Reuse Plan policies and programs. After FORA's ultimate dissolution, any changes to the policies and programs of the Reuse Plan or any part thereof will be made by the respective land use jurisdiction(s) only after full compliance with all applicable laws, including but not limited to CEQA. ~~Further,~~

Further and only to the extent not addressed by a Memorandum of Agreement entered into between FORA and the applicable jurisdiction regarding a specific project or other specific non-project activity (for example, removal of the stockade and ancillary buildings located within the City of Marina, repair of stormwater infiltration units on Eucalyptus Road within the City of Seaside, and improvements to South Boundary Road and the intersection at General Jim Moore Boulevard which may be undertaken by the City of Del Rey Oaks), as to any (a) incomplete projects initiated by FORA that any of the above-identified land use jurisdictions intend to carry out after the dissolution of FORA, (b) completed projects for which any mitigation measures adopted by FORA remain to be fulfilled or monitored, and (c) projects for which any environmentally-related contractual or judicially-imposed commitment of FORA has not been satisfied, FORA designates each of the above-identified land use jurisdictions as a responsible successor agency for the purposes of compliance with all applicable laws, including but not limited to CEQA, and satisfaction and fulfillment of all project-related liabilities to the extent required by law, including but not limited to mitigation measures and monitoring requirements and satisfaction of environmentally-related contractual or judicially-imposed commitments of FORA, each as to all portions of such projects located within the territorial limits of the respective city or cities or the unincorporated portion of Monterey County. Without limiting the generality of the foregoing, Monterey County's ~~obligations as outlined above~~ habitat management responsibilities on the former Fort Ord shall include habitat management responsibilities on sites held by the Monterey Peninsula Community College District ("MPC") at the former Military Operations on Urban Terrain facility and certain lands within the Parker Flats area of the former Fort Ord pursuant to that Agreement Regarding Public Safety Officer Training Facilities entered into between FORA, MPC and the County of Monterey in 2003, subject to MPC's obligation to pay reasonable fair share

assessments for the cost of such habitat management as provided in that agreement. To the extent required by applicable law, each such designated responsible successor agency shall assume lead agency status under CEQA with respect to such projects located wholly within its jurisdictional limits. As to any projects located within the jurisdictional limits of more than one of the designees, to the extent applicable law requires that there be a lead agency, the affected designees shall decide among themselves which shall assume lead agency status under CEQA.

1.3 Reuse Plan and Master Resolution:

To the extent the policies and programs of the Reuse Plan and Master Resolution survive the dissolution of FORA, all assets and liabilities relating to those policies and programs are assigned to each underlying land use jurisdiction. FORA recorded the Master Resolution on April 14, 2020.

1.4 Environmental Services Cooperative Agreement:

~~The Board hereby finds and determines that the long-term stewardship obligations and related monitoring identified by the Army for its munitions removal activities are crucial to the future success of the recovery program. The Board further finds that following the dissolution of FORA the current full-time staffing of the Environmental Services Cooperative Agreement (“ESCA”) should be considered for retention through the anticipated termination of the ESCA in 2028 by the agreed-upon successor to FORA. The City of Seaside is identified in the ESCA contract documents as the successor for purposes of the ESCA.~~

The Board entered into an agreement with the City of Seaside to become the successor to the Environmental Services Cooperative Agreement (“ESCA”). See also Section 2.1.7 re: ESCA Reimbursement.

1.5 Transfer of FORA’s Records:

Except for (a) records pertaining to the ESCA, which records will be transferred to the City of Seaside as custodian pursuant to the ESCA contract documents; (b) records transferred to the local redevelopment authority designated as FORA’s successor in connection with the EDC MOA; and (c) records of attorney-client privileged communications and materials protected by the attorney work product doctrine, which will be transferred to Authority Counsel, Kennedy, Archer & Giffen, PC, all of FORA’s public records will be transferred to the County of Monterey which shall be the custodian and is designated as the responsible successor agency for records management and compliance with applicable law concerning FORA’s public records, including but not limited to the California Public Records Act, for the period after FORA’s dissolution. ~~Appropriate compensation to the County, as provided in that Agreement Regarding Administrative and the County’s responsibilities Financial Matters Associated with regard to the stewardship of FORA’s public records will be further defined in an agreement FORA Dissolution entered into between FORA and the County prior to FORA’s dissolution and dated for reference purposes June 23, 2020 (the “FORA-County Administrative Agreement”).~~ FORA hereby designates LAFCO as the responsible successor agency for any litigation concerning FORA’s compliance or alleged lack of compliance with applicable law, including but not limited to the California Public Records Act, concerning FORA’s records for the period prior to FORA’s dissolution. FORA hereby designates each of the applicable member jurisdictions, as determined by the subject matter of the litigation, as a responsible successor agency to defend any litigation concerning FORA’s compliance or alleged lack of compliance with applicable law, including but not limited to the California Public Records Act, concerning FORA’s records for the period prior to FORA’s dissolution.

1.6 Water and Wastewater:

The Board hereby finds and determines that it has made water allocations in accordance with its obligation under the EDC MOA to ensure a fair and equitable water supply to all property recipients and imposed those requirements in the Implementation Agreements. In light of the possibility of a water supply shortage that reduces the overall amount of water available for the Ord Community, MCWD staff has committed by letter dated October 29, 2018 to work with the jurisdictions to develop a plan to reduce each entity's water allocation in an equitable manner, consistent with the 1993 Army-MCWRA Agreement and the Economic Development Conveyance Agreement obligation to provide a fair and equitable water supply to all property recipients of former Fort Ord lands. See Section 2.2.6 re: water allocations.

Section 2 Assignment of Assets, Liabilities, and Obligations:

2.1 Assets and Disposition Thereof:

FORA's principal assets are comprised of the following:

2.1.1 Section 115 Trust:

In April 2018, the Board authorized the establishment of a Section 115 trust and funded the trust with \$5,700,000 (which is currently earning returns at an average annualized rate in excess of 2%). The current balance in the trust is approximately \$7,000,000. Funds held in or transferred from the trust may be used only for retirement purposes. At or before FORA's dissolution, either (a) the County of Monterey will be added as a signatory to the Section 115 Trust account with authority to expend the funds in that account for the purpose of being applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract when that amount has been finally determined or (b) FORA will cause the funds in the Section 115 Trust account to be transferred to the County to be held until the amount of the unfunded pension liability under the CalPERS contract has been finally determined, after which all such funds are to be applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract. To the extent that funds held in or transferred from the trust are, at the time the unfunded pension liability under the CalPERS contract has been finally determined, insufficient to fully satisfy the unfunded pension liability under the CalPERS contract, proceeds from bonds in the designated Cal PERS Obligation Fund described in Section 2.2.1~~shall~~ shall be applied first to said unfunded pension liability. Thereafter, if any unfunded pension liability under the CalPERS contract remains, the remaining unfunded pension liability is a debt of FORA to be paid, to the extent legally permissible, through future unpledged property tax revenues pursuant to Health and Safety Code section 33492.71, so as to satisfy the unfunded pension liability under the CalPERS contract (and thereby assure that FORA's member jurisdictions are not exposed to liability for any unfunded pension liability relating to the CalPERS contract following FORA's dissolution).

~~2.1.2 Retirement Reserve Funds: Although not irrevocably committed to use for retirement purposes and available to meet FORA's other needs, FORA holds funds identified for retirement reserves in the current approximate aggregate amount of \$1,500,000.~~

~~2.1.2 Intentionally Omitted.~~

2.1.3 Litigation Reserve Funds: Although not irrevocably committed to use for litigation or indemnification purposes, FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000. Terms and conditions for the use of these funds are provided for in the FORA-LAFCO Indemnification Agreement executed December 18, 2019.

2.1.4 Habitat Funds: ~~It is estimated based on the current rate of collections and earnings that by June 30, 2020 Pursuant to Joint Community Facilities Agreements entered into between FORA will hold and each of the below-identified jurisdictions, FORA has distributed~~ approximately \$17,000,000 in funds dedicated to ~~base-wide~~ habitat management. ~~FORA will transfer (as provided in such agreements) in the remaining funds to local agencies to use specifically for habitat management as follows~~following proportions:

- 79.9% to Monterey County
- 7.4% to the City of Seaside
- 7.9% to the City of Marina
- 0.3% to the City of Monterey
- 4.5% to the City of Del Rey Oaks

~~2.1.5 Capital Improvement Funds: Except for those CFD Special Taxes specifically identified for habitat management, all CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution shall first be directed to completing in-progress construction projects as identified in FORA's final year CIP. Any CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution shall next be directed to completing other projects as identified in FORA's final year CIP. These capital improvement funds shall be transferred to the jurisdiction assigned responsibility for the respective project, which shall be the jurisdiction in which the majority of the project is located if a fully executed Memorandum of Agreement between FORA and the agency regarding the project has been entered into. These projects include Removal of the City of Marina Stockade and Ancillary Buildings (for which the City of Marina is designated the responsible successor agency), Repair of Stormwater Infiltration Units on Eucalyptus Road (for which the City of Seaside is designated the responsible successor agency), and South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements (for which the City of Del Rey Oaks is designated the responsible successor agency). In each case, to the extent required by applicable law the underlying jurisdiction assumes lead agency status and responsibility for the project. Any liabilities associated with the projects described in this Section 2.1.5 are assigned to the respective jurisdiction designated as the responsible successor agency or otherwise assigned responsibility for the respective projects.~~

2.1.5 Capital Improvement Funds: FORA has transferred CFD Special Taxes collected to (a) the City of Marina for removal of the stockade and ancillary buildings, (b) to the City of Seaside for repair of stormwater infiltration units on Eucalyptus Road, and (c) to the City of Del Rey Oaks for potential improvements to South Boundary Road and the intersection at General Jim Moore Boulevard, each pursuant to a Memorandum of Agreement entered into between FORA and the respective jurisdiction. Any CFD Special Taxes collected and remaining unexpended prior to FORA's dissolution shall first be applied to (i) reimbursement of MCWD's expenses incurred in the construction of the Regional Urban Water Augmentation Project in the amount of \$273,854.17 and (ii) reimbursement of the

City of Marina's expenses incurred in widening Salinas Avenue, improving 8th Street, and constructing the 2nd Avenue/Del Monte extension, in the aggregate amount of \$106,298.17. If the reimbursements described in clauses (i) and (ii) of the immediately preceding sentence do not fully exhaust any CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution, any surplus shall be disbursed to the jurisdictions identified in Section 2.1.4 in the proportions set forth in that section for the purpose of funding habitat management as contemplated by the Joint Community Facilities Agreements entered into between FORA and each of respective jurisdictions.

2.1.6 Other Funds: Except as otherwise specifically identified in this Transition Plan, all funds in FORA's other accounts, petty cash, un-deposited checks, and other cash equivalents held by FORA immediately prior to FORA's dissolution together with any additional funds received prior to the closure of FORA's books shall be transferred to the County of Monterey to be applied ~~first to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract and after the satisfaction of such unfunded pension liability next to the satisfaction or reduction of FORA's other established but unpaid liabilities or obligations then existing, if any.~~ Appropriate compensation to the County and the County's responsibilities with regard to the receipt and disbursement of FORA's funds as provided herein will be further defined in an agreement entered into between FORA and the County prior to FORA's dissolution as provided in the FORA-County Administrative Agreement.

2.1.7 ESCA Reimbursement: An estimated approximately \$6,800,000 in potential reimbursement is available for work conducted under the ESCA. All rights under the ESCA are assigned to the City of Seaside effective as of FORA's dissolution, ~~provided, however, that the assignment shall be subject to approval by the Army and the state and federal regulators (collectively "the regulators"). In the event that the assignment is not approved by the Army or the regulators, then whichever jurisdiction(s) is/are acceptable to the Army and the regulators and acceptable to the Army-approved jurisdiction shall become the successor(s) to FORA for the purposes of the ESCA and all rights under the ESCA shall be deemed assigned to such jurisdiction(s).~~

2.1.8 Miscellaneous Personal Property: With the exception of certain office furniture acquired in part with funds supplied by MCWD, which furniture will be transferred to MCWD prior to FORA's dissolution, all of FORA's office furniture and equipment, supplies, and other personal property remaining as of FORA's dissolution shall be transferred to the County of Monterey in trust for prompt sale or disposition in accordance with any applicable rules or requirements for the transfer of surplus property by a California public entity. Any proceeds from such transfer remaining after reimbursement to the County for its administrative costs, shall ~~first be applied first to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract and after the satisfaction of such unfunded pension liability next to the satisfaction or reduction of FORA's other established but unpaid liabilities or obligations then existing, if any~~ be applied as provided in the FORA-County Administrative Agreement.

2.1.9 Real Property: FORA is obligated to cause certain former Fort Ord property to be transferred to the underlying land use jurisdictions in accordance with the federal "Pryor Amendment" and as authorized by Section 67678(a) of the FORA Act. The City of Seaside has been recognized as the Successor to the Local Redevelopment Authority and as such will assume this role effective July 1, 2020. The City of Seaside shall receive funds in the

amount of \$100,000 to cover costs of property transfers as the designated LRA successor agency.

2.1.10 Insurance Policies: Except to the extent specifically provided to the contrary in this Transition Plan or by the terms of the insurance policy itself, FORA shall not keep any ~~policies~~policy(ies) of insurance in force beyond the date(s) of ~~their~~such policy's(ies)' expiration.

With respect to the Pollution Legal Liability (“PLL”) policy, FORA currently holds approximately \$267,000 in a separately identified account for the PLL insurance self-insured retention (~~(“SIR-”).~~). These funds shall be transferred and utilized to defray the administrative costs for the City of Seaside as the First Named Insured and to defray the costs in the event of a claim requiring application of a self-insured retention amount. In the event, the SIR is not utilized for any claims made, the amount in the fund shall be returned, after any administrative deduction for contract management by the successor, to the named insureds in proportion to the amounts of their insurance coverages.

2.2 Liabilities and Obligations and Assignment Thereof:

FORA’s principal liabilities and obligations include the following:

2.2.1 Unfunded Pension Liability under CalPERS Contract: Based on the latest available communication from CalPERS, FORA’s unfunded terminated agency liability is anticipated to range from \$7,793,230 to \$9,333,172. Because FORA anticipates that the amounts in the Section 115 Trust will by themselves be insufficient to retire all the actual terminated agency liability once finally determined, the Tax Allocation Bonds issued by FORA include a CalPERS Obligation Fund in the amount of \$4,000,000 to be applied toward the payment or reduction of the CalPERS liability once determined. If the amounts in the Section 115 Trust and the designated account referenced above are collectively insufficient to fully retire the CalPERS liability, any remaining unsatisfied liability shall, to the extent legally permissible, be paid through future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA’s account until all of FORA’s recognized debts have been retired. The County shall be entitled to recover its reasonable costs of administering and distributing said property tax revenues. ~~If the Trustee delivers funds from the Surplus Fund to the County Auditor Controller pursuant to Bond Indenture (section 4.02 (f) of the Bond Indenture), the County shall apply the surplus to the satisfaction or reduction of FORA’s other established but unpaid liabilities or obligations then existing, if any, as described in Section 2.1.6 hereinabove~~ after the application of the amounts in the CalPERS Obligation Fund to the retirement of the terminated agency liability under the CalPERS contract there remains any surplus in the CalPERS Obligation Fund, such surplus shall be applied in conformity with applicable law as addressed in the Bond Indenture and Irrevocable Instructions.

2.2.2 Habitat Funds: See Section 2.1.4 hereinabove.

2.2.3 Capital Improvement Funds: See discussion in Section 2.1.5 hereinabove.

2.2.4 ESCA Reimbursement: See Section 2.1.7 hereinabove.

2.2.5 Building Removal: ~~In~~To the ~~absence~~extent not funded through the application of a consolidated building removal program and/or legislative solution to the issue the proceeds of ~~blight~~the sale of Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 which closed on June 25, 2020, any building removal ~~not required under~~for the ~~CIP~~purpose of alleviating blight shall be addressed, after FORA's dissolution, if at all, by the ~~jurisdictions~~jurisdiction(s) in which ~~the~~ remaining abandoned buildings are located ~~after compliance~~. Each such jurisdiction shall comply with all applicable laws pertaining to such building removal.

2.2.6 Water/Wastewater: This Transition Plan hereby assigns to MCWD, effective as of the dissolution of FORA, FORA's rights of enforcement under the Implementation Agreements, to the extent they survive post-dissolution, regarding water allocations. ~~In~~To the extent allowed by law, in the event that any jurisdiction's approved developments exceed the jurisdiction's approved water allocation, MCWD may decline to issue any further water connection permits until the offending jurisdiction brings its water allocation into compliance or MCWD develops or obtains access to an augmented water supply sufficient to cover any excess. In the event of a ground water shortage, any resulting reductions in the amount of water supplies shall be applied fairly and equitably across all jurisdictions. MCWD and the jurisdictions shall work together as to how to apply a fair and equitable reduction of water supply amongst the underlying land holding jurisdictions.

2.2.7 Prevailing Wages: Notwithstanding any other provision herein, the general prevailing rate of wages for work of a similar character in Monterey County, as determined by the Director of the Department of Industrial Relations under Division 2, Part 7, Chapter 1 of the California Labor Code, shall be paid to all workers employed on First Generation Construction (as defined in the Master Resolution) after FORA's dissolution. This term may not be invalidated or superseded by any Transition Plan Implementing Agreement(s) or other document(s), or by action of any city, successor jurisdiction, or other entity.

2.2.8 Late Discovered Items: To the extent that any contractual or other obligation of FORA is discovered during implementation of this Transition Plan, those obligations shall be assigned as follows: If the ~~liability or~~ obligation is related to the use of real property, it shall be assigned to the underlying land use jurisdiction, unless otherwise specifically addressed in an agreement entered into between such land use jurisdiction and FORA. If the liability or obligation is unrelated to the use of real property, LAFCO shall notify any appropriate insuring entity and the County. Upon the establishment of the validity and amount of the liability or obligation by LAFCO and the County acting in coordination with each other, such established liability or obligation shall be paid or discharged first (a) by the County applying monies, if any, ~~then on hand~~ remain that are not expended and not already legally obligated to be expended for other purposes, from the funds transferred to the County pursuant to Section 2.1.6; next (b) by LAFCO applying any then unexpended funds received from FORA, including but not limited to the litigation reserve funds received from FORA as described in Section 2.1.3; and only ~~then~~thereafter (c) by encumbering and expending future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired.

Section 3 Transition Plan Implementation:

3.1 Schedule of Remaining Obligations, General Designation of Responsible Successor Agency, and General Assignment of Liabilities:

Obligation	Reference in Updated Transition Plan
Implementation of Mitigation Measures Pertaining to North-South Road/Highway 218 Project and CEQA Lead Agency Status	See Section 1.2
Implementation of Mitigation Measures Pertaining to Relocation and Reconfiguration of General Jim Moore Boulevard Project and CEQA Lead Agency Status	See Section 1.2
Habitat Management Responsibilities on Sites Held by the Monterey Peninsula Community College District	See Section 1.2
Repair of Stormwater Infiltration Units on Eucalyptus Road CEQA Lead Agency Status	See Section 2.1.5
Removal of the Stockade and Ancillary Buildings CEQA Lead Agency Status	See Section 2.1.5
South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements CEQA Lead Agency Status	See Section 2.1.5
Transfers of Real Property in accordance with the federal "Pryor Amendment"	See Section 2.1.9
Payment of Unfunded Terminated Agency Liability to CalPERS	See Section 2.2.1
Payment of Late Discovered Obligations	See Section 2.2.8
Successor for Litigation Matters	See Section 3.1 (also 1.5)
FORA Contract with California Native Plant Society and City of Del Rey Oaks	See Section 3.3

Except as identified in the schedule of remaining obligations set forth above or specifically provided for elsewhere in this Transition Plan, FORA is not aware of any remaining obligations.

In recognition that FORA has transmitted funds identified for indemnification of LAFCO in the aggregate amount of \$500,000 as described in Section 2.1.3, except as specifically provided to the contrary elsewhere in this Transition Plan, FORA hereby designates LAFCO as the responsible successor agency for all legal, financial, and other unresolved matters, known and unknown, and assigns to LAFCO all liabilities not otherwise specifically assigned in this Transition Plan. ~~Except as specifically provided to the contrary elsewhere in this Transition Plan, FORA hereby designates each of its member jurisdictions as a responsible successor agency for all legal, financial, and other unresolved matters, known and unknown, and jointly assigns to such jurisdictions all liabilities not otherwise specifically assigned in this Transition Plan.~~

3.2 Litigation Management:

In the absence of an agreement entered into by all of the affected land holding jurisdictions that post FORA litigation may be managed by any one or more, but less than all, of such land holding jurisdictions, any post FORA litigation shall be collectively managed by the land use jurisdictions that are defendants or are identified as real parties in interest for such litigation.

3.3 Survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements:

FORA has received from Authority Counsel a memorandum dated June 16, 2020 setting forth a statement regarding the survivability of the Base Reuse Plan, Master Resolution, and FORA's Agreements.

3.4 Reserved Right of Modification:

The Board hereby reserves its right to augment, clarify or modify this Transition Plan as law, facts, circumstances, or agreements may require.

NOW THEREFORE, THE BOARD HEREBY RESOLVES AS FOLLOWS:

1. As outlined above, this Resolution and its provisions constitute the Transition Plan required by Government Code section 67700(b); and
2. The Board hereby makes all assignments in accordance with Government Code section 67700(b);
3. The Board hereby finds that as adopted herein, this updated and restated Transition Plan is not a project subject to CEQA;
4. Notwithstanding anything to the contrary set forth in this resolution, nothing herein is intended nor shall be interpreted to create an independent financial obligation of the general funds of a member jurisdiction of FORA or of LAFCO unless specifically agreed to in writing by the member jurisdiction or LAFCO. Except as otherwise specifically provided herein, all of FORA's established debts, obligations, and other liabilities are intended to be satisfied or paid (a) first out of the funds of FORA as may exist as of the date of its dissolution or as may accrue to its accounts following dissolution and (b) after the exhaustion of such funds then from future property tax revenues pursuant to Health and Safety Code section 33492.71; and
5. The Board directs the Executive Officer to transmit this updated and restated Transition Plan to LAFCO.

Upon motion by Board member ---- seconded by Board member ---- the foregoing Resolution was passed on this _____ day of June 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

Jane Parker, Chair FORA Board

Joshua Metz, Clerk

GLOSSARY

“AFY” means acre feet per year.

“Army” means the United States Army.

“Board” means the governing board of the Fort Ord Reuse Authority, as specified in Government Code section 67660.

“CalPERS” means the California Public Employees’ Retirement System.

“CEQA” means the California Environmental Quality Act, as amended to date (Public Resources Code section 21000 and following).

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly known as Superfund, as amended to date (42 U.S. Code Chapter 103 and following).

“CFD” means a Community Facilities District within the former Fort Ord formed pursuant to the Mello-Roos Community Facilities Act of 1982, as amended to date (Government Code section 53321 and following).

“CFD Special Taxes” means the special taxes collected through the Community Facilities District on properties to be developed within the former Fort Ord.

“CIP” means a Capital Improvement Program adopted by the Fort Ord Reuse Authority.

“EDC MOA” means the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“EDC Property” means the real property transferred pursuant to the Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands, which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder.

“ESCA” means the Environmental Services Cooperative Agreement entered into between the United States Army and the Fort Ord Reuse Authority, as amended to date.

“FORA Act” means, collectively, SB 899 and AB 1600 adopted in 1994 and amended in 2012, as codified at (i) Government Code Title 7.85, Chapters 1 through 7, commencing with Section 67650, and (ii) selected provisions of the California Redevelopment Law, including Health and Safety Code Sections 33492 *et seq.* and 33492.70 *et seq.*

“FORA” means the Fort Ord Reuse Authority.

“FORA-County Administrative Agreement” means that Agreement Regarding Administrative and Financial Matters Associated with FORA Dissolution entered into between FORA and the County of Monterey and dated for reference purposes June 23, 2020.

“FORA Program” has the meaning given in Section 1.2.

“FORG” means the Fort Ord Reuse Group organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of the former Fort Ord.

“Fort Ord,” including references to the territory or area of Fort Ord or the former Fort Ord, means the geographical area described in the document entitled “Description of the Fort Ord Military Reservation Including Portion of the Monterey City Lands Tract No. 1, the Saucito, Laguna Seca, El Chamisal, El Toro and Noche Buena Ranchos, the James Bardin Partition of 1880 and Townships 14 South, Ranges 1 and 2 East and Townships 15 South, Ranges 2 and 3 East, M.D.B. and M. Monterey County, California,” prepared by Bestor Engineers, Inc., and delivered to the Sacramento District Corps of Engineers on April 11, 1994 or the military base formerly located on such land, as the context requires.

“Implementation Agreements” means agreements entered into beginning in 2001 between the Fort Ord Reuse Authority on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand, as such agreements may have been amended to date.

“LAFCO” means the Monterey County Local Agency Formation Commission.

“Local Redevelopment Authority” means any authority or instrumentality established by State or local government and recognized by the Secretary of Defense through its Office of Economic Adjustment (OEA) to facilitate the transfer of properties from the former Fort Ord to the underlying jurisdictions.

“Master Resolution” means the collection of administrative rules and regulations adopted by FORA under the Authority Act, as amended.

“MCWD” means the Marina Coast Water District.

“MCWRA” means the Monterey County Water Resources Agency.

“MPC” means the Monterey Peninsula Community College District.

“PLL” means a Pollution Legal Liability policy of insurance.

“MRWPCA” means the Monterey Regional Water Pollution Control Agency.

“Reuse Plan” means the Fort Ord Base Reuse Plan and its accompanying environmental impact report adopted and certified by the FORA Board in June 1997 to guide the reuse of the former Fort Ord, all as amended from time to time.

“SIR” means self-insured retention under a PLL policy of insurance.

“Strategy Report” means the June 1992 report prepared by the Fort Ord Community Task Force in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

“Task Force” means the Fort Ord Community Task Force formed in order to develop recommendations for moving forward with a recovery effort relating to the closure of the former Fort Ord.

FORT ORD REUSE AUTHORITY BOARD REPORT	
BUSINESS ITEM	
Subject:	Executive Officer's Report
Meeting Date:	June 26, 2020
Agenda Number:	7b
INFORMATION	

RECOMMENDATION(S):

Receive an Executive Officer's report.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority is concluding its 26-year effort to oversee the Monterey bay regional economic recovery from the closure of the Fort Ord Army installation. In that time period significant accomplishment have been achieved. While many might wish for additional or different outcomes, it is appropriate to reflect on what has been accomplished through our grand experiment converting swords to plowshares. What has been accomplished could not have happened without the dedication and leadership of generations of elected leaders, engaged community members and advocacy groups, legions of consultants and legal experts, and a small dedicated team of professional staff.

This report is offered in an attempt to summarize much of that accomplishment. While likely to miss notable items, it is my hope that it captures most, and that a reflection on these can help propel the community towards its bright future. I think I can speak for the entire team of FORA staff and consultants, that it has been an honor, indeed a pleasure to serve the Monterey Bay community, and that we all hope this effort results in continuing good will and motivation to continue collaboration on the many challenges that still lay ahead.

While previously summarized in other reports, I provide below a restated and enhanced summary of major FORA program accomplishments through the end of 2019. In the following section I then summarize notable accomplishments of the transition team.

- Securing funding, implementation, and completion of the \$98M Environmental Services Cooperative Agreement;
- Reuse and/or removal of 3684 of 4370 military buildings (including reopening 500+ units for affordable workforce housing);
- Transfer of 10,013 of 17,652 habitat acres for permanent preservation – including the establishment of the:
 - Fort Ord National Monument;
 - Fort Ord Dunes State Park;
 - UC Fort Ord Natural Reserve;
- Construction of \$66.5M worth of new transportation infrastructure (including \$40M in grant funding), 32 miles of roadway capacity added using grants and developer fees;
- Storm water outfall removal (including securing \$6M in grant funding);

- Support for the veteran’s community leading to:
 - The establishment and construction of the Central Coast Veterans Cemetery;
 - The nation’s first Joint Department of Defense Veterans Administration Veterans Clinic, built new in the City of Marina;
- Conducting and supporting numerous community development supporting public engaged convenings including the:
 - 2012 Base Reuse Plan Reassessment;
 - 2013 Fort Ord Colloquium;
 - 2015 Fort Ord Trails Symposium;
 - 2016 Monterey Bay Regional Cannabis Policy Forum;
 - 2017 & 2019 Monterey Bay Sustainable Hospitality Summits;
 - 2018 & 2020 Drone Automation & Robotics technology (DART) Symposia;
 - 2019 Monterey Bay Regional Opportunity Zone Investment Forum;
- Supporting and strengthening the Monterey Bay economic development ecosystem through engagement with and financial support of:
 - Monterey Bay Economic Partnership;
 - Central Coast Marketing Team;
 - Monterey Peninsula Chamber of Commerce;
 - Startup Monterey Bay – Annual Cycle of Innovation;
 - Monterey Bay DART Initiative;

Since January 2020, a nimble team of FORA staff, technical consultants and legal experts have worked tirelessly to support the Board and Administrative Committees in achieving the sunset of the 26-year old FORA, as directed by State law. In that time major accomplishments have set the stage for an orderly and smooth transition including:

- Holding 17 Board and 23 Administrative Committee meetings in 6 months;
- Successfully achieving the transfer of the Environmental Services Cooperative Agreement (ESCA) and Local Redevelopment Authority (LRA) Federal designation to be overseen by the City of Seaside for regional benefit;
- Completing the transfer of 8 remaining parcels from the US Army, through FORA to local jurisdiction ownership;
- Successfully navigating a long-burning discussion on habitat conservation planning, resulting in the disbursement of \$17,241,190 of Community Facility District funds to local jurisdictions for on-going habitat management and the certification of the final Environmental Impact Report for the Fort Ord Regional Habitat Conservation Plan.
- Transfer of \$12,043,788 in Capital Improvement Program funds and projects including assignment of CEQA lead agency status to the cities of Marina, Seaside and Del Rey oaks;
- Reimbursement of \$2,503,263 in Capital Improvement Program funds to local agencies including Marina Coast Water District, the City of Marina, and the County of Monterey;
- Distribution of \$483,616 in Caretaker Reimbursement funds to local jurisdictions of City of Marina, City of Seaside, City of Del Rey oaks, and Monterey County;
- Finalization of 70 World War II era barracks removal from CDEC Hill in Marina in collaboration with Marina Community Partners and the City of Marina;

- Successfully securing \$30,705,000 through issue of tax revenue bonds to fund on-going building removal in the cities of Seaside and Marina post-FORA;
- Completing the Campus Town Mixed-Use Development Consistency Determination as requested by the City of Seaside to unanimous Board approval;
- Continuing to support the growth of a drone, automation and robotics technology economic cluster in the Monterey bay region in collaboration with UC Agriculture & Natural Resources, UC Santa Cruz, CSU Monterey Bay, Naval Post-Graduate School, Joby Aviation, the City of Marina, and many others;
- Successfully navigating numerous administrative and legal complexities and establishing clear post-FORA administrative and legal future including:
 - Memoranda of agreement regrading CIP fund and project transfers;
 - Joint Community Facilities agreements regarding stewardship of habitat management funds;
 - Negotiation and drafting of the 2018 Transition Plan Update;
 - FORA and Monterey County Agreement on Post-FORA Administration;
 - Continual engagement with the Local Agency Formation Commission of Monterey County
- Resolving numerous potential litigation matters;
- Making a seamless transition to remote operations and meetings amidst a global pandemic, economic depression, and international unrest on long simmering, critical issues of equality, civil and human rights.

It is with humility and a sense of pride in the accomplishment and professionalism of our team that I submit this report. We all wish the best of luck to all and look forward to the ongoing work of economic recovery and community development at the local level.

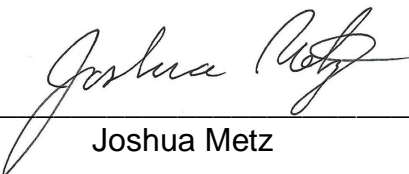
FISCAL IMPACT:

None.

COORDINATION:

Authority Counsel.

Prepared by & Approved by



 Joshua Metz